KANSAS

Kansas Statutes Annotated

Selected Chapters

Chapter 8 — Automobiles and Other Vehicles
Chapter 21 — Crimes and Punishments
Chapter 22 — Criminal Procedure
Chapter 41 — Intoxicating Liquors and Beverages

Source: ksrevisor.gov (Kansas Office of Revisor of Statutes, current)

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Chapter 8 — Automobiles and Other Vehicles

KSA 8-113 — Identity of vehicles; unlawful acts; penalty

Identity of vehicles; unlawful acts; penalty.

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.

KSA 8-113a — Reporting stored, unclaimed vehicles to department, when; penalty for failure

Reporting stored, unclaimed vehicles to department, when; penalty for failure.

An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of 30 days, shall within seven days after the expiration of that period, report the vehicle as unclaimed to the department. A vehicle left by its owner whose name and address are known to the operator or an employee of the operator is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this section is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than $10 for each day such failure to report continues.

KSA 8-116 — Vehicle identification number offenses; possession or sale of vehicle without original VIN; removing or altering VIN; penalties; vehicle seizure and disposition; application to repairs and restorations of antique vehicles

Vehicle identification number offenses; possession or sale of vehicle without original VIN; removing or altering VIN; penalties; vehicle seizure and disposition; application to repairs and restorations of antique vehicles.

(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 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 is a class C nonperson 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.

(e) Every motor vehicle, trailer or semitrailer, the vehicle identification number of which has been destroyed, removed, altered or defaced and that has been seized under this section is an article of contraband and the provisions of K.S.A.

22-2512

, and amendments thereto, shall apply.

(f) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.

(g) The provisions of this section shall not apply when a person removes and reinstalls a manufacturer's serial number or a vehicle identification number on an antique vehicle, as defined in K.S.A.

8-166

, and amendments thereto, if:

(1) The removal and reinstallation are reasonably necessary for the repair or restoration of the antique vehicle;

(2) the person completing the repair or restoration of the antique vehicle reinstalls the manufacturer's serial number or vehicle identification number immediately after the repair or restoration is complete; and

(3) the person does not know and has no reason to know that the antique vehicle is stolen.

KSA 8-116a — Vehicle identification number; check of vehicles by highway patrol; original Kansas certificates of title on out-of-state vehicles; check by designee or employee of new vehicle dealer, when; fees and disposition thereof

Vehicle identification number; check of vehicles by highway patrol; original Kansas certificates of title on out-of-state vehicles; check by designee or employee of new vehicle dealer, when; fees and disposition thereof.

(a) Except as provided in K.S.A.

8-170

, and amendments thereto, when an application is made for a vehicle that has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle and the highway patrol shall within a reasonable period of time perform such vehicle check. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts and complies with K.S.A.

8-116

, and amendments thereto, the highway patrol shall determine the make, model and year of the vehicle, and shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle that, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A.

21-5835

, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is

repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

(1) A designee of the superintendent of the Kansas highway patrol; or

(2) an employee of a new vehicle dealer, as defined in K.S.A.

8-2401

(b), and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee or new vehicle dealer, 10% of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee or new vehicle dealer. If the designee is a city or county law enforcement agency, then the balance shall be retained by the law enforcement agency that conducted the inspection and shall be deposited into an account to be used for law enforcement purposes and shall not be used to supplant the law enforcement agency's budget. When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) 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 vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol and has met continuing certification requirements adopted by the superintendent of the highway patrol, may provide the checks under subsection (b) on motor vehicles that a new vehicle dealer purchases through a manufacturer's sponsored auction or on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, or any applicable rules and regulations. The superintendent of the highway patrol may promulgate rules and regulations to administer the provisions of this subsection.

(g) An employee of a salvage vehicle pool, as defined by K.S.A.

8-2401

, and amendments thereto, who submits an application to the Kansas highway patrol pursuant to this section for six or more vehicles shall have such vehicles checked by the Kansas highway patrol within five business days of the date the application was submitted, if the salvage vehicle pool submitting the application sells at least 2,000 vehicles combined per year from the salvage vehicle pool's licensed locations in Kansas as reported to the Kansas department of revenue. The salvage vehicle pool shall provide the Kansas highway patrol with the address of the salvage vehicle pool facility and the approximate location within the facility of the vehicles to be checked and shall clearly mark the vehicles that are to be checked. The salvage vehicle pool shall provide enclosed office space for use by the Kansas highway patrol during such checks of multiple vehicles. The employees of the salvage vehicle pool shall not be required to move the vehicles within the facility for purposes of the checks. In the event that the Kansas highway patrol is unable to complete the checks required by this subsection within five business days, the Kansas highway patrol shall notify the salvage vehicle pool of the reasons for such delay and the date when such vehicle checks will begin, except that the date shall be not later than 10 business days from the date the application for such checks was submitted.

(h) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.

KSA 8-119 — Penalty for violating K.S.A. 8-113 and 8-116

Penalty for violating K.S.A. 8-113 and 8-116.

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.

KSA 8-120 — Validity of K.S.A. 8-113, 8-116 and 8-119

Validity of K.S.A. 8-113, 8-116 and 8-119.

If any section or provision of this act shall be found invalid by any court, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid section or provision and the act as a whole shall not be declared invalid by reason of the fact that one or more sections or provisions may be found invalid by any court.

KSA 8-126 — Registration of vehicles; definitions

Registration of vehicles; definitions.

As used in this act:

(a) "All-terrain vehicle" means any motorized nonhighway vehicle, other than an electric-assisted bicycle, that is 55 inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires.

(b) "Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

(c) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(d) "Contractor" means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(e) "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.

(f) "Division" means the division of vehicles of the department of revenue.

(g) "Electric-assisted bicycle" means the same as defined in K.S.A.

8-1489

, and amendments thereto.

(h) "Electric-assisted scooter" means every self-propelled vehicle, other than an electric-assisted bicycle, that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

(i) "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.

(j) "Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(1) Residential electric service;

(2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, electric vehicle supply equipment (EVSE) or a public charging station.

(k) "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.

(l) "Electronic notice of security interest" means the division's online internet program that enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

(m) "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.

(n) "Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

(o) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and has not been registered in this state.

(p) "Golf cart" means a motor vehicle that does not have fewer 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.

(q) "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" does not include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(r) "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. "Implement of husbandry" includes, but is not 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; and

(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.

(s) "Lien" means a security interest as defined in this section.

(t) "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.

(u) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(v) "Micro utility truck" means any motor vehicle that 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.

(w) "Motor vehicle" means every vehicle, other than a motorized bicycle, electric-assisted bicycle or a motorized wheelchair, that is self-propelled.

(x) "Motorcycle" means every motor vehicle, including autocycles, designed to travel on not more than three wheels in contact with the ground, except an electric-assisted bicycle or any such vehicle as may be included within the term "tractor" as defined in this section.

(y) "Motorized bicycle" means every device, other than an electric-assisted bicycle, having two tandem wheels or three wheels, that may be propelled by either human power or helper motor, or by both, and has:

(1) A motor that 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.

(z) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(aa) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles who holds a dealer's contract therefor from a manufacturer or distributor and has an established place of business in this state.

(bb) "Nonresident" means every person who is not a resident of this state.

(cc) "Notice of security interest" means a notification to the division from a dealer or secured party of a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle that has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(dd) "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 oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ee) "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.

(ff) "Passenger vehicle" means every motor vehicle, as defined in this section, that is designed primarily to carry 10 or fewer passengers, and is not used as a truck.

(gg) "Person" means every natural person, firm, partnership, association or corporation.

(hh) "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.

(ii) "Recreational off-highway vehicle" means any motor vehicle not greater than 75 inches in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 3,500 pounds or less, traveling on four or more nonhighway tires.

(jj) "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.

(kk) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(ll) "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.

(mm) "Specially constructed vehicle" means any vehicle that shall not have been originally constructed under a distinctive name, make, model or type, or that, 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.

(nn) "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.

(oo) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(pp) "Truck" means a motor vehicle that is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(qq) "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.

(rr) "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 or vehicles.

(ss) "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.

(tt) "Vehicle functions" means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver's licenses and division-issued identification cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(uu) "Work-site utility vehicle" means any motor vehicle that is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway 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.

KSA 8-126a — Number plates or tags; definitions

Number plates or tags; definitions.

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.

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

Registration of vehicles operated in this state; exceptions; temporary operation of certain vehicles without registration, when.

(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, before any such vehicle is operated in this state, shall apply for and obtain registration in this state under the provisions of K.S.A.

8-126

to

8-149

, inclusive, and amendments 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 60 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 60 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 such sixty-day period.

KSA 8-127a — Registration prohibited for vehicle subject to federal use tax, when; proof of payment of tax

Registration prohibited for vehicle subject to federal use tax, when; proof of payment of tax.

No vehicle, subject to the use tax imposed by section 4481 of the internal revenue code of 1954, shall be registered in this state without presentation of proof of payment of such tax, in such form as may be prescribed by the secretary of the treasury of the United States of America.

KSA 8-128 — Same; exceptions

Same; 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 nonpublic school that 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;

(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 that is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer;

(12) electric-assisted scooter; or

(13) electric-assisted bicycle.

(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 that 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.

KSA 8-129 — Application for registration; certificate of title; administration of motor vehicle functions

Application for registration; certificate of title; administration of motor vehicle functions.

(a) Applications for the registration of a vehicle required to be registered shall be made by the owner, by mail, on-line, electronically or otherwise, in the office of the county treasurer of:

(1) The county in which such owner resides; or

(2) the county in which the owner has a bona fide place of business, if such vehicle is garaged in such county for a period exceeding 90 days. Such place of business shall not be an office or facility established or maintained solely for the purpose of obtaining registration.

Such applications for registration shall be made upon appropriate forms furnished by the department and every application shall contain the name of the owner, such owner's residence address or bona fide place of business, a brief description of the vehicle to be registered and such other information as may be required by the department. If the owner is not a resident of or does not have a bona fide place of business in this state, the owner may make application for registration in any county which the department shall designate, except that in the case of members of the armed forces of the United States, the application may be signed by the owner's spouse, parent, eldest brother or sister, in the order named. With reference to every foreign vehicle which has been registered outside of this state, the owner shall exhibit to the department the certificate of title and registration card, or other evidence of such former registration as may be in the applicant's possession or control, or such other evidence as will satisfy the department that the applicant is the lawful owner or possessor of the vehicle.

(b) The applicant for the registration of a vehicle required to be registered, upon the filing of the application, shall submit a statement certifying that such person has a certificate of title for the motor vehicle, showing the date and identification thereof, or file an application therefor, as provided in this act.

(c) Any reference in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, to a county treasurer or office of a county treasurer performing any services associated with vehicle functions and receiving compensation for such services shall also include contractors that have contracted with the department to perform such services if the director of vehicles determines that a county treasurer has failed to:

(1) Comply with article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, relating to vehicle functions;

(2) comply with rules and regulations promulgated pursuant to subsection (e); or

(3) enter into and abide by a contract with the department to ensure minimum standards and practices are maintained by the county treasurer in the performance of assigned vehicle functions.

(d) The department may appoint contractors to perform some or all of the vehicle functions agreed to by the department and the contractor to be performed. In circumstances involving vehicle registrations, the department shall be required to make the findings required by subsection (c) before contracting with a contractor that is not a county treasurer.

(e) The secretary of revenue may adopt rules and regulations in order to implement and administer the provisions of subsections (c) and (d) to:

(1) Enter into contracts with the county treasurers to perform vehicle functions;

(2) create minimum standards and practices for the performance of vehicle functions;

(3) require criminal background reviews of county treasurers and their staff that will be performing vehicle functions, if needed;

(4) establish and set the limits on the additional, non-statutory fees, if any, that a contractor may charge a person for services relating to vehicle functions; and

(5) create efficient and rapid administrative processes for suspending or revoking a treasurer's ability to perform vehicle functions on behalf of the department if such treasurer violates applicable laws, rules and regulations, or the treasurer's written contract with the department.

Any order of the department suspending or revoking a county treasurer's authorization to perform vehicle functions for the state of Kansas shall include requirements for the county treasurer's reinstatement.

KSA 8-130 — Register of applications to be kept by division of vehicles

Register of applications to be kept by division of vehicles.

The division of vehicles shall maintain a register of applications received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described as shall be determined by the division, and to have such accessible, so that the vehicle data can be properly located upon sufficient information given the division.

KSA 8-131 — Registration receipts

Registration receipts.

(a) Upon the filing of such application for registration, payment of the fees hereinafter provided the division of vehicles shall register the vehicle and shall issue to the owner a registration receipt which shall contain upon the face thereof the registration number assigned to the owner and to be used upon the vehicle, and such other statements of facts as may be determined by the division.

KSA 8-131b — Invalidity of part

Invalidity of part.

If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

KSA 8-132 — License plates or decals to be furnished; time for new license plates; personalized license plates, display and cost; rules and regulations

License plates or decals to be furnished; time for new license plates; personalized license plates, display and cost; rules and regulations.

(a) Subject to the provisions of this section and K.S.A.

8-1,125

, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A.

8-134

, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall

again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions of this subsection.

(c) Any license plate issued pursuant to subsection (a) or (b) may be a personalized license plate subject to the additional fee set forth in subsection (d). The division shall allow an applicant for a personalized license plate to personalize a license plate design established by subsection (a), (b) or (d).

(d) One personalized license plate may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds who makes proper application to the division of vehicles at renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of $40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. Such personalized license plate shall be displayed on the rear of the vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection for passenger vehicles and trucks. The $40 fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A.

8-143

, and amendments thereto. The division shall design distinctive, personalized license plates to be issued that shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A.

8-147

, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A.

8-147

, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

(e) The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning: (1) The procedure for insuring that duplicate license plates are not issued throughout the state; (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration; (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical; and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section 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 state highway fund.

KSA 8-133 — Display of license plate

Display of license plate.

(a) The license plate assigned to the vehicle shall be attached to the rear of the vehicle and shall be displayed during the current registration year or years. Except as otherwise provided in subsection (b), a Kansas registered vehicle shall not have a license plate attached to the front of the vehicle.

(b) The following classes of vehicles shall attach a license plate in the location or locations specifically stated:

(1) The license plate issued for a truck tractor shall be attached to the front of the truck tractor;

(2) a model year license plate issued for an antique vehicle, in accordance with K.S.A.

8-172

, and amendments thereto, may be attached to the front of the antique vehicle;

(3) a personalized license plate issued to a passenger vehicle or truck pursuant to K.S.A.

8-132

(c), and amendments thereto, may be attached to the front of the passenger vehicle or truck;

(4) the license plate issued for a motor vehicle used as a concrete mixer truck may be attached to either the front or rear of the vehicle; and

(5) the license plate issued for a motor vehicle used as a dump truck with a gross weight of 26,000 pounds or more shall be attached to the front of the vehicle. The provisions of this paragraph shall not apply to such vehicle if such vehicle is registered as a farm truck.

(c) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned, 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. The license plate shall be fastened 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.

(d) 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.

(e) A law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (b)(5). The provisions of this subsection shall expire and have no effect on and after January 1, 2022.

KSA 8-134 — Renewal of registration of certain vehicles; registration and reregistration of passenger vehicles; monthly system; park and recreation motor vehicle permits; decals for license plates; rules and regulations

Renewal of registration of certain vehicles; registration and reregistration of passenger vehicles; monthly system; park and recreation motor vehicle permits; decals for license plates; rules and regulations.

(a) Every vehicle registration under this act shall expire December 31 of each year, except passenger vehicles and vehicles provided for in K.S.A.

8-134a

, and amendments thereto. The registration of vehicles to which K.S.A.

8-134a

, and amendments thereto, applies shall expire in 1982 and thereafter in accordance with the provisions of subsections (b) and (c). Registration of vehicles shall be renewed annually upon application by the owner and by payment of the fees required by law. Except vehicles subject to K.S.A.

8-134a

, and amendments thereto, and passenger vehicles, the renewal shall take effect on January 1 of each year, but the owner of the vehicle shall have until and including the last day of February of each year to make application for such renewal. The division shall issue for such vehicles a February month decal to correspond with the statutory grace period. Criminal sanctions provided in K.S.A.

8-142

, and amendments thereto, for failure to display any license plate or plates or any registration decal required to be affixed to any such license plate for the current registration year shall not be enforced until March 1 of each year. An owner who has made proper application for renewal of registration of a vehicle prior to January 1, but who has not received the license plate or registration card for the ensuing year, shall be entitled to operate or permit the operation of such vehicle

upon the highways upon displaying thereon the license plate issued for the preceding year for such time as the director of vehicles finds necessary for issuance of such new license plate.

(b) Every passenger vehicle required by this act to be registered, except as otherwise provided, shall be registered for a period of 12 consecutive months. The division of vehicles, in order to initiate a system of registering or reregistering passenger vehicles during any month of a calendar year, may register or reregister a passenger vehicle for less than a 12-month period, prorating the annual registration fee, when in the director's opinion such proration tends to fulfill the purpose of the monthly registration system.

(c) Passenger vehicle registration, and the authority to legally operate, use or tow such vehicle on the highway shall expire at 12 midnight on the last day of the last month of the 12-month period for which such vehicle was registered, and the owner shall see that such vehicle is reregistered as required by this act. The director of vehicles shall designate the registration period for each passenger vehicle in order to as nearly as feasible equalize registration or reregistration within the 12 months of the year. Any vehicle after having once been registered shall upon reregistration, be registered for the same twelve-month period except when the certificate of title has been transferred as provided by law. In this case, the vehicle shall be registered by the division of vehicles in accordance with the system adopted.

(d) For the purpose of this act, hearses and electrically propelled vehicles shall be classified as passenger vehicles.

(e) Every owner who registers or reregisters a vehicle in a calendar year, and in any calendar year in which a license plate is not issued for the renewal of registration of such vehicle, shall be furnished by the division one decal for the license plate issued for such vehicle and required by K.S.A.

8-133

, and amendments thereto, to be affixed to the rear of such vehicle. Such decal shall be affixed to the number plate affixed to the rear of such vehicle and shall indicate the license plate number for which the decal is to be affixed and shall indicate the year in which such registration expires. The color of a decal shall be such that it contrasts with the color of the license plate to which it is to be affixed, and the director of vehicles shall change the color of such decals each year, without duplicating the same color in any five-year period or such extended period as the director designates under K.S.A.

8-132

(b), and amendments thereto. Such decals shall be so constructed that once a decal has been affixed to a license plate, it cannot be removed without destroying the decal, and the surface of such decals shall be capable of reflecting light. Consistent with the foregoing, the director of vehicles shall prescribe the size of and material to be used in the production of such decals, and the director of vehicles shall designate the location on a number plate where such decal shall be affixed.

(f) (1) The owner of a vehicle may, at the time of such registration or reregistration, purchase a park and recreation motor vehicle permit. Such permit shall cost $15 until such time as the amount for such permit is changed by rules and regulations of the secretary of wildlife and parks.

(2) Such permit shall be nontransferable and shall expire on the date of expiration of the vehicle registration.

(3) Except as provided in subsection (f)(4), the county treasurer shall remit all such moneys paid to the county treasurer 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 be credited as provided in K.S.A.

32-991

, and amendments thereto.

(4) The county treasurer may collect and retain a service charge fee of up to $.50 for each park and recreation motor vehicle permit issued or sold by the county treasurer.

(5) As a condition of receiving the park and recreation motor vehicle permit, the applicant shall consent to the sharing of information, including, but not limited to, the applicant's name, address, email address and phone number, with the secretary of wildlife and parks by the division of motor vehicles.

(g) The secretary of revenue shall adopt rules and regulations necessary to accomplish the purpose of this act.

KSA 8-134a — Registration and reregistration of pickup trucks, motorcycles, motorized bicycles and recreational vehicles; rules and regulations

Registration and reregistration of pickup trucks, motorcycles, motorized bicycles and recreational vehicles; rules and regulations.

(a) On and after January 1, 1999, any truck or truck tractor registered for a gross weight of 12,000 pounds or less, motorcycles, motorized bicycles and recreational vehicles, as defined in K.S.A.

79-5118

, and amendments thereto, shall be registered or reregistered in accordance with the provisions of subsections (b) and (c) of K.S.A.

8-134

, and amendments thereto. The provisions of this section shall not apply to vehicles registered on an apportioned basis as part of a fleet under the provisions of K.S.A.

8-1,100

to

8-1,123

, inclusive, and amendments thereto, or vehicles registered under the provisions of K.S.A.

8-166

et seq., and amendments thereto.

(b) The division of vehicles, in order to initiate a system of registering or reregistering vehicles included in subsection (a) during any month of a calendar year, may register or reregister such vehicles for less than a twelve-month period, prorating the annual registration fee and taxes imposed under K.S.A.

79-5101

et seq., and amendments thereto, when in the director's opinion such tends to fulfill the purpose of the monthly registration of this section. The secretary of revenue may adopt rules and regulations for the administration of this section and to carry out the purpose of the act of which this section is a part.

KSA 8-135 — Transfer of ownership of vehicles; registration; fees and penalties; certificate of title, form, fee; assignment and reassignment; liens, statement of, release of, liability for failure to comply, notice of security interest, execution; purchase and sale of vehicle, requirements; written consent by lienholder; transfer-on-death; reaffirmation of sale; assignment of title form; electronic certificate of title; reassignment forms; export title; rebuilt salvage vehicle

Transfer of ownership of vehicles; registration; fees and penalties; certificate of title, form, fee; assignment and reassignment; liens, statement of, release of, liability for failure to comply, notice of security interest, execution; purchase and sale of vehicle, requirements; written consent by lienholder; transfer-on-death; reaffirmation of sale; assignment of title form; electronic certificate of title; reassignment forms; export title; rebuilt salvage vehicle.

(a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A.

8-172

, and amendments thereto, and

8-1,147

, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of $1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of $1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of K.S.A.

8-198

(a), and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A.

59-3511

, and amendments thereto, the new owner thereof, within 60 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the sixty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the sixty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of $2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 60 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A.

8-197

, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A.

8-198

, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A.

8-135d

, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A.

8-135d

, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) (A) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert and certify the mileage and the purchase price on the form

filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer and purchase price certification made by the seller, except those vehicles that are exempt from odometer certification requirements pursuant to federal law shall be exempt from such requirement. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant.

(B) When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration.

(C) In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of $3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be $10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Except for a vehicle registered by a federally recognized Indian tribe, as provided in paragraph (16), upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. On and after July 1, 2007, only one lien shall be taken or accepted for vehicles with a gross vehicle weight rating of 26,000 pounds or less. As used in this section "gross vehicle weight rating" shall have the meaning ascribed thereto in 49 C.F.R. Â§ 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission. The dealer or secured party, within 30 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle, as referenced in K.S.A. 2025 Supp.

84-9-311

, and amendments thereto, on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the lienholder. For any vehicle subject to a lien, the county treasurer, division or contractor shall collect from the applicant a $1.50 service fee for processing and mailing a copy of the title application to the lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 60 days, and if the transferor is a dealer, as defined by K.S.A.

8-2401

, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of $10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security interest that such person seeks to perfect on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of $10 to the division. Delivery of the surrendered title, application and tender of the required fee shall perfect a security interest in the vehicle as referenced in K.S.A. 2025 Supp.

84-9-311

, and amendments thereto. On and after July 1, 2007, only one lien may be taken or accepted for security for an obligation to be secured by a lien to be shown on a certificate of title for vehicles with a gross vehicle weight rating, as defined in 49 C.F.R. Â§ 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission, of 26,000 pounds or less. A refinancing shall not be subject to the limitations of this act. A refinancing is deemed to occur when the original obligation is satisfied and replaced by a new obligation. Lien obligations created before July 1, 2007, which are of a continuing nature shall not be subject to the limitations of this act until the obligation is satisfied. A lien in violation of this provision is void. Upon receipt of the surrendered title, application and fee, the division shall issue a new certificate of title showing the liens or encumbrances so created, but only one lien or encumbrance may be shown upon a title for vehicles with a gross vehicle rating of 26,000 pounds or less, and not more than two liens or encumbrances may be shown upon a title for vehicles in excess of 26,000 pounds gross vehicle weight rating. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder shall comply with the provisions of K.S.A.

8-1,157

, and amendments thereto.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 60 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if: (A) The seller mails to the purchaser by restricted mail the assigned certificate of title within 60 days; or (B) if the transferor is a dealer, as defined by K.S.A.

8-2401

, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division; or (C) if the transferor is a dealer and has assigned a title pursuant to subsection (c)(9).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 60 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to subsection (c)(7) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of $10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with K.S.A.

8-116a

(a), and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under subsection (c)(2), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under subsection (c)(2) have already been used. The fee for a reassignment form shall be $6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A.

8-2401

, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturer's statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

(17) On and after January 1, 2010, a certificate of title issued for a rebuilt salvage vehicle for the initial time, shall indicate on such title, the reduced classification of such vehicle as provided under K.S.A.

79-5104

, and amendments thereto.

KSA 8-135a — Adding names of family members to titles and registrations

Adding names of family members to titles and registrations.

A person in whose name a vehicle is titled and registered may add their spouse's name by assigning the title from the titleholder to titleholder and spouse and by applying for a name change title and registration. A son or daughter in whose name a vehicle is titled and registered may add a parent's name by assigning the title from such son or daughter to such son or daughter and parent and by applying for a name change title and registration. A parent may add a son or daughter's name by assigning the title from such parent to such parent and parent's son or daughter and by applying for a name change title and registration. Application for name change title and registration shall be made in the manner required by law, including certification of insurance coverage. The fee shall be $10 for the title, and no charge shall be made for the registration, except, when applicable, the fee for transfer of registration under K.S.A.

8-135

, and amendments thereto.

KSA 8-135c — Nonrepairable vehicle certificate; definitions; requirements; application; penalties

Nonrepairable vehicle certificate; definitions; requirements; application; penalties.

(a) The provisions of this section shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and as used in this section, the words and phrases defined by K.S.A.

8-126

, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in this section:

(1) "Nonrepairable vehicle" means any motor vehicle which: (A) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (B) the owner irreversibly designates as a source of parts or scrap;

(2) "nonrepairable vehicle certificate" means a motor vehicle ownership document issued by the division designating that vehicle a nonrepairable vehicle.

(c) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a nonrepairable vehicle shall apply to the division for a nonrepairable vehicle certificate before the ownership of the motor vehicle is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a nonrepairable vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a nonrepairable vehicle, shall apply to the division for a nonrepairable vehicle certificate within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released.

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a nonrepairable vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply to the department for a nonrepairable vehicle certificate for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply to the division for a nonrepairable vehicle certificate within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a nonrepairable vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a nonrepairable vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a nonrepairable vehicle, shall apply to the division for a nonrepairable vehicle certificate within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a nonrepairable vehicle, for which a nonrepairable vehicle certificate has not been issued, shall apply to the division for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Failure to apply for a nonrepairable vehicle certificate as provided by this subsection shall be a class C nonperson misdemeanor.

(d) (1) Upon notification of a vehicle's designation as a nonrepairable vehicle, the division shall issue a nonrepairable vehicle certificate.

(2) Each nonrepairable vehicle certificate shall contain the same identifying information and comply with format, size and security requirements applicable to certificates of title under K.S.A.

8-135

, and amendments thereto, and shall be conspicuously labeled with this designation on the face of the certificate.

(3) Each application for a nonrepairable vehicle certificate shall be accompanied by the fee required for an original certificate of title under K.S.A.

8-135

, and amendments thereto, and if the application is not made within the time prescribed by subsection (c), an additional fee of $2.

(e) (1) No motor vehicle for which a nonrepairable vehicle certificate has been issued shall be titled or registered by the division for use on the roads or highways of this state.

(2) Ownership of the motor vehicle for which a nonrepairable vehicle certificate has been issued may only be transferred once.

(3) Any motor vehicle transferred through the use of a nonrepairable vehicle certificate shall be dismantled, disassembled or recycled and may not be sold as a unit at retail.

When the nonrepairable vehicle has been crushed, dismantled, disassembled or recycled and such vehicle is sold to a scrap processor for recycling after the salvageable parts have been removed, the owner shall surrender the nonrepairable vehicle certificate to the division with the word recycled written or stamped across its face and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle.

(4) A nonrepairable vehicle certificate may be used to transfer ownership of a motor vehicle 10 or more model years of age, in accordance with this section, when the owner does not have a certificate of title in the owner's possession.

(f) The secretary of the department of revenue may adopt rules and regulations as the secretary deems necessary to carry out the provisions of this section.

KSA 8-135d — Electronic certificates of title

Electronic certificates of title.

(a) On and after January 1, 2003, when an assignment of title or manufacturer's statement of origin indicates that there is a lien or encumbrance on a vehicle or if a notice of security interest has been filed with the division, the division shall retain possession of such certificate of title electronically and shall create an electronic certificate of title. The provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall apply to an electronic certificate of title, except as otherwise provided by statute or by rules and regulations adopted pursuant to subsection (b).

(b) The secretary of revenue is hereby authorized to adopt rules and regulations necessary to carry out the provisions of this section.

KSA 8-136 — Dealer license plates; manufacturers' and dealers' use and limitations on use; display; proof of payment of personal property tax before issuance; transportation of certain trailers

Dealer license plates; manufacturers' and dealers' use and limitations on use; display; proof of payment of personal property tax before issuance; transportation of certain trailers.

(a) A licensed manufacturer of or licensed dealer in vehicles demonstrating, displaying or exhibiting any such vehicle upon any highway in lieu of registering each such vehicle, may obtain from the division of vehicles, upon application therefor upon the proper official form, and payment of the fees required by law, and attach to each such vehicle, one license plate which shall have a distinctive number, the name of this state, which may be abbreviated, and the year for which issued, together with the word "dealer" or a distinguishing symbol indicating that such license plate is issued to a manufacturer or dealer. Any such license plate may, during the calendar year for which issued, be transferred from one such vehicle to another owned or operated by such manufacturer or dealer. Such a license plate may be used in lieu of regular vehicle registration for the purposes of demonstrating, displaying or exhibiting vehicles held in inventory of such manufacturer or dealer. Such a license plate may also be used on such dealer's service vehicle, or substitute vehicles owned by the dealer but loaned to a customer when the dealer is repairing such customer's vehicle and for all other purposes incidental to a dealer's vehicle business. Except as provided in subsection (d), such a license plate may not be used by a manufacturer or dealer to haul commodities weighing in excess of two tons. Such license plates shall not be used on a wrecker or tow truck when providing wrecker or towing service as defined by K.S.A.

66-1329

, and amendments thereto.

(b) No manufacturer of or dealer in vehicles shall cause or permit any such vehicle owned by such person to be operated or moved upon a highway unless there is displayed upon such vehicle a license plate as required by this section.

(c) No license plates shall be issued to any manufacturer or dealer unless such manufacturer or dealer at the time of making application therefor shall exhibit to the county treasurer or the division of vehicles a receipt showing that the applicant has paid all personal property taxes levied against such manufacturer or dealer for the preceding year, including taxes assessed against motor vehicles of such manufacturer or dealer which were assessed as stock in trade, or unless the manufacturer or dealer shall exhibit satisfactory evidence to the county treasurer that such manufacturer or dealer had no taxable property for the preceding year or if the application is made directly to the division of vehicles there shall be presented a statement by the county treasurer that the manufacturer or dealer had no taxable property for the preceding year. If application for registration is made before May 10, the receipt may show payment of only Â½ of the preceding year's taxes.

(d) A trailer manufacturer or dealer is authorized to use a license plate issued under this section for the transportation of not more than four trailers. Such manufacturer or dealer shall be in compliance with the provisions of article 19 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

KSA 8-138a — Nonresident owners licensed in state of residence; reciprocal privileges

Nonresident owners licensed in state of residence; reciprocal privileges.

The provisions of this section shall apply only to the nonresident owner or owners of any motor vehicle constructed and operated primarily for the transportation of the driver or the driver and one or more nonpaying passengers. Such nonresident owners, when duly licensed in the state of residence, are hereby granted the privilege of operation of any such vehicle within this state to the extent that reciprocal privileges are granted to residents of this state by the state of residence of such nonresident owner.

KSA 8-139 — Lost license plates, certificate of title, registration decal or registration receipts; fees for duplicates; exception

Lost license plates, certificate of title, registration decal or registration receipts; fees for duplicates; exception.

In the event that any license plate, certificate of title, registration decal or registration receipt issued hereunder, shall be lost, mutilated, or shall have become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor, upon furnishing information of such fact satisfactory to the division and upon payment of the required fees: Namely, certificate of title, $10, registration receipt, $1, registration decal, $.50, license plates, $2. In case the license plate is of such type or constructed in such a way that it is not reasonably possible to remove it from the vehicle to which it is attached without destroying or mutilating such license plate, and the ownership of such vehicle shall be transferred and the license plate shall be mutilated or destroyed by the owner thereof as a result of the owner's effort to comply with the provisions of K.S.A.

8-135

, and amendments thereto, by removing the same from the vehicle so transferred, then and in such case no fee shall be charged for such duplicate or substitute license plate, including any registration decal affixed thereto, but the same shall be furnished free of charge providing such person shall otherwise in all respects have complied with the laws governing the transfer of ownership of such motor vehicle.

KSA 8-140 — Division to suspend registration upon notice of theft or embezzlement

Division to suspend registration upon notice of theft or embezzlement.

Whenever the owner of any motor vehicle, trailer or semitrailer which is stolen or embezzled files an affidavit alleging either said fact with the division, it shall immediately suspend the registration of such vehicle, and shall not transfer the registration of or reregister such vehicle until such time as it shall be notified that the owner has recovered such vehicle, but notices given as heretofore provided shall be effective only during the current registration year in which given, but if during such year such vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement must immediately notify the division of the recovery of such vehicle.

KSA 8-141 — When registration shall be refused; suspension of registration for failure to pay fees

When registration shall be refused; suspension of registration for failure to pay fees.

(a) The division shall not grant an application for the registration of a vehicle when: (1) The applicant therefor is not entitled thereto under the provisions of this act; (2) the applicant has neglected or refused to furnish the division with the information required in the appropriate official form or reasonable additional information required by the division; or (3) the fees required therefor by law have not been paid.

(b) The division may suspend a registration when the fees required therefor by law have not been fully paid.

KSA 8-141a — Classification change within registration year; limitations; minimum fees

Classification change within registration year; limitations; minimum fees.

The owner of any truck or truck tractor with local, farm or 6,000-mile class of registration, who desires to transfer or change the classification of registration at any time during the calendar year in which the registration is issued may transfer the registration only to the type of registration provided for in the first paragraph of subsection (2) of K.S.A.

8-143

. Such transfer of class of registration shall be for no less gross weight than the gross weight for which the vehicle was originally registered. The owner of a truck or truck tractor registered as provided for in the first paragraph of subsection (2) of K.S.A.

8-143

, may not transfer or change such registration to a farm, local or 6,000-mile class of registration during the calendar year in which the original registration is issued.

KSA 8-142 — Unlawful acts

Unlawful acts.

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 subsection by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under K.S.A.

8-128

(b), and amendments thereto, shall constitute an unclassified misdemeanor punishable by a fine of not less than $500. A person shall not be charged with a violation of this subsection for failing to display a registration decal on any vehicle except those included under K.S.A.

8-1,101

and K.S.A.

8-143m

and

8-1,152

, and amendments thereto, up to and including the 10

th

day following the expiration of the registration if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period. Any charge for failing to display a registration decal up to and including the 10

th

day following the expiration of the registration shall be dismissed if the person produces in court a registration receipt for the current 12-month registration period which was valid at the time of arrest.

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 subsection 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 subsection. This subsection 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 K.S.A.

8-1911

(a) through (f), 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 K.S.A.

8-143

(b), 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 K.S.A.

8-143

(b) 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 K.S.A.

66-1,109

(c), 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 vehicleâ■■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 the vehicle on both sides thereof, the gross weight for which the 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 K.S.A.

8-143

(b), 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.

KSA 8-143 — Annual registration or license fees for motor vehicles, trailers, semitrailers, motorized bicycles, travel trailers and trucks and truck tractors; gross weight defined; rules and regulations, refunds, exemptions; penalties; temporary registration; registration after nonoperation or nonuse; registration of travel trailers; multiyear registration of trailers

Annual registration or license fees for motor vehicles, trailers, semitrailers, motorized bicycles, travel trailers and trucks and truck tractors; gross weight defined; rules and regulations, refunds, exemptions; penalties; temporary registration; registration after nonoperation or nonuse; registration of travel trailers; multiyear registration of trailers.

(a) All applications for the registration of motorcycles, motorized bicycles and passenger vehicles other than trucks and truck tractors, except as otherwise provided, shall be accompanied by an annual license fee as follows:

(1) For motorized bicycles, $11;

(2) for motorcycles, $16;

(3) for those motorcycles that are all-electric motorcycles, $30;

(4) for passenger vehicles, other than motorcycles, used solely for the carrying of persons for pleasure or business, and for hearses and ambulances a fee of:

(A) For those having a gross weight of 4,500 pounds or less, $30;

(B) for those having a gross weight of more than 4,500 pounds, $40;

(C) for those motor vehicles that are electric hybrid vehicles, $70;

(D) for those motor vehicles that are plug-in electric hybrid vehicles, $100; and

(E) for those motor vehicles that are all-electric vehicles, $165; and

(5) except for motor vehicles, trailers or semitrailers registered under the provisions of K.S.A.

8-1,134

, and amendments thereto, the annual registration fee for each motor vehicle, trailer or semitrailer owned by any political or taxing subdivision of this state or by any agency or instrumentality of any one or more political or taxing subdivisions of this state and used exclusively for governmental purposes and not for any private or utility purposes, that is not otherwise exempt from registration, shall be $2.

(b) (1) As used in this subsection, the term "gross weight" shall mean and include the empty weight of the truck, or combination of the truck or truck tractor and any type trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same, except when the empty weight of a truck plus the maximum weight of cargo which will be transported thereon is 12,000 pounds or less. The term gross weight shall not include: The weight of any travel trailer propelled thereby which is being used for private recreational purposes; or the weight of any vehicle or combination of vehicles for which wrecker or towing service, as defined in K.S.A.

66-1329

, and amendments thereto, is to be provided by a wrecker or tow truck, as defined in K.S.A.

66-1329

, and amendments thereto. Such wrecker or tow truck shall be registered for the empty weight of such vehicle fully equipped for the recovery or towing of vehicles. The gross weight license fees hereinafter prescribed shall only apply to the truck or truck tractor used as the propelling unit for the cargo and vehicle propelled, either as a single vehicle or combination of vehicles. On application for the registration of a truck or truck tractor, the owner thereof shall declare as a part of such application the maximum gross weight the owner desires to be applicable to such vehicle, which declared gross weight in no event shall 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 will be a part. All applications for the registration of trucks or truck tractors, except as otherwise provided herein, shall be accompanied by an annual license fee as follows:

For a gross weight of 12,000 lbs. or less unless otherwise provided

$40

For a gross weight of 12,000 lbs. or less and the truck

or truck tractor is an electric hybrid or plug-in electric hybrid

125

For a gross weight of 12,000 lbs. or less and the truck

or truck tractor is all-electric

200

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.

202

For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.

232

For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.

297

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.

412

For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs.

412

For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs.

475

For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs.

575

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs.

705

For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs.

905

For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.

1,145

For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.

1,345

For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs.

1,670

For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs.

1,870

For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs.

2,070

(2) If the applicant for registration of any truck or truck tractor for a gross weight of more than 12,000 pounds in the state of Kansas or any political or taxing subdivision or agency of the state, except a city or county, whose truck or truck tractor is not otherwise entitled to the $2 license fee or otherwise exempt from all fees, such vehicle may be licensed for a fee in accordance with the schedule hereinafter prescribed for local trucks or truck tractors.

(3) If the applicant for registration of any truck or truck tractor for a gross weight of more than 12,000 pounds shall under oath state in writing on a form prescribed and furnished by the director of vehicles that the applicant does not expect to operate it more than 6,000 miles in the calendar year for which the applicant seeks registration, and that if the applicant shall operate it more than 6,000 miles during such registration year such applicant will pay an additional fee equal to the fee required by the schedule under paragraph (1), less the amount of the fee paid at time of registration, such vehicle may be licensed for a fee in accordance with the schedule prescribed for local trucks or truck tractors. Whenever a truck or truck tractor is registered on a local truck or truck tractor fee basis a tab or marker shall be issued in connection with the regular license plate, which tab or marker shall be attached or affixed to and displayed with the regular license plate and the failure to have the same attached, affixed or displayed shall be subject to the same penalties as provided by law for the failure to display the regular license plate; and the secretary of revenue may adopt rules and regulations requiring the owners of trucks and truck tractors so registered on a local truck or truck tractor fee basis to keep such records and make such reports of mileage of such vehicles as the secretary of revenue shall deem proper.

(4) A transporter delivering vehicles not the transporter's own by the driveaway method where such vehicles are being driven, towed, or transported singly, or by the saddlemount, towbar, or fullmount methods, or by any lawful combination thereof, may apply for license plates which may be transferred from one such vehicle or combination to another for each delivery without further registration, and the annual license fee for such license plate shall be as follows:

For the first such set of license plates

$64

For each additional such set of license plates

38

(5) A truck or truck tractor registered for a gross weight of more than 12,000 pounds that is operated wholly within the corporate limits of a city or village or within a radius of 25 miles beyond the corporate limits, shall be classified as a local truck except that in no event shall such vehicles operated as contract or common carriers outside a radius of three miles

beyond the corporate limits of the city or village in which such vehicles were based when registered and licensed be considered local trucks or truck tractors. The secretary of revenue is hereby authorized and directed to adopt rules and regulations prescribing a procedure for the issuance of permits by the division of vehicles whereby owners of local trucks or truck tractors may operate any such vehicle, empty, beyond the radius hereinbefore prescribed, when such operation is solely for the purpose of having such vehicle repaired, painted or serviced or for adding additional equipment thereto. The annual license fee for a local truck or truck tractor, except as otherwise provided herein, shall be as follows:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.

$162

For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.

202

For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.

232

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.

277

For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs.

277

For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs.

315

For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs.

345

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs.

415

For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs.

515

For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.

615

For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.

715

For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs.

895

For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs.

1,025

For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs.

1,145

(6) A truck or truck tractor registered for a gross weight of more than 12,000 pounds, which is owned by a person engaged in farming and which truck or truck tractor is used by such owner to transport agricultural products produced by such owner or commodities purchased by such owner for use on the farm owned or rented by the owner of such farm truck or truck tractor, shall be classified as a farm truck or truck tractor and the annual license fee for such farm truck shall be as follows:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.

$57

For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.

142

For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.

152

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.

172

For a gross weight of more than 26,000 lbs. and not more than 36,000 lbs.

172

For a gross weight of more than 36,000 lbs. and not more than 54,000 lbs.

175

For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.

325

For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.

505

For a gross weight of more than 66,000 lbs.

745

A vehicle licensed as a farm truck or truck tractor may be used by the owner thereof to transport, for charity and without compensation of any kind, commodities for religious or educational institutions. A truck that is licensed as a farm truck may also be used for the transportation of 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. Any applicant for registration of any farm truck or farm truck tractor used in combination with a trailer or semitrailer shall register the farm truck or farm truck tractor for a gross weight which shall 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 that will be transported on or with the same. The applicant for registration of any farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall durably letter on the side of the motor vehicle the words "farm vehicleâ■■not for hire." If an applicant for registration of any farm truck or farm truck tractor operates such vehicle for any use or purpose not authorized for a farm truck or farm truck tractor, such applicant shall pay an additional fee equal to the fee required for the registration of all trucks or truck tractors not registered as local, 6,000-mile or farm truck or farm truck tractor motor vehicles, less the amount of the fee paid at time of registration. Nothing in this or the preceding paragraph shall authorize a gross weight of a vehicle or combination of vehicles on the national system of interstate and defense highways greater than permitted by laws of the United States congress.

(7) Except as provided herein, the annual license fee for each local urban transit bus used in local urban transit operations exempted under the provisions of K.S.A.

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(a), and amendments thereto, shall be based on the passenger seating capacity of the bus and shall be as follows:

8 or more, but less than 31 passengers

$35

31 or more, but less than 40 passengers

50

More than 39 passengers

80

The annual license fee for each local urban transit bus that is owned by a metropolitan transit authority established pursuant to articles 25 and 28 of chapter 12 or pursuant to article 31 of chapter 13 of the Kansas Statutes Annotated, and amendments thereto, shall be $2.

(8) For licensing purposes, station wagons with a carrying capacity of less than 10 passengers shall be subject to registration fees based on the weight of the vehicles, as provided in subsection (a). Station wagons with a carrying capacity of 10 or more passengers shall be subject to the truck classifications and license fees as provided.

(9) For any trailer, semitrailer, travel trailer or pole trailer the annual license fee shall be as follows:

(A) For any such vehicle with a gross weight of more than 12,000 pounds but less than 54,000 pounds the annual fee shall be $55;

(B) any such vehicle grossing more than 8,000 pounds but not over 12,000 pounds, the annual fee shall be $45; and

(C) for any such vehicle grossing more than 2,000 pounds but not over 8,000 pounds, the annual fee shall be $35.

Any such vehicle having a gross weight of 2,000 pounds or less may, at the owner's option, be registered and the fee for such registration shall be as provided in paragraph (C).

Any trailer, semitrailer or travel trailer owned by a nonresident of this state and based in another state that is properly registered and licensed in the state of residence of the owner or in the state where based, may be operated in this state without being registered or licensed in this state if the truck or truck tractor propelling the same is properly registered and licensed in this state, or is registered and licensed in some other state and is entitled to reciprocal privileges of operation in this state, but this provision shall not apply to any trailer or semitrailer owned by a nonresident of this state when such trailer or semitrailer is owned by a person who has proportionately registered and licensed a fleet of vehicles under the provisions of K.S.A.

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, and amendments thereto, or under the terms of any reciprocal or proration agreement made pursuant thereto.

At the option of the owner, any trailer, semitrailer or pole trailer, with a gross weight of more than 12,000 pounds, may be issued a multi-year registration for a five-year period upon payment of the appropriate registration fee. The fee for a five-year registration of such trailer shall be five times the annual fee for such trailer. If the annual registration fee is increased during the multi-year registration period, the owner of the trailer with such multi-year registration shall be subject to the amount of the increase of the annual registration fee for the remaining calendar years of such multi-year registration. When the owner of any trailer, semitrailer or pole trailer registered under this multi-year provision transfers or assigns the title, or interest thereto, the registration of such trailer shall expire. The owner shall remove the license plate from such trailer and forward the license plate to the division of vehicles or may have such license plate assigned to another trailer, semitrailer or pole trailer upon the payment of fees required by law. Any owner of a trailer, semitrailer or pole trailer where the multi-year registration fee has been paid and the trailer is sold, junked, repossessed, foreclosed by a mechanic's lien or title transferred by operation of law, and the registration thereon is not going to be transferred to another trailer, may secure a refund for the registration fee for the remaining calendar years by making application to the division of vehicles on a form and in the manner prescribed by the director of vehicles. The secretary of revenue may adopt such rules and regulations necessary to implement the multi-year registration of such trailers, semitrailers and pole trailers.

(c) Any truck or truck tractor having a gross weight of 4,000 pounds or over, using solid tires, shall pay a license fee of double the amount herein charged. The annual fees herein provided for trucks, truck tractors and trailers not subject to K.S.A.

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, and amendments thereto, shall be due January 1 of each year and payable on or before the last day of February in each year. If the fee is not paid by such date a penalty of $1 shall be added to the fee charged herein for each month or fraction thereof and until December 31 of each registration year. The annual registration fee for all passenger vehicles and vehicles subject to K.S.A.

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, and amendments thereto, shall be due on or before the last day of the month in which the registration plate expires and shall be due for other vehicles as provided by K.S.A.

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, and amendments thereto. If the registration fee is not paid by such date a penalty of $1 shall be added to the fee charged herein for each month or fraction thereof until such registration fee is paid. Members of the armed forces of the United States shall be permitted to apply for registration at any time and be subject to registration fee, less penalties, applicable at the time the application is made. If any motorcycle, motorized bicycle, trailer, semitrailer, travel trailer, or pole trailer is either purchased or acquired after the anniversary or renewal date in any registration year there shall

immediately become due and payable a registration fee as follows: If purchased or acquired between the anniversary or renewal date of any registration year and the first six months of such registration year, the annual fee provided herein; if purchased or acquired during the last six months of any registration year, 50% of such annual fee. If any truck or truck tractor, except trucks subject to K.S.A.

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, and amendments thereto, is purchased or acquired prior to April 1 of any year the fee shall be the annual fee provided herein, but if such truck or truck tractor is purchased or acquired after the end of March of any year, the license fee for such year shall be reduced

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for each calendar month which has elapsed since the beginning of the year. If any truck registered for a gross weight of 12,000 pounds or less or passenger vehicle is purchased or acquired and less than 12 months remain in the registration period, the fee shall be

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12

of the annual fee for each calendar month remaining in the registration period.

(d) The owner of any motorcycle, motorized bicycle, passenger vehicle, truck, truck tractor, trailer, semitrailer, or electrically propelled vehicle who fails to pay the registration fee or fees herein provided on the date when the same become due and payable shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty in the sum of $1 for each month or fraction thereof during which such fee has remained unpaid after it became due and payable; and in addition thereto shall be subject to such other punishment as is provided in this act. Upon the transfer of motorcycles, motorized bicycles, passenger vehicles, trailers, semitrailers, trucks or truck tractors, on which registration fees have been paid for the year in which the transfer is made, either: (1) To a corporation by one or more persons, solely in exchange for stock or securities in such corporation; or (2) by one corporation to another corporation when all of the assets of such corporation are transferred to the other corporation, then in either case, paragraph (1) or (2) the corporation shall be exempt from the payment of registration fees on such vehicles for the year in which such transfer is made. Applications for transfer or registration shall be accompanied by a fee of $1.50. When the registration of a vehicle has expired at midnight on the last day of any registration year, and such vehicle is not thereafter operated upon the highways, any application for renewal of registration made subsequent to the anniversary or renewal date of any registration year following the expiration of such registration and for succeeding registration years in which such vehicle has not been registered shall be accompanied by an affidavit of nonoperation and nonuse, and such application for renewal or registration shall be received by the division of vehicles upon payment of the proper fees for the current registration year and without penalty.

(e) Any nonresident of Kansas purchasing a vehicle from a Kansas resident and desiring to secure registration on the vehicle in the state of such person's residence may make application in the office of any county treasurer for a sixty-day temporary registration. The county treasurer upon presentation of evidence of ownership in the applicant and evidence the sales tax has been paid, if due, shall charge and collect a fee of $3 for each sixty-day temporary license and issue a sticker or paper registration as may be determined by the director of vehicles, and the registration so issued shall be valid for a period of 60 days from the date of issuance.

(f) Any owner of any motor vehicle that is subject to taxation under the provisions of article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or any other truck or truck tractor where the annual registration fee has been paid and the vehicle is sold, junked, repossessed, foreclosed by a mechanic's lien or title transferred by operation of law, and the registration thereon is not going to be transferred to another vehicle may secure a refund for the registration fee for the remaining portion of the year by making application to the division of vehicles on a form and in the manner prescribed by the director of vehicles, accompanied by all license plates and attachments issued in connection therewith. If the owner of the registration becomes deceased and the vehicle is not going to be used on the highway, and title is not being currently transferred, the proper representative of the estate shall be entitled to the refund. The refund shall be

made only for the period of time remaining in the registration year from the date of completion and filing of the application with and delivery of the license plate and attachments to the division of vehicles. Where the registration is secured under a quarterly payment annual registration fee, as provided for in K.S.A.

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, and amendments thereto, such refund shall be made on the quarterly fee paid and unused and all remaining quarterly payments shall be canceled. Any truck or truck tractor having the registration fee paid on quarterly payment basis, all quarterly payments due or a fraction of quarterly payment due shall be paid before title may be transferred, except that in case of death, the filing of the application and returning of the license plate and attachment shall cancel the remaining annual payments due. Whenever a truck or truck tractor, where the registration is secured on a quarterly payment of the annual registration, the one repossessing the truck or truck tractor, or foreclosing by a mechanic's lien, or securing title by court order, the mortgagor or the assigns of the mortgagor, or the one securing title may pay the balance due on date of application for title, but the payments for the remaining portion of the year shall not be canceled unless application is made and the license plate and attachments are surrendered. Nothing in this subsection shall apply when registration is secured under the provisions of K.S.A.

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, and amendments thereto. Notwithstanding any of the foregoing provisions of this section, no refund shall be made under the provisions of this section where the amount thereof does not exceed $5. The division of vehicles shall furnish such blank forms as may be required under the provisions of this subsection as it deems necessary to be completed by the applicant. Whenever a registration which has been secured on a quarterly basis shall be canceled as provided in this subsection, the division of vehicles shall notify the county treasurer issuing the original registration of such cancellation so that the county treasurer may, and the county treasurer shall cancel the registration of such vehicle in the county treasurer's office and release any lien issued in connection with such registration.

(g) Every owner of a travel trailer designed for or intended to be moved upon any highway in this state shall, before the same is so moved, apply for and obtain the proper registration thereof as provided in this act, except when such unit is permitted to be moved under the special provisions relating to secured parties, manufacturers, dealers and nonresidents contained in this act. At the time of registering any travel trailer for the purpose of moving any such vehicle upon any highway in this state, the owner thereof shall indicate on the registration form whether or not such vehicle is being moved permanently to a location outside of the county in which such vehicle is being registered. No such vehicle which the owner thereof intends to move to a permanent location outside the boundaries of such county shall be registered for movement on the highways of this state until all taxes levied against such vehicle have been paid. A copy of such registration form shall be sent to the county clerk or assessor of the county to which such vehicle is being moved. When such travel trailer is used for living quarters and not operated on the highways, the owner shall be exempt from the license fees as provided in subsection (b)(9) so long as such travel trailer is not operated on the highway.

KSA 8-143a — Quarterly payment of annual registration fee by resident owner of truck or truck tractor; delinquent payments, fees and penalties; enforcement; notice of lien; tax warrants; collection; seizure of property subject to lien; application of lien; enforcement provisions

Quarterly payment of annual registration fee by resident owner of truck or truck tractor; delinquent payments, fees and penalties; enforcement; notice of lien; tax warrants; collection; seizure of property subject to lien; application of lien; enforcement provisions.

(a) The provisions of this section shall not apply to vehicles registered on an apportioned basis as part of a fleet under the provisions of K.S.A.

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, and amendments thereto, or any agreement made by the director of vehicles. The payment of registration fees on a quarterly basis on such vehicles shall be in accordance with K.S.A.

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, and amendments thereto.

(b) A resident owner of any truck or truck tractor, holding a negotiable Kansas title, whether individual, partnership or Kansas corporation, may at such owner's election, made at the time the annual registration fee on such truck or truck tractor is payable, pay such annual registration fee if such fee exceeds $300, in equal quarterly installments. The first of such quarterly payments shall be payable at the time of such application but not later than the last day of February in each year, and for each ensuing quarter thereafter shall be payable respectively on the first day of April, July and October. The applicant shall, at the time of registration, present such applicant's negotiable Kansas title to the county treasurer, who shall send it, along with the application for registration, to the division of vehicles. The division of vehicles shall retain the title until all quarterly payments are paid in full, at which time the title shall be returned to the owner of the vehicle to which the title was issued.

(c) The provisions of subsection (b) shall not in any manner be construed to affect or reduce the amount of annual registration fee due for any truck or truck tractor subject to registration on January 1, and for which the owner shall be liable, but relate only to an alternate method of payment of the amount of fees due and affixed as of January 1 of each year. If any owner shall default in the payment of any quarterly installment payment when the same is payable, the right to operate such vehicle on the highways of this state shall terminate and it shall be unlawful to operate such vehicle on the highways of this state until the delinquent quarterly installment payment plus any penalty, shall have been paid in full.

(d) (1) If a quarterly installment payment shall be delinquent more than 10 days beyond the due date of such quarterly installment, except for any case where it is determined by the director of vehicles that such delinquency is not due to negligence or intentional disregard of the provisions of this section, then the entire balance of the annual registration fee, including the delinquent quarterly installment, plus a penalty in a sum equal to 10% of the annual registration fee, shall become due and payable. Any such owner so delinquent may thereafter be denied the privilege of the payment of annual registration fees on any vehicle on a quarterly basis. All such fees and penalties remaining unpaid shall constitute a debt due the state, which may be collected from the person owing such unpaid fees and penalties by suit or otherwise. All such fees and any penalties remaining unpaid after such fees and any penalties are due and payable shall constitute a first and prior lien in favor of the state upon the truck or truck tractor registered under this section, and all other real and personal property of the owner located within the state in the amount such fees and penalties remain unpaid. Each lien shall attach at the time such unpaid fees and penalties accrue and shall be paramount to all prior liens or encumbrances of any character and to the rights of any holder of the legal title in or to any such truck or truck tractor.

(2) When a quarterly installment is delinquent more than 10 days beyond the due date, upon default of such installment payment, the county treasurer shall promptly file a notice of lien in the office of the register of deeds of the county where the registration fee is payable, and in any other county in which such owner has any property. A copy of such notice of lien shall be mailed to the division of vehicles, and the owner so delinquent, and the sheriff of any county in which such notice of lien is filed. Such notice of lien shall set forth the name and address of the owner, the amount of fees and penalties payable and unpaid, and the description of the vehicle or vehicles applicable to such notice of lien. It shall be the duty of each register of deeds in this state to index and file immediately all such notices of lien in the manner provided in cases of financing statements and no fee shall be charged for filing and indexing.

(3) The county treasurer shall issue a release of lien upon payment of all fees and penalties payable by such owner and such person may file the same with the register of deeds of any county in which such notice of lien has been filed. The county treasurer shall mail a copy of the release of lien to the division, and to the sheriff of any county where such notice of lien has been filed.

(4) If a quarterly installment payment shall be delinquent more than 10 days beyond the due date of such quarterly installment, the division, shall promptly on such default and the filing of the notice of lien issue a tax warrant to the sheriff of any county in which such notice of lien has been filed and may thereafter issue further warrants as may be necessary. Such sheriff shall seize and hold all personal property subject to such lien and proceed to advertise and sell such property or so much thereof as may be necessary, to satisfy the state's lien, together with all expense of selling at public sale for cash, upon such notice as is provided by law in the case of a security agreement sale.

(5) Any surplus of the proceeds of such sale, after paying to the county treasurer, the amount of the state's lien, and the cost of the officer in giving notice of and executing such warrant computed to the same extent as in judicial sales on execution, and of securing and preserving the property pending such sale, shall be delivered to the person lawfully entitled to such surplus amount. In the event that any truck or truck tractor for which the annual registration fee is being

paid quarterly shall be sold or otherwise disposed of, the entire balance remaining unpaid on such annual registration fee shall become immediately due and payable.

(6) No certificate of title shall be assigned or transferred or new certificate of title be issued for such vehicle until all the registration fees and penalties are paid in full. In the event such vehicle shall be repossessed by the enforcement of a lien or security interest on such vehicle, during any quarterly period for which the registration fees have not been paid, the person repossessing such vehicle or the person purchasing such vehicle at a repossession sale, may acquire a new certificate of title upon the payment of a fee equal to

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of the annual registration fee of the vehicle registered under this section, plus the regular fee prescribed by law for certificate of title. If any truck or truck tractor that is registered under the provisions of this section is exchanged or traded by the owner for another truck or truck tractor, any registration fee and any quarterly installments that have been paid shall be applied to the registration fee due for the registration of the newly acquired vehicle. The application of any such registration fee or quarterly installment to the newly acquired vehicle shall not affect or reduce the original amount of the annual registration fee or any quarterly installment payment, for which such owner was originally liable.

(e) The division of vehicles may call to its aid the state highway patrol or any peace officer or any duly appointed representative of the department to enforce the provisions of this section within their respective jurisdiction and it shall be the duty of such officers to do so. The remedies for enforcement and collection provided in this section are cumulative and the use of one shall not be deemed to be a waiver of the right to use any other.

KSA 8-143b — Temporary intrastate registration or license for truck or truck tractor registered in another state; fee in lieu of annual license fee; application; ambulances, rescue vehicles and utility vehicles exempt from fee in certain cases

Temporary intrastate registration or license for truck or truck tractor registered in another state; fee in lieu of annual license fee; application; ambulances, rescue vehicles and utility vehicles exempt from fee in certain cases.

(a) Except as provided in K.S.A.

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, and amendments thereto, and subsection (b), the owner of any truck or truck tractor which is duly registered and licensed in some other state, desiring to operate in intrastate commerce in this state for a temporary period only, in lieu of payment of the annual license fee, may register such truck or truck tractor and obtain either: (1) A 72-hour temporary registration; or (2) a thirty-day license authorizing operation on the highways of this state for a period not to exceed 30 days from the date of issuance of such license. The fee for: The 72-hour temporary registration shall be $26, on January 1, 2013, $36, on January 1, 2014, $46 and the fee for the thirty-day license shall be $26, on January 1, 2013, $36, on January 1, 2014, $46 or ■ of the annual license fee for such vehicle, whichever sum is the larger. Where either fee is paid on a truck or truck tractor no registration or fee shall be required for a trailer or semitrailer duly registered in this or another state and propelled by such truck or truck tractor. Application for such temporary registration or license shall be made to the division in the manner and form prescribed by the director and shall be accompanied by the required fee, which shall be deposited by the director as provided by K.S.A.

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, and amendments thereto.

(b) Whenever any natural catastrophe or disaster, civil riot or disorder or any other condition exists in this state that requires or necessitates emergency assistance or aid from persons owning ambulances, rescue vehicles or utility vehicles which are subject to the provisions of this section, such persons shall be exempt from the payment of the fee required in subsection (a) for any such ambulance, rescue vehicle or utility vehicle that is operated in this state for the purpose of or in connection with rendering such emergency assistance or aid.

KSA 8-143c — Temporary registration for foreign truck or truck tractor for interstate commerce operation; fee; rules and regulations; exception

Temporary registration for foreign truck or truck tractor for interstate commerce operation; fee; rules and regulations; exception.

The owner of any truck or truck tractor, which is registered and licensed in some other state, not entitled to reciprocal privileges while being operated in interstate commerce on the highways of this state, and which truck or truck tractor has a gross weight, as defined in subsection (b) of K.S.A.

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, and amendments thereto, in excess of 12,000 pounds, in lieu of payment of the annual license fee for such vehicle pursuant to the provisions of K.S.A.

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, and amendments thereto, or K.S.A.

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, inclusive, and amendments thereto, may register such vehicle and obtain temporary registration from the division of vehicles authorizing operation of such vehicle on the highways of this state in interstate commerce for a period of not to exceed 72 hours. The fee for such temporary registration is $26, on January 1, 2013, $36, on January 1, 2014, $46, which shall be deposited by the division as provided by K.S.A.

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, and amendments thereto. Where such fee is paid on a truck or truck tractor no registration or fee shall be required for a trailer or semitrailer duly registered in this or another state and propelled by such truck or truck tractor. The secretary of revenue shall adopt rules and regulations to effectuate the purpose of this section. A temporary registration as provided in this section is not required for a truck or truck tractor which is registered and licensed in some other state and which operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the interstate commerce commission.

KSA 8-143d — Licensing agents under K.S.A. 8-143b, 8-143c

Licensing agents under K.S.A. 8-143b, 8-143c.

The secretary of revenue may designate agents or contract with private individuals, firms or corporations to issue the licenses described in K.S.A.

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and

8-143c

, so that such licenses will be obtainable at convenient locations. No such contract with a private individual, firm or corporation shall take effect prior to July 1, 1978.

KSA 8-143e — Registration receipts for truck or truck tractor; copies

Registration receipts for truck or truck tractor; copies.

The county treasurer shall issue to the owner a registration receipt on each application for a truck or truck tractor license. The registration application and receipt shall be in such number and contain such information as the division shall determine. Except as provided by K.S.A.

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and amendments thereto, a copy of the registration receipt shall be carried in the cab of such truck or truck tractor during all the time the same is operated on the highways of this state.

KSA 8-143f — Distinctive plates for farm and local trucks

Distinctive plates for farm and local trucks.

The director of vehicles shall prescribe and furnish distinctive number plates to be issued for all farm and local trucks sufficient to identify such trucks or truck tractors as registered under the farm and local truck classification.

KSA 8-143g — Trip permits authorizing certain dealers to demonstrate trucks and truck tractors; fees; application; limitations; plate display; laws applicable; act supplemental; disposition of fees

Trip permits authorizing certain dealers to demonstrate trucks and truck tractors; fees; application; limitations; plate display; laws applicable; act supplemental; disposition of fees.

A motor vehicle dealer licensed in this state or in a state contiguous to this state, who is the owner of a truck or truck tractor which the owner desires to demonstrate under actual working conditions by having it operated by the prospective purchaser in interstate or intrastate commerce on the highways of this state, in lieu of obtaining a regular registration for such vehicle, may obtain from the division, or an agent designated by director of vehicles, a trip permit authorizing such demonstration and operation for a period of: (a) Seventy-two hours upon making proper application and the payment of a fee of $26, on January 1, 2013, $36, on January 1, 2014, $46; or (b) fifteen days upon making proper application and the payment of a fee of $100, on January 1, 2013, $110, on January 1, 2014, $120. A dealer may purchase such demonstration permits in multiples of three upon making proper application and the payment of required fees. The application shall be to the division on a form prescribed and furnished by the director of vehicles. The name of the prospective purchaser must be shown on the application. A dealer purchasing permits in multiples, shall complete the application and permit as required by the division and mail a copy of such application to the division within 24 hours from the date of issuance of such permit. Only one such permit may be used by the same prospective purchaser on the same truck or truck tractor. Whenever a truck or truck tractor is operated under the authority of a trip permit issued hereunder it also shall have displayed thereon a dealer's registration plate which has been issued by this state or a state contiguous to this state to the dealer who is the owner of such truck or truck tractor. The provision of K.S.A.

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, and amendments thereto, prohibiting the hauling of commodities in excess of two tons by a vehicle displaying a dealer plate shall not apply to a truck or truck tractor being operated under a trip permit as authorized by this section. This section shall be construed as a part of and supplementary to the motor vehicle registration law of this state. The division shall remit all fees collected under this section to the state treasurer in accordance with the provisions of K.S.A.

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, 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 state highway fund.

KSA 8-143h — Temporary intrastate licensing of certain farm trucks; fee

Temporary intrastate licensing of certain farm trucks; fee.

Except as provided in K.S.A.

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, the owner of any duly registered and licensed farm truck in this state, engaged in the hauling of grain as provided by subsection (h) of K.S.A.

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, and amendments thereto, or chopped forage, and desiring to operate in intrastate commerce in this state for a temporary period only, in lieu of payment of the annual license fee, may register such farm truck and obtain a thirty-day license authorizing operation on the highways of this state for a period of only 30 days from the date of issuance of such license. The fee for such license shall be $26, on January 1, 2013, $36, on January 1, 2014, $46. Where such fee is paid on a farm truck no registration or fee shall be required for a trailer duly registered in this or another state and propelled by such farm truck. Application for such license shall be made to the division of vehicles on such form as the director of vehicles shall prescribe and shall be accompanied by the required fee, which shall be deposited by the division as provided by K.S.A.

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, and amendments thereto. The director of vehicles may designate agents to issue the licenses authorized by this act so that such licenses will be obtainable at convenient locations. This section shall be construed as supplemental to and a part of the motor vehicle registration laws of this state.

KSA 8-143i — Temporary permit for licensed truck or truck tractor authorizing use on highways beyond local radius; fee; disposition; limitations on use; identification

Temporary permit for licensed truck or truck tractor authorizing use on highways beyond local radius; fee; disposition; limitations on use; identification.

The owner of any truck or truck tractor which is properly registered and licensed in this state as a local truck or truck tractor as provided in K.S.A.

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, and amendments thereto, may secure a temporary permit authorizing operation of such vehicle on the highways of this state beyond the local radius authorized by such annual registration for a period only of 72 hours from the time of issuance of such permit. The fee for such permit shall be $26, on January 1, 2013, $36, on January 1, 2014, $46. Application for such permit shall be made to the division of vehicles on such form as the director of vehicles shall prescribe and shall be accompanied by the required fee, except that such owner shall not be entitled to more than 10 such permits in any calendar year. All such fees shall be deposited by the division as provided by K.S.A.

8-146

, and amendments thereto. The division shall issue appropriate identification for such vehicle to authorize its operation under provisions of this act and to specify the expiration time of such permit. No truck or truck tractor shall be authorized to leave the territory of this state under any such 72-hour permit, nor shall any permit issued under authority of this act entitle any truck or truck tractor or the owner to reciprocity in any other state. Nothing in this act shall be construed to authorize the movement of any truck or truck tractor on the highways of this state in violation of any size, weight, safety or insurance requirement of the laws of this state applicable to such truck or truck tractor. Nothing in this act shall be construed to authorize the operation of any motor vehicle in violation of K.S.A.

66-1,111

, and amendments thereto.

KSA 8-143j — Annual registration for trucks or truck tractors engaged in farm custom harvesting operations

Annual registration for trucks or truck tractors engaged in farm custom harvesting operations.

(a) On and after January 1, 1991, any truck or truck tractor registered for a gross weight of more than 12,000 pounds which is engaged in farm custom harvesting operations may be registered in accordance with the schedule for such farm custom harvesting vehicles, but shall not be registered as a farm truck or farm truck tractor. The annual license fee for a farm custom harvesting truck or truck tractor shall be as follows:

(1) Prior to January 1, 2013:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.

$62

For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.

102

For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.

132

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.

177

For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs.

177

For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs.

215

For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs.

245

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs.

315
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs.
415
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.
480
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.
580
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs.
760
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs.
890
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs.
1,010
(2) On January 1, 2013, through December 1, 2013:
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.
$72
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.
152
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.
182
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.
227
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs.
227
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs.
265
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs.
295
For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs.
365
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs.
465
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.
565
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.
665
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs.
845
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs.
875
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs.
1,095

(3) On January 1, 2014:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs.

$82

For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs.

202

For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs.

232

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs.

277

For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs.

277

For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs.

315

For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs.

345

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs.

415

For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs.

515

For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs.

615

For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs.

715

For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs.

895

For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs.

1,025

For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs.

1,145

(b) A tab or marker shall be issued and displayed in connection with the regular license plate for a truck or truck tractor registered as a farm custom harvesting truck or truck tractor.

(c) Trucks or truck tractors registered under this section shall be eligible for apportioned registration under the provisions of K.S.A.

8-1,100

et seq., and amendments thereto.

(d) As used in this section, "farm custom harvesting operations" means a person, firm, partnership, association or corporation engaged in farm custom harvesting operations if a truck or truck tractor is used to:

(1) Transport farm machinery, supplies, or both, to or from a farm, for custom harvesting operations on a farm;

(2) transport custom harvested crops only from a harvested field to initial storage or to initial market locations; or

(3) transport agricultural products produced by such owner or commodities purchased by such owner for use on the farm owned or rented by the owner of such vehicle.

KSA 8-143k — Temporary harvest permit for trucks or truck tractors engaged in farm custom harvesting operations

Temporary harvest permit for trucks or truck tractors engaged in farm custom harvesting operations.

(a) The owner of any truck or truck tractor which is duly registered and licensed in some other state and is engaged in farm custom harvesting operations and desiring to operate in intrastate commerce in this state for a temporary period only, may obtain a harvest permit, in lieu of the thirty-day license in K.S.A.

8-143b

or

8-143h

, and amendments thereto, authorizing the operation of such truck or truck tractor on the highways of this state for a period of not to exceed 60 days from the date of issuance of such permit. For a foreign-based truck or truck tractor, the fee for each permit shall be $26, on January 1, 2013, $36, on January 1, 2014, $46 or ■ of the annual license fee for such vehicle, whichever sum is the larger. Where such fee is paid on a truck or truck tractor, no registration or fee shall be required for a trailer or semitrailer duly registered in this or another state and propelled by such truck or truck tractor. Application for such harvest permit shall be made to the division of vehicles of the department of revenue. The secretary of revenue may adopt rules and regulations to implement the provisions of this section.

(b) For the purpose of this section, "farm custom harvesting operations" means a person, firm, partnership, association or corporation engaged in farm custom harvesting operations if the truck or truck tractor is used to:

(1) Transport farm machinery, supplies, or both, to or from a farm, for custom harvesting operations on a farm;

(2) transport custom harvested crops only from a harvested field to initial storage or to initial market locations; or

(3) transport agricultural products produced by such owner or commodities purchased by such owner for use on the farm owned or rented by the owner of such vehicle.

KSA 8-143l — Auction; 72-hour transport permits; conditions; fees

Auction; 72-hour transport permits; conditions; fees.

(a) Any auctioneer conducting auctions under subparagraphs (D) or (E) of paragraph (2) of subsection (a) of K.S.A.

8-2401

, and amendments thereto, may obtain from the division, or an agent designated by the director of vehicles, a 72-hour transport permit authorizing the purchaser of a vehicle at an auction conducted by such auctioneer, to operate such vehicle for a period of 72 hours. In addition to the 72-hour transport permit, the purchaser shall have the bill of sale. The fee for each 72-hour transport permit shall be $3.

(b) An auctioneer under subsection (a) who is a Kansas resident, whose primary place of business is in Kansas and only for the purpose of conducting auctions in Kansas, may purchase such 72-hour transport permits in multiples of three upon making proper application and the payment of required fees. The application shall be to the division on a form prescribed and furnished by the director of vehicles. The name of the purchaser of the vehicle at the auction shall be shown on the 72-hour permit issued. An auctioneer purchasing permits shall complete the application and permit as required by the division and mail a copy of such application to the division within 24 hours from the date of issuance of such permit. Only one such permit may be used by the same purchaser on the same vehicle. The division of vehicles may deny any auctioneer the authority to purchase 72-hour transport permits if the auctioneer is found to have issued more than one 72-hour transport permit to the purchaser of a vehicle. This section shall be construed as a part of and supplementary to the motor vehicle registration law of this state. The division shall remit all fees collected under this section 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 state highway fund.

KSA 8-143m — Annual commercial vehicle fee; issuance of commercial license plates; distribution of amounts collected

Annual commercial vehicle fee; issuance of commercial license plates; distribution of amounts collected.

(a) On and after January 1, 2014, any truck or truck tractor registered for a gross weight of more than 10,000 pounds which is operating as a commercial vehicle shall, in addition to the annual fee prescribed under K.S.A.

8-143
, and amendments thereto, pay an annual commercial vehicle fee as follows:
Weight Group
Vehicle Age
Fee
up to 12,000 lbs.
1 to 3
$250.00
12,000 lbs.
4 to 6
200.00
12,000 lbs.
7 and older
150.00
16,000 lbs.
All Ages
250.00
20,000 lbs.
All Ages
250.00
24,000 lbs.
All Ages
250.00
26,000 lbs.
All Ages
300.00
30,000 lbs.
All Ages
300.00
36,000 lbs.
All Ages
300.00
42,000 lbs.
All Ages
350.00
48,000 lbs.
All Ages
350.00
54,000 lbs.
All Ages
350.00
60,000 lbs.

All Ages

400.00

66,000 lbs.

All Ages

400.00

74,000 lbs.

All Ages

400.00

80,000 lbs.

All Ages

400.00

85,500 lbs.

All Ages

400.00

(b) Truck or truck tractors registered under this section shall be eligible for apportioned registration under the provisions of K.S.A.

8-1,100

et seq., and amendments thereto.

(c) Upon the payment of the commercial vehicle fee and applicable registration fees under K.S.A.

8-143

, and amendments thereto, except for vehicles registered under K.S.A.

8-1,100

et seq., and amendments thereto, the division shall provide for the registration of and the issuance of license plates for commercial motor vehicles in accordance with the provisions of this section. License plates issued under this section shall be permanent in nature and designed in such a manner as to remain with the commercial motor vehicle for the duration of the life span of the commercial motor vehicle or until the commercial motor vehicle is deleted from the owner's fleet. Such license plates shall be distinctive and shall contain the word "commercial" and there shall be no year date thereon. License plates issued under this section shall not be transferable to any other commercial motor vehicle, except that the unused registration and commercial vehicle fee may be transferred to another commercial motor vehicle which is registered at the same or greater weight.

(d) Amounts collected by the county treasurer as annual commercial vehicle fees under this section shall be remitted or distributed in the following manner:

(1) Amounts collected from non-Kansas-based motor carriers, shall be remitted 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 state general fund.

(2) Amounts collected from Kansas-based motor carriers shall be allocated and distributed in the same manner as taxes levied against motor vehicles under article 51 of chapter 79 of the Kansas Statutes Annotated.

(e) If an applicant registers a motor vehicle described under this section where such vehicle or vehicles are to have a tax situs in another county, then the county treasurer of the county registering such vehicle or vehicles shall collect the fees prescribed under this section and remit them to the county where the vehicle retains its tax situs. Any county treasurer registering a fleet registered under K.S.A.

8-1,101

, and amendments thereto, shall remit the commercial vehicle portion of the fee to the county where the fleet is registered. Upon the transfer and receipt of fees under this subsection, the county treasurer of the receiving county shall remit or distribute such fees as provided in subsection (d).

(f) As used in this section, "commercial vehicle" means any self-propelled or towed motor vehicle in commerce that is used to transport property or passengers when the vehicle:

(1) Has a gross weight or gross combination weight of 10,001 pounds or more;

(2) is designed or used to transport 15 or more passengers, including the driver; or

(3) is used to transport hazardous materials in a quantity requiring placarding.

The term "commercial vehicle" shall not include any motor vehicle required to pay a license fee under subsection (b)(6) of K.S.A.

8-143

, and amendments thereto, or any motor vehicle valued under article 5a of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

KSA 8-145 — Collection of fees; disposition of moneys; compensation of county treasurers; highway patrol motor vehicle fund; VIPS/CAMA technology hardware fund; commercial vehicle administrative fund; division of vehicles modernization fund; Kansas highway patrol staffing and training fund; fleet rental vehicle administration fund; disposition of elective and hybrid vehicle registration fees

Collection of fees; disposition of moneys; compensation of county treasurers; highway patrol motor vehicle fund; VIPS/CAMA technology hardware fund; commercial vehicle administrative fund; division of vehicles modernization fund; Kansas highway patrol staffing and training fund; fleet rental vehicle administration fund; disposition of elective and hybrid vehicle registration fees.

(a) All registration and certificates of title fees shall be paid to the division of vehicles, a contractor of the division or the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state. The division, contractor or the county treasurer shall issue a receipt to the applicant for such fees paid.

(b) The county treasurer, division or contractor shall deposit $.75 out of each license application, $.75 out of each application for transfer of license plate and $2 out of each application for a certificate of title, collected under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer, division or contractor in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law. The county treasurer shall receive extra compensation for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of $110 per hundred registrations for the first 5,000 registrations; the sum of $90 per hundred registrations for the second 5,000 registrations; the sum of $5 per hundred for the third 5,000 registrations; and the sum of $2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than $15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer, division or contractor shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted 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 state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3 to the VIPS/CAMA technology hardware fund.

(2) For repossessed vehicles, $3 of each certificate of title fee collected shall be retained by the contractor or county treasurer who processed the application.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3 to the VIPS/CAMA technology hardware fund.

(4) Four dollars of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $4 to the state highway fund.

(5) Two dollars of each Kansas highway patrol staffing and training surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $2 to the Kansas highway patrol staffing and training fund.

(6) One dollar and twenty-five cents of each surcharge collected and remitted to the secretary of revenue pursuant to K.S.A.

8-1,177

, and amendments thereto, shall be remitted to the state treasurer who shall credit such $1.25 to the state general fund.

(7) Fees collected in K.S.A.

8-135

and 8-145, and amendments thereto, that are collected by the division for commercial motor vehicles or vehicles that are part of a commercial fleet, shall be remitted to the state treasurer, who shall credit such amounts to the commercial vehicle administrative fund.

(8) Fees collected in K.S.A.

8-135

and 8-145, and amendments thereto, that are collected by the division for vehicles that are part of a fleet rental pursuant to K.S.A.

8-1,189

, and amendments thereto, shall be remitted to the state treasurer, who shall credit such amounts to the fleet rental vehicle administration fund.

(9) Fees collected in K.S.A.

8-143

, and amendments thereto, for those motorcycles that are all-electric motorcycles pursuant to K.S.A.

8-143

(a)(3), and amendments thereto, for those motor vehicles that are electric hybrid vehicles pursuant to K.S.A.

8-143

(a)(4)(C), and amendments thereto, for those motor vehicles that are plug-in electric hybrid vehicles pursuant to K.S.A.

8-143

(a)(4)(D), and amendments thereto, for those motor vehicles that are all-electric vehicles pursuant to K.S.A.

8-143

(a)(4)(E), and amendments thereto, and for those truck or truck tractors that are all-electric, an electric hybrid or a plug-in electric hybrid with a gross weight of 12,000 pounds or less pursuant to K.S.A.

8-143

(b)(1), and amendments thereto, shall be remitted to the state treasurer who shall credit to the state highway fund amounts specified in K.S.A.

79-34,142

, and amendments thereto, and amounts specified in K.S.A.

79-34,142

, and amendments thereto, to the special city and county highway fund to be apportioned and distributed in the manner provided in K.S.A.

79-3425c

, and amendments thereto.

KSA 8-145a — Collection of insufficient or no-fund payment instrument or rejected or reversed credit card payment given for vehicle registration; notice; recovery of plates; return of check, when; criminal prosecution

Collection of insufficient or no-fund payment instrument or rejected or reversed credit card payment given for vehicle registration; notice; recovery of plates; return of check, when; criminal prosecution.

(a) The county treasurer of any county who shall receive from any person, as payment of the annual license fee for the registration of any motorcycle or motor vehicle, a credit card payment that is subsequently rejected or reversed by the credit card issuer or a payment instrument drawn on or issued by a bank or other financial institution in which such person has no money on deposit or in which there is insufficient money on deposit for the payment of such payment instrument upon its presentation, shall upon the return of any such payment instrument by the bank or other financial institution or upon the rejection or reversal of the credit card transaction notify the person uttering the same. Such notice shall be given by first class mail and shall state that if within seven days of the date of mailing the notice, such person has not paid the amount of the license fee, the sheriff will recover the registration number plate for which the credit card transaction or payment instrument was submitted and return the same to the office of the county treasurer. If the amount of the license fee is received in the office of the county treasurer within such seven days, the county treasurer shall return such insufficient or no-fund payment instrument to the person from whom it was received. Nothing in this act is to be construed to exclude criminal prosecutions as in other cases involving insufficient or no-fund checks or other payment instruments.

(b) For the purposes of this section, "payment instrument" shall have the meaning ascribed to it in K.S.A.

9-508

, and amendments thereto.

KSA 8-145b — Same; duties of treasurer and sheriff; criminal prosecution not excluded

Same; duties of treasurer and sheriff; criminal prosecution not excluded.

If the full amount of the license fee for which an insufficient or no-fund check was given is not received in the office of the county treasurer, after the giving of notice, within the time hereinbefore prescribed, the county treasurer shall certify to the sheriff of the county, the name and address of the person uttering such insufficient or no-fund check together with the registration number and a description of the vehicle registered and it shall be the duty of the sheriff to recover the registration number plate for which such check was uttered: Provided, Nothing in this act is to be construed to exclude criminal prosecutions as in other cases involving insufficient or no-fund checks.

KSA 8-145c — Same; completion of registration by owner after plates recovered; penalty; disposition of fees

Same; completion of registration by owner after plates recovered; penalty; disposition of fees.

The owner of any vehicle, the registration number plate of which has been removed and recovered by the sheriff, may complete the registration of such vehicle and receive such registration number plate by paying to the county treasurer the full amount of the license fee for the registration of such vehicle together with a penalty in the amount of five dollars ($5). The county treasurer shall deposit two dollars and fifty cents ($2.50) of each such penalty in the salary fund of the county sheriff's department and two dollars and fifty cents ($2.50) of each such penalty in the special fund created and established under the provisions of K.S.A.

8-145

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KSA 8-145d — Service fee in addition to registration fee; additional registration fee; deposit, use and appropriation thereof

Service fee in addition to registration fee; additional registration fee; deposit, use and appropriation thereof.

In addition to the annual vehicle registration fees prescribed by K.S.A.

8-143

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8-143b

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8-143c

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8-143i

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8-167

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8-172

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8-195

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8-1,103

and

8-1,108

, and amendments thereto, and K.S.A.

8-143l

, and amendments thereto, any applicant for vehicle registration or renewal thereof for registration shall pay a service fee in the amount of $5 to the county treasurer, the division of vehicles or a contractor of the division at the time of making such application. In addition to such service fee, the county treasurer may charge any applicant for vehicle registration or renewal thereof for registration, a registration fee as follows: (1) In an amount not to exceed $5 per vehicle registration or renewal thereof for registration, when such application is made at a registration facility in a county with multiple vehicle registration facilities as established by the county treasurer; and (2) in an amount not to exceed $2.50 per vehicle registration or renewal thereof for registration, when such application is made at a registration facility in a county with a single vehicle registration facility as established by the county treasurer. The county treasurer, division or contractor shall deposit all amounts received under this section in the special fund created pursuant to K.S.A.

8-145

, and amendments thereto, and such amounts shall be used by the county treasurer, division or contractor for all purposes for which such fund has been appropriated by law, and such additional amounts are hereby appropriated as other amounts deposited in such fund.

KSA 8-145f — Commercial vehicle registration service fee; commercial vehicle administrative system fund; purpose

Commercial vehicle registration service fee; commercial vehicle administrative system fund; purpose.

Each commercial vehicle registering under the provisions of K.S.A.

8-143

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8-1,100

, or

8-1,152

, and amendments thereto, shall be assessed a fee of four dollars. Such fee shall be collected by the county treasurer and shall be remitted in the following manner:

(a) Two dollars of such fee assessed and collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto, who shall then credit the entire amount thereof to the commercial vehicle administrative system fund, which fund is hereby established in the state treasury. All moneys deposited in such fund shall be used by the Kansas department of revenue solely for the operation, maintenance and enhancement of the work processes, computer hardware and software and related equipment associated with the division of vehicles' functions related to commercial motor vehicles.

(b) Two dollars shall be deposited by the county treasurer in the special fund created pursuant to K.S.A.

8-145

, and amendments thereto, and such amounts shall be used by the county treasurer for all purposes for which such fund has been appropriated by law.

KSA 8-145g — Repossessed certificates of title fee fund; abolished

Repossessed certificates of title fee fund; abolished.

On July 1, 2017, the director of accounts and reports shall transfer all moneys in the repossessed certificates of title fee fund to the division of vehicles operating fund. On July 1, 2017, all liabilities of the repossessed certificates of title fee fund are hereby transferred to and imposed on the division of vehicles operating fund, and the repossessed certificates of title fee fund is hereby abolished.

KSA 8-146 — Deposit of fees

Deposit of fees.

The division of vehicles shall remit all fees received by the division under this act 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 credit such fees in accordance with K.S.A.

8-145

, and amendments thereto.

KSA 8-147 — Manufacture of license plates and decals for registered vehicles; shipping of manufactured plates

Manufacture of license plates and decals for registered vehicles; shipping of manufactured plates.

(a) As used in this section, "license plate" means the plate used to externally evidence registration of a vehicle under chapter 8 of Kansas Statutes Annotated.

(b) Prior to November 1 of each year, the director of vehicles shall furnish the secretary of revenue with complete and detailed specifications for the manufacture of all license plates and registration decals, together with the number required for delivery in the succeeding year for use during the following year. The state corporation commission shall furnish the secretary of revenue with complete and detailed specifications for the manufacture of identification tags together with the number required for delivery in the succeeding year for use in the following year. The secretary of revenue shall cause to

be manufactured all license plates and registration decals and state corporation commission identification tags based on such specifications and estimates. For such purpose, the secretary of revenue shall enter into a contract for the manufacture of license plates, tags and decals with any organization or institution designated in K.S.A.

39-1208

, and amendments thereto. Any such contract may provide that the secretary of revenue shall furnish or cause to be furnished the materials and supplies necessary for the manufacture and distribution of license plates, tags and decals if, in the opinion of the secretary of revenue, a reduction in the cost of manufacturing and distribution of the license plates, tags and decals under such contract will be achieved. Subject to the foregoing, the cost to the state for the manufacture of the license plates, tags and decals pursuant to any contract entered into under this section shall be substantially equivalent to such costs under prior contracts, with the cost of license plates increased in the amount of the cost of coating with reflective material, but any such contract shall not be subject to the provisions of K.S.A.

75-3739

, and amendments thereto.

(c) Except as authorized by other provisions of law, license plates, beginning in the year in which new license plates are issued pursuant to K.S.A.

8-132

, and amendments thereto, shall be lettered, numbered and designed as provided in this section. Each license plate shall contain a combination of three letters followed by a combination of three numerals, except that once all allowable combinations of letters and numerals have been used, each license plate shall contain an arrangement of numerals or letters, or both, as shall be assigned by the secretary of revenue. The arrangement of numerals and letters of license plates shall be uniform throughout each classification of registration. The secretary may provide for the arrangement of the numerals and letters in groups or otherwise and for other distinguishing marks on such license plates. The secretary of revenue shall design decals to be affixed to the license plates to identify registration expiration information consistent with K.S.A.

8-134

, and amendments thereto. The letters and numerals of such license plates shall be in such contrast of colors to the background of the license plate as to make such letters and numerals easily readable.

(d) As new license plates are issued, the face of every license plate shall be completely coated with a reflective material. The reflectorized material shall be of such nature as to provide effective and dependable performance in the promotion of highway safety and vehicle identification throughout the service period for which the license plates are issued. The sum of $.50 shall be added to the cost of each reflectorized license plate. The director shall change the color of such license plates every time new license plates are issued under K.S.A.

8-132

(b), and amendments thereto.

(e) Any contract entered into pursuant to this section for the manufacture of license plates and decals shall provide that the license plates and decals, other than prorate license plates and prorate backing plates, shall be shipped directly to the treasurer of the county where they are to be used or, for digitally fulfilled license plate orders, directly to the customer for whom the plate is issued. Any such contract for the manufacture of state corporation commission identification tags shall provide that such tags shall be shipped directly to the state corporation commission.

KSA 8-147a — Inapplicability of K.S.A. 75-5277 to manufacture of number plates, decals, prorate plates, corporation commission identification tags, highway signs and markers

Inapplicability of K.S.A. 75-5277 to manufacture of number plates, decals, prorate plates, corporation commission identification tags, highway signs and markers.

The provisions of K.S.A.

75-5277

shall not be applicable to the manufacture of motor vehicle number plates, registration decals, prorate license and backing plates, highway signs and markers and state corporation commission identification tags.

KSA 8-148 — Issuance and record of license plates; records open to public

Issuance and record of license plates; records open to public.

When application is made to any county treasurer for a motor-vehicle license, as provided in K.S.A.

8-130

, the county treasurer shall designate upon such application and a receipt therefor the number of the tag issued, and shall deliver the tag at the time application is made. The names of registered owners of motor vehicles and the records in the office of the county treasurer shall at all times be open to inspection by the public.

KSA 8-149 — Violation of act; penalty

Violation of act; penalty.

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.

KSA 8-151 — Constitutionality

Constitutionality.

If any section, subsection, paragraph or provision of this act* shall be held to be invalid by any court for any reason, it shall be presumed that this act would have been passed by the legislature without such invalid section, subsection, paragraph or provision, and such finding or construction shall not in any way affect the remainder of this act.

KSA 8-152 — Effect of noncompliance

Effect of noncompliance.

The operation of a vehicle in this state without complying with the provisions of this act* shall not be considered as operating the same unlawfully or in violation of law so as to affect the validity of any contract or policy of liability insurance or indemnity against liability for personal injuries or damages to property, fire, theft or collision insurance carried on such vehicle.

KSA 8-153 — Proof of payment of sales tax required

Proof of payment of sales tax required.

No certificate of registration or ownership of any motor vehicle or trailer shall hereafter be issued by the county treasurer of any county of this state or the division of vehicles, unless and until the applicant for such certificate shall produce evidence satisfactory to the county treasurer or division that the state sales tax, or, in the event the said motor vehicle was purchased outside this state, the tax provided for by the provisions of K.S.A.

79-3701

to

79-3711

, and acts amendatory thereto, has been paid by said applicant, or that said motor vehicle is exempt from the payment thereof: Provided, That no certificate of registration or ownership shall be issued for a vehicle which was last titled or titled and registered in a foreign state or registered only if such foreign state has no title law, until satisfactory proof, by affidavit of the applicant has been made, that sales tax on such vehicle has been paid in a foreign state or compensating tax has been paid in Kansas, except in such instances where the applicant for registration or title shall prove by affidavit, that he or she was a bona fide resident of such foreign state at the time of the registration.

KSA 8-156 — Manufacture of highway markers and signs; powers and duties of secretary of transportation and secretary of corrections

Manufacture of highway markers and signs; powers and duties of secretary of transportation and secretary of corrections.

Prior to November first of each year, the secretary of transportation shall furnish the secretary of corrections complete and detailed specifications, with an estimate of the number required, for the manufacture of all highway markers or signs to be

delivered during the ensuing year for use the following year. The secretary of corrections shall cause the same to be manufactured on the basis of said specifications and estimate and shall cause the same to be packed in suitable containers and shipped, prepaid, to the designated destination as they are finished, which shall not be later than December fifteenth of the year of manufacture: Provided, That all additional orders for extra markers or signs and "miss-outs" shall be manufactured and shipped as soon as convenient after the order is received. Annually, on June 1, the secretary of corrections shall file a verified statement with the secretary of transportation showing the total number of highway markers and signs manufactured and delivered during the preceding twelve (12) months.

KSA 8-159 — Purchase of materials for manufacture; approval of secretary of transportation

Purchase of materials for manufacture; approval of secretary of transportation.

The secretary of corrections shall purchase all materials necessary for the manufacture of all items contemplated in K.S.A.

8-156

, including steel, background paint, numeral paint and necessary dies. All such materials shall be purchased subject to inspection and approval by the secretary of transportation and upon specifications written and provided by the secretary of transportation.

KSA 8-160 — Free license plates for disabled veterans; definition of disabled veteran

Free license plates for disabled veterans; definition of disabled veteran.

As used in this act, "disabled veteran" means a person who:

(a) Served in the active military, naval, air or space service, including those groups and individuals listed under 38 C.F.R. Â§ 3.7, and who was discharged or released therefrom under an honorable discharge or a general discharge under honorable conditions;

(b) received a disability that was incurred or aggravated in the line of duty in the active military, naval, air or space service; and

(c) has a service-connected evaluation percentage equal to or greater than 50%, pursuant to 38 U.S.C. Â§ 1101 et seq. or 10 U.S.C. Â§ 1201 et seq.

KSA 8-161 — Disabled veterans registration and license plates; free; international symbol of access, printing restrictions; parking privileges; penalties

Disabled veterans registration and license plates; free; international symbol of access, printing restrictions; parking privileges; penalties.

(a) Any disabled veteran as defined in K.S.A.

8-160

, and amendments thereto, who resides in Kansas and who makes application to the director of vehicles on a form furnished by the director for registration of a motor vehicle that is a passenger vehicle, a truck with a gross weight of not more than 20,000 pounds, or a motorcycle and is owned or leased and used by such veteran may have such motor vehicle registered, and the director shall issue a distinctive license plate for it. Such license plate shall be issued for the same period of time as other license plates are issued. Such registration shall be made and such license plates issued free of charge to the disabled veteran. The director of vehicles shall also issue to the disabled veteran an individual identification card which must be carried by the disabled veteran when the motor vehicle being operated by the disabled veteran or used for the transportation of such disabled veteran is parked in a designated accessible parking space. Such distinctive license plate shall not be printed with the international symbol of access to the physically disabled unless the disabled veteran meets the definition of a person with a disability as defined in K.S.A.

8-1,124

, and amendments thereto.

(b) Any Kansas resident who owns or leases a motor vehicle and who is responsible for the transportation of a disabled veteran or any resident disabled veteran desiring a distinctive license plate for a vehicle other than a motor vehicle owned or leased by the veteran may make application to the director of vehicles for such a license plate. Such license plate shall be issued for the same period of time as other license plates are issued. There shall be no fee for such license plates in

addition to the regular registration fee. Such license plates shall not be printed with the international symbol of access to the physically disabled unless the applicant is responsible for the transportation of the disabled veteran who meets the definition of a person with a disability as defined in K.S.A.

8-1,124

, and amendments thereto.

(c) (1) The director of vehicles shall design a special license plate to be issued as provided in this act. No registration or license plates issued under this act shall be transferable to any other person. No registration under this act shall be made until the applicant has filed with the director acceptable proof that the applicant is a disabled veteran as defined by K.S.A.

8-160

, and amendments thereto, or is responsible for the transportation of such veteran. Any applicant who requests the international symbol of access to be printed on the applicant's distinctive license plate shall provide the director with acceptable proof that the applicant meets the definition of a person with a disability as defined in K.S.A.

8-1,124

, and amendments thereto.

(2) Motor vehicles displaying the distinctive license plates with the international symbol of access displayed on such license plates shall be permitted to:

(A) Park in any parking space 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) park without charge in any metered zone. Such motor vehicle shall be exempt from any time limitation imposed on parking in any zone designated for parking during the hours in which parking is permitted in any city; or

(C) park without charge in any parking space in a public parking facility or public parking lot if such parking space 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 and such public parking facility or public parking lot employs persons who are parking attendants and who collect payment. Any parking occurring under the provisions of this subparagraph shall also comply with all regulations and restrictions posted at the entrance of the public parking facility or public parking lot by the management thereof.

(3) Motor vehicles displaying the distinctive license plates without the international symbol of access on such license plates shall be permitted to:

(A) Park without charge in any metered zone. Such motor vehicle shall be exempt from any time limitation imposed on parking in any zone designated for parking during the hours in which parking is permitted in any city; or

(B) park without charge in any parking space in a public parking facility or public parking lot if such parking space 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 and such public parking facility or public parking lot employs persons who are parking attendants and who collect payment. Any parking occurring under the provisions of this subparagraph shall also comply with all regulations and restrictions posted at the entrance of the public parking facility or public parking lot by the management thereof.

(d) Any person who willfully and falsely represents that such person has the qualifications to obtain the distinctive license plates provided for by this section, or who falsely utilizes the parking privilege accorded by this section, shall be guilty of an unclassified misdemeanor punishable by a fine of not more than $250.

KSA 8-161a — Free license plates for disabled citizens organizations; definition

Free license plates for disabled citizens organizations; definition.

As used in this act, the term "disabled citizens organization" means any nonprofit corporation duly authorized to operate in this state for the purpose of training the physically handicapped citizens to become self-supporting and which assists such persons by conducting drivers training courses for the operation of motor vehicles.

KSA 8-161b — Same; application; issuance; nontransferable; proof of eligibility

Same; application; issuance; nontransferable; proof of eligibility.

Any such disabled citizens organization which makes application to the division of vehicles of the Kansas department of revenue on a form prescribed and furnished by said division of registration of passenger motor vehicles and trucks owned and used by said organization shall be entitled to have two (2) such passenger vehicles and two (2) trucks registered, and the division shall issue distinctive license plates or tags for such motor vehicles. Such license plates or tags shall be issued for the same period of time as other license plates or tags are issued. Such registration shall be made and such license plates or tags issued free of charge to such disabled citizens organization. Said division of vehicles shall design a special license plate or tag, and no plate or tag issued under authority of this act shall be transferable to any other person, firm or corporation. Before such registration or issuance of plates or tags shall be made, such disabled citizens organization shall have filed acceptable proof that it is duly authorized to operate in the state of Kansas as a nonprofit organization and that it has actually established and is operating such motor vehicle drivers training courses for disabled citizens who are residents of this state.

KSA 8-162 — License plates with amateur radio call letters; fee

License plates with amateur radio call letters; fee.

Any owner or lessee of one or more passenger motor vehicles or trucks licensed for a gross weight of not more than 20,000 pounds who are residents of the state of Kansas, and who hold an unrevoked and unexpired official amateur radio station license issued by the federal communications commission, upon application, accompanied by proof of ownership of such amateur radio station license, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles, and upon the payment of the regular license fee for plates, as prescribed under K.S.A.

8-143

, and amendments thereto, and the payment of an additional fee of $1, shall be issued license plates as prescribed under K.S.A.

8-147

, and amendments thereto, upon which, in lieu of the letters and numbers as prescribed by K.S.A.

8-147

, and amendments thereto, shall be inscribed the official amateur radio call letters of such applicant as assigned by the federal communications commission.

KSA 8-163 — License plates with amateur radio call letters; rules and regulations

License plates with amateur radio call letters; rules and regulations.

The secretary of revenue shall adopt rules and regulations necessary to obtain compliance with all state licensing laws relating to use and operation of a private passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds before issuing these plates in lieu of the regular Kansas license plates, and all applications for such plates shall be made in a manner prescribed by the division of vehicles.

KSA 8-165 — Same; act supplemental

Same; act supplemental.

This act is supplementary to the motor vehicle licensing laws of Kansas and nothing herein shall be construed as abridging or amending such laws.

KSA 8-166 — Registration of antique vehicles; antique military vehicles; definitions

Registration of antique vehicles; antique military vehicles; definitions.

The following words and phrases when used in this act shall for the purpose of this act have the following meaning:

(a) "Antique" means any vehicle, including an antique military vehicle, more than 35 years old, propelled by a motor using petroleum fuel, steam or electricity, or any combination thereof, regardless of the age or type of the components or equipment installed on the vehicle.

(b) "Person" means every natural person, firm, copartnership, association, corporation, club or organization.

(c) "Antique military vehicle" means a vehicle, regardless of the vehicle's size or weight, that was manufactured for use in any country's military forces and is maintained to represent its military design, except that an antique military vehicle shall not include a fully tracked vehicle.

(d) The words and phrases defined in K.S.A.

8-126

and

8-126a

, and amendments thereto, when used in this act, shall mean the same as defined by such sections.

KSA 8-167 — Registration of antique vehicles; registration for operation on highway; registration for the purpose of taxation, registration fee

Registration of antique vehicles; registration for operation on highway; registration for the purpose of taxation, registration fee.

(a) Every owner of an antique motor vehicle intended to be operated upon any highway in this state shall, before the same is operated, apply for the registration thereof, as provided by this act.

(b) In addition to the registration required under the provisions of subsection (a) of this section and K.S.A.

8-168

et seq., and amendments thereto, each antique vehicle shall be registered for the purpose of taxation as prescribed by article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, at the time such owner intends to commence the operation of the same upon the highways of the state and at the times prescribed by K.S.A.

8-134

, and amendments thereto, for the registration of any other motor vehicle owned by the owner of such antique vehicle. The fee for registration of an antique vehicle under the provisions of this subsection shall be five dollars.

KSA 8-168 — Same; how application made

Same; how application made.

Application for the registration of a vehicle required to be registered hereunder shall be made by the owner thereof, by mail or otherwise, in the office of the county treasurer of the county in which such owner resides, upon the appropriate form furnished by the division of vehicles.

KSA 8-169 — Same; issuance of receipt

Same; issuance of receipt.

Upon the filing of such application for registration and payment of the fees hereinafter provided the division shall register the vehicle and shall issue to the owner a registration receipt in such form as the division shall deem adequate.

KSA 8-170 — Registration of antique vehicles; fee for transfer of ownership; fee and form for certificate of title

Registration of antique vehicles; fee for transfer of ownership; fee and form for certificate of title.

(a) Upon the transfer of ownership of any vehicle registered under this act, its registration and right to use the license plates on such vehicle shall expire. Upon such transfer of ownership, there shall be no transfer of any registration, and the license plates shall be removed by the owner thereof. It shall be unlawful for any person other than the person to whom such license plates were originally issued to have such license plates in possession. In the case of a transfer of ownership of a registered vehicle the original owner of the license plates may register another antique vehicle under the same license plate designation, upon application therefor and the payment of a fee of $1.50. Any model year license plate transferred shall comply with the provisions of K.S.A.

8-172

(c), and amendments thereto.

(b) Upon the transfer and sale of a registered vehicle by any person, the new owner thereof, before using a vehicle on the highways of this state, shall make application to the division for registration of the vehicle.

(c) Certificate of title:

(1) Application for certificate of title on an antique vehicle shall be made by the owner or the owner's agent upon a blank form to be furnished by the division and shall contain such information as the division shall determine necessary. The

division may waive any information requested on the form if it is not available. For any antique vehicle with a model year 60 years old or older, the application together with a bill of sale for the antique vehicle shall be accepted as prima facie evidence that the applicant is the owner of the vehicle and the certificate of title shall be issued for such vehicle. If the application and bill of sale are used to obtain a certificate of title for any antique vehicle having a model year newer than 60 years, the certificate of title shall not be issued until an inspection in accordance with K.S.A.

8-116a

, and amendments thereto, has been completed. The certificate of title shall be delivered to the applicant. The certificate shall contain the words "antique vehicle."

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. A certificate of title may be issued under the provisions of this act without an application for registration.

(3) The fee for each original certificate of title so issued shall be $10. The certificate of title shall be good for the life of the antique vehicle, so long as such certificate of title is owned or held by the original holder of the certificate of title, and shall not have to be renewed. In the event of a sale or transfer of ownership of an antique vehicle for which a certificate of title has been issued under the provisions of this subsection, the holder of such certificate of title shall endorse on the certificate of title an assignment thereof, with warranty of title in form printed thereon, as prescribed by the director, and the transferor shall deliver such assigned certificate of title to the buyer at the time of delivery of the vehicle. The buyer shall then present such assigned certificate of title to the director or an authorized agent of the director, whereupon a new certificate of title shall be issued to the buyer. The fee for such new certificate of title shall be $10.

KSA 8-171 — Same; lost license plate, certificate of title or registration receipt; fee for duplicate

Same; lost license plate, certificate of title or registration receipt; fee for duplicate.

In the event that any license plate, certificate of title or registration receipt issued hereunder, shall be lost, mutilated, or shall have become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate therefor, upon furnishing information of such fact satisfactory to the division and upon payment of the required fees: Namely, the same fees for certificate of title, registration receipt and license plates as listed in K.S.A.

8-139

, and amendments thereto.

KSA 8-172 — Antique vehicles; license plates, design, fees; model year license plates; city issued license plates; decals; requirements

Antique vehicles; license plates, design, fees; model year license plates; city issued license plates; decals; requirements.

(a) Except as provided in subsection (c), license plates issued for antique vehicles shall be distinctive and shall contain the words "Kansas" and "antique" and there shall be no year date thereon. The numbering system shall consist of combinations of not more than seven letters of the alphabet or numerals or a combination of such letters and numerals. The combinations of such letters and numerals shall be at the direction of the director of vehicles, except that any person owning an antique vehicle, other than an antique motorcycle, may make application for a special combination of letters and numerals not exceeding seven. Antique motorcycle license plates shall be the same as other antique vehicle license plates, except the numbering system shall consist of not more than five letters of the alphabet or numerals or a combination of letters and numerals. Such application shall be made in a manner prescribed by the director of vehicles and shall be accompanied by a special combination fee of $40. Unless the combination of letters or numerals designated by the applicant have been assigned to another antique vehicle registered in this state, or unless the combination of letters or numerals designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director, the division shall assign such combination of letters to the applicant's vehicle.

(b) In addition to the fees required under subsection (b) of K.S.A.

8-167

, and amendments thereto, and subsection (a) or (c) of this section, the registration fee for any antique vehicle shall be $40 and once paid shall not be required to be renewed.

(c) In lieu of the license plate issued under subsection (a), a person who owns an antique vehicle who wants to display a model year license plate on the vehicle shall make application in a manner prescribed by the director of vehicles, including the execution of an affidavit setting forth that the model year license plate the person wants to display on the

person's antique vehicle is a legible and serviceable license plate that originally was issued by this state or a license plate originally issued by a Kansas city or a reproduction of such city issued license plate. Except for license plates issued prior to 1921, such license plate shall be inscribed with the date of the year corresponding to the model year when the vehicle was manufactured. For license plates issued prior to 1921, such license plate shall be the license plate issued by the state or a Kansas city or a reproduction of such city issued license plate corresponding to the model year when the vehicle was manufactured. Duplicate numbers for any year shall not be allowed for any model year license plate under the provisions of this subsection. Upon application to display a reproduction of a city issued license plate, the division of vehicles shall issue a number to be used for such reproduction license plate. The model year license plate fee shall be $40.

(d) In addition to the license plates authorized under subsection (a) or (c), a person who owns an antique vehicle may display a model year license plate originally issued by the state of Kansas or a Kansas city or a reproduction of such city issued license plate on the front of an antique vehicle. Except for license plates issued prior to 1921, such license plate shall be inscribed with the date of the year corresponding to the model year when the vehicle was manufactured. For license plates issued prior to 1921, such license plate shall be the license plate issued by the state or a Kansas city or a reproduction of such city issued license plate corresponding to the model year when the vehicle was manufactured.

(e) For a model year license plate issued during calendar year 1976 or thereafter, and which is displayed on an antique vehicle pursuant to subsection (c), the owner may display a decal of the type described in K.S.A.

8-132

, and amendments thereto, for the year of the vehicle so long as such decal is legible. Otherwise, on and after January 1, 2013, the owner may obtain a replacement decal from the county treasurer which displays the year of the vehicle.

KSA 8-173 — Registration of vehicles; proof of payment of personal property taxes or assessment and financial security required; verification of insurance by insurance company; proof of insurance by electronic means

Registration of vehicles; proof of payment of personal property taxes or assessment and financial security required; verification of insurance by insurance company; proof of insurance by electronic means.

(a) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall not be accepted unless the person making such application shall exhibit:

(1) A receipt showing that such person has paid all personal property taxes levied against such person for the preceding year, including taxes upon such vehicle, except that if such application is made before May 11, such receipt need show payment of only

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the preceding year's tax; or

(2) evidence that such vehicle was assessed for taxation purposes by a state agency, was assessed as stock in trade of a merchant or manufacturer or was exempt from taxation under the laws of this state.

(b) An application for registration of a vehicle as provided in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall not be accepted if the records of the county treasurer show that the applicant is delinquent and owes personal property taxes levied against the applicant for any preceding year.

(c) An original application for registration of a motor vehicle shall not be accepted until the applicant signs a certification, provided by the director of motor vehicles, certifying that the applicant has and will maintain, during the period of registration, the required insurance, self-insurance or other financial security required pursuant to K.S.A.

40-3104

, and amendments thereto.

(d) An application for registration or renewal of registration of a vehicle shall not be accepted if the applicant is unable to provide proof of the insurance, self-insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Proof of insurance shall be verified by examination of the insurance card or other documentation issued by an insurance company, a certificate of self-insurance issued by the commissioner, a

binder of insurance, a certificate of insurance, a motor carrier identification number issued by the state corporation commission, proof of insurance for vehicles covered under a fleet policy, a commercial policy covering more than one vehicle or a policy of insurance required by K.S.A.

40-3104

, and amendments thereto, and for vehicles used as part of a drivers education program, a dealership contract and a copy of a motor vehicle liability insurance policy issued to a school district or accredited nonpublic school. Examination of a photocopy, facsimile or an image displayed on a cellular phone or any other type of portable electronic device of any of these documents shall suffice for verification of registration or renewal. Any person to whom such image of proof of insurance, self-insurance or other financial security required by article 31 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, is displayed shall view only such image displayed on such cellular phone or other portable electronic device. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Proof of insurance may also be verified online or electronically, in accordance with the provisions of the Kansas real time insurance verification act and K.S.A. 2025 Supp.

40-2,241

through

40-2,249

, and amendments thereto, and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner.

(e) An application for registration or renewal of registration of a vehicle shall not be accepted, if the records of the division show that after three attempts by the Kansas turnpike authority to contact the registered owner, including at least one registered letter, the registered owner of such vehicle has unpaid tolls and the director of the Kansas turnpike authority or the director's designee has instructed the division to refuse to accept the registration or renewal of registration, pursuant to K.S.A.

68-2020a

, and amendments thereto, unless the owner or registered owner makes payment to the county treasurer at the time of registration or renewal of registration. Of such moneys collected, 15% shall be retained by the county treasurer and the remainder shall be remitted to the Kansas turnpike authority.

KSA 8-174 — Same; duty of county clerk; receipt by county treasurer

Same; duty of county clerk; receipt by county treasurer.

The county clerk shall show on the tax rolls or by separate listing which he or she delivers to the county treasurer each year the make, model and year of each vehicle assessed in the county. Upon the payment of personal property taxes by any person including personal property taxes upon a vehicle, the county treasurer shall issue a receipt showing the foregoing information concerning the vehicle upon which taxes are being paid.

KSA 8-175 — Registration of vehicles; application to appraiser for appraisal; preparation of tax bill

Registration of vehicles; application to appraiser for appraisal; preparation of tax bill.

Any person applying for registration of a vehicle who is unable to comply with any of the requirements of K.S.A.

8-173

, and amendments thereto, by reason of the fact that such person resided in another county in this state on January 1 of the preceding year and did not list the vehicle for taxation purposes, shall make application to the county appraiser in the county in which the registration is desired, who shall immediately appraise such vehicle and cause a tax bill to be prepared therefor, to enable such applicant to pay personal property taxes upon such vehicle. Any person applying for registration of a vehicle who is unable to comply with any of the requirements of K.S.A.

8-173

, and amendments thereto, for any other reason, shall make application to the county appraiser in the county in which the registration is desired, who shall appraise the personal property of such person including such vehicle, as of January 1 of the preceding year, and cause a tax bill to be prepared therefor to enable such applicant to pay personal property taxes.

In cases where registration is made without regard to county designation, the personal property of the person making application for registration shall be valued in, and personal property taxes shall be paid to, the county in which the personal property had situs on January 1 of the preceding year.

KSA 8-176 — Rules and regulations; forms

Rules and regulations; forms.

The secretary of revenue shall adopt rules and regulations for the administration of this act. The director of property valuation shall prescribe and furnish forms for use of county officials.

KSA 8-177 — Same; false affidavit; penalty

Same; false affidavit; penalty.

Any person swearing falsely to any affidavit required herein shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500).

KSA 8-177a — License plates for members or retired members of Kansas national guard; application; issuance; nontransferability; design of plate

License plates for members or retired members of Kansas national guard; application; issuance; nontransferability; design of plate.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of the state of Kansas, and who is a regularly enlisted or retired, warrant or commissioned member of the Kansas national guard, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such motor vehicle or truck that is not required to be registered with the state corporation commission designating the owner or lessee of such vehicle as a member or retired member of the Kansas national guard. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any such member or retired member of the Kansas national guard may make application for such distinctive license plates, not less than 60 days prior to such member's renewal of registration date, on a form furnished by the director of vehicles, and any applicant for such distinctive license plates shall furnish the director with such applicant's armed forces of the United States identification card as proof that the applicant is a member or a retired member of the Kansas national guard. Application for the registration of passenger vehicles or trucks and issuance of the distinctive license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) The adjutant general, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a distinctive license plate for issuance to members and retired members of the Kansas national guard.

KSA 8-177c — Prisoner of war license plates; surviving spouse; no fee or charge; rules and regulations

Prisoner of war license plates; surviving spouse; no fee or charge; rules and regulations.

(a) As used in this section, "prisoner of war" means any person who was held as a prisoner of war while serving in the army, navy, coast guard, air force or marine corps of the United States in World War I or World War II or while serving with the armed forces of the United States during the military, naval and air operations in Korea, Vietnam or other places under the flags of the United States and the United Nations or under the flag of the United States alone. "Prisoner of war" shall also include any civilian who was held as a prisoner of war.

(b) Any owner or lessee of a passenger vehicle or truck of gross weight of 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a former prisoner of war or is the surviving spouse of a former prisoner of war, may, upon compliance with the provisions of this section, be issued one distinctive license plate designating such person as a prisoner of war. The license plate shall be issued for the same period of time as other license plates are issued upon proper registration without payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto. Only one distinctive license plate may be issued to any prisoner of war or surviving spouse of a prisoner of war, to be displayed on such a vehicle owned or leased by such person.

(c) Any prisoner of war or surviving spouse of a prisoner of war may make application for the distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plate shall furnish the director with such proof as the director shall require that the applicant was a prisoner of war or is the surviving spouse of a prisoner of war. Application for the registration of a passenger vehicle or truck and issuance of the distinctive license plate under the provisions of this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon the appropriate form furnished by the director.

(d) Any registration or distinctive license plate issued under the authority of this section shall not be transferable to any other person, except to the surviving spouse of a prisoner of war.

(e) Renewals of registration hereunder shall be made annually, without charge, in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until the applicant has filed with the director a form as provided in subsection (c). If the form is not filed, the applicant shall be required to register the motor vehicle as provided in K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer.

(f) The rights of the surviving spouse of a prisoner of war under this section shall terminate upon remarriage of such person.

(g) Nothing in this section shall authorize the surviving spouse of a prisoner of war to be issued a distinctive license plate under this section, unless the deceased prisoner of war had already been issued such distinctive license plate.

KSA 8-177d — Gold star mother license plates; procedures; requirements

Gold star mother license plates; procedures; requirements.

(a) On and after January 1, 2009, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is the mother of a person who died while in good standing on active duty in the military service of the United States, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a gold star mother. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a gold star mother may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a gold star mother pursuant to subsection (a). Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-194 — Special interest vehicles; military surplus vehicles; definitions

Special interest vehicles; military surplus vehicles; definitions.

As used in this act:

(a) "Collector" means the owner of one or more special interest vehicles, street rod vehicles or military surplus vehicles who acquires, collects, purchases, trades or disposes of such vehicles or parts therefor for such person's own use in order to restore, preserve and maintain such vehicle or vehicles for historic interest.

(b) "Parts car" means a motor vehicle generally in nonoperable condition that is owned by a collector to furnish parts that will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle, antique vehicle or military surplus vehicle.

(c) "Special interest vehicle" means a motor vehicle that is more than 20 years of age and that has not been altered or modified from the original manufacturer's specifications except to assure normal running operation or to meet specific safety inspection requirements on original equipment, or both. "Special interest vehicle" shall also mean and include a motor vehicle manufactured before 1949 that when altered or modified is referred to as a "street rod."

(d) "Military surplus vehicle" means the same as defined in K.S.A.

8-1499

, and amendments thereto.

KSA 8-195 — Special interest vehicles; military surplus vehicles; registration; fees; collector's identification number

Special interest vehicles; military surplus vehicles; registration; fees; collector's identification number.

(a) Any person who is the owner of a special interest vehicle, street rod vehicle or military surplus vehicle at the time of making application for registration or transfer of title of the vehicle may, upon application, register the same as a special interest vehicle, street rod vehicle or military surplus vehicle upon payment of an annual fee of $26 and be furnished each year upon the payment of such fee license plates of a distinctive design in lieu of the usual license plates that shall show, in addition to the identification number, that the vehicle is a special interest vehicle or that the vehicle is a special interest vehicle and it meets the qualifications of a street rod vehicle or military surplus vehicle, as the case may be, owned by a Kansas collector. The registration shall be valid for one year and may be renewed by payment of such annual fee. Special interest vehicles including street rod vehicles and military surplus vehicles may be used as are other vehicles of the same type, except that special interest vehicles including street rod vehicles and military surplus vehicles may not transport passengers for hire. Special interest vehicles including street rod vehicles shall not haul material weighing more than 500 pounds.

(b) Each collector applying for special interest vehicle, street rod vehicle or military surplus vehicle license plates will be issued a collector's identification number that will appear on each license plate. Second and all subsequent registrations

under this section by the same collector will bear the same collector's identification number followed by a suffix letter for vehicle identification.

(c) A collector must own and have registered one or more vehicles with regular license plates that are used for regular transportation.

(d) Special interest license plates issued to military surplus vehicles shall display a decal on such plates identifying the vehicle as a military surplus vehicle.

(e) A military surplus vehicle shall not be registered until an inspection has been completed in accordance with K.S.A.

8-116a

, and amendments thereto.

KSA 8-196 — Same; processing fee

Same; processing fee.

In addition to the fee in K.S.A.

8-195

, and amendments thereto, there shall be an original, first time only, processing fee of $20 to defray the cost of issuing the original collector's special interest vehicle license plates or special interest vehicles with street rod vehicle or military surplus vehicle designation license plates and to ensure that each collector will be issued only one collector's identification number.

KSA 8-197 — Definitions

Definitions.

(a) The provisions of K.S.A. 8-197 to

8-199

, inclusive, and amendments thereto, shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and as used in such sections, the words and phrases defined by K.S.A.

8-126

, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in K.S.A. 8-197 through

8-199

, and amendments thereto:

(1) (A) "Nonhighway vehicle" means:

(i) Any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state;

(ii) any motor vehicle, other than a salvage vehicle, for which the owner has not provided motor vehicle liability insurance coverage or an approved self insurance plan under K.S.A.

40-3104

, and amendments thereto, and has not applied for or obtained registration of such motor vehicle in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(iii) any all-terrain vehicle;

(iv) any work-site utility vehicle;

(v) any micro utility truck;

(vi) recreational off-highway vehicle; or

(vii) any travel trailer which cannot be registered because it is not manufactured for the purpose of using the travel trailer on the highways of this state and is not provided with the equipment by state statute for travel trailers which are used on

the highways of this state; and

(B) "nonhighway vehicle" shall not include an implement of husbandry, as defined in K.S.A.

8-126

, and amendments thereto.

(2) "Salvage vehicle" means:

(A) Any motor vehicle, other than a late model vehicle, which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: The equipment required by state statute on any such vehicle used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations adopted pursuant thereto, or such vehicle is in an inoperable condition or a condition that would render the operation thereof on the highways of this state a hazard to the public safety; and in either event, such vehicle would require substantial repairs to rebuild or restore such vehicle to a condition which will permit the registration thereof;

(B) a late model vehicle which is of a type required to be registered in this state and which has been wrecked or damaged to the extent that the total cost of repair is 75% or more of the fair market value of the motor vehicle immediately preceding the time it was wrecked or damaged and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail;

(C) a motor vehicle, which is of a type required to be registered in this state that the insurer determines is a total loss and for which the insurer takes title; or

(D) a travel trailer which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: (i) The equipment required by state statute on any such travel trailer used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations; or (ii) such travel trailer is in an inoperable condition or a condition that would render the operation on the highways of this state a hazard to the public safety; and in either event, such travel trailer would require substantial repairs to rebuild or restore to a condition which will permit the registration of the travel trailer;

(3) "salvage title" means a certificate of title issued by the division designating a motor vehicle or travel trailer a salvage vehicle;

(4) "rebuilt salvage vehicle" means any motor vehicle or travel trailer previously issued a salvage title;

(5) "rebuilt salvage title" means a certificate of title issued by the division for a vehicle previously designated a salvage vehicle which is now designated a rebuilt salvage vehicle;

(6) "late model vehicle" means any motor vehicle which has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked or damaged or any of the six preceding years;

(7) "fair market value" means the retail value of a motor vehicle as:

(A) Set forth in a current edition of any nationally recognized compilation, including an automated database of retail value; or

(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

(8) "cost of repairs" means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile industry. The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing or reinstalling tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle.

KSA 8-198 — Nonhighway and salvage vehicles exempt from registration; nonhighway certificates of title, salvage titles and dealer inventory-only titles; permit for temporary operation; rebuilt or restored salvage vehicle; rebuilt salvage title; notice attached to rebuilt vehicle; penalties; all-terrain vehicles; work-site utility vehicles; travel trailers; no-fault insurance law inapplicable, exception

Nonhighway and salvage vehicles exempt from registration; nonhighway certificates of title, salvage titles and dealer inventory-only titles; permit for temporary operation; rebuilt or restored salvage vehicle; rebuilt salvage title; notice attached to rebuilt vehicle; penalties; all-terrain vehicles; work-site utility vehicles; travel trailers; no-fault insurance law

inapplicable, exception.

(a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A.

8-135

, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A.

8-142

, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or a salvage title, whichever is applicable, or a dealer inventory-only title in the following manner:

(1) If the vehicle dealer, as defined in K.S.A.

8-2401

, and amendments thereto, obtains ownership of a used vehicle that is an all-terrain vehicle, work-site utility vehicle, recreational off-highway vehicle or motorcycle and such vehicle would qualify as a nonhighway vehicle pursuant to K.S.A.

8-197

, and amendments thereto, the vehicle dealer shall make application to the county treasurer of such county for a dealer inventory-only title. Each application for a dealer inventory-only title shall be accompanied by a fee of $10 and either a bill of sale or certificate of title with the application for the vehicle. All moneys received under this paragraph shall be remitted as a certificate of title in accordance with K.S.A.

8-145

(b), and amendments thereto.

(2) If the transferor is a vehicle dealer, as defined in K.S.A.

8-2401

, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A.

8-135

, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A.

8-135

, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or a salvage title, as provided in subsection (c) or (d).

(3) Except as provided in K.S.A.

8-199

(b), and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A.

8-135

, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or a salvage title, whichever is applicable, as provided in subsection (c) or (d).

(4) If the transferor is not a vehicle dealer, as defined in K.S.A.

8-2401

, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A.

8-135

, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or a salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or a salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in subsection (b)(3) attached, shall make application to the county treasurer of the county where such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A.

8-135

, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under K.S.A.

8-135

(c)(1), and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of $10, and if the application is not made to the county treasurer within the time prescribed by K.S.A.

8-135

, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(d) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle or travel trailer is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company that, pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released. In the event that an insurance company is unable to obtain voluntary assignment of the title after 30 days from the date the vehicle owner enters into an oral or written damage settlement agreement where the owner agrees to transfer the title, the insurance company may submit an application on a form prescribed by the division for a salvage title. The form shall be accompanied by an affidavit from the insurance company stating that: (A) The insurance company is unable to obtain a transfer of the title from the owner following an oral or written acceptance of an offer of damage settlement; (B) there is evidence of the damage settlement; (C) that there are no existing liens on the vehicle or all liens on the vehicle have been released; (D) the insurance company has physical possession of the vehicle; and (E) the insurance company has provided the owner, at the owner's last known address, 30 days' prior notice of such intent to transfer and the owner has not delivered a written objection to the insurance company.

(3) Every insurance company that makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle or travel trailer, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle that incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle or travel trailer that has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle or travel trailer that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in subsection (b)(3) attached, shall make application to the county treasurer of the county where such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A.

8-135

, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under K.S.A.

8-135

(c)(1), and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of $10 and if the application is not made to the county treasurer within the time prescribed by K.S.A.

8-135

, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A.

8-135

, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A.

8-135

, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition that will allow the registration of such vehicle, the owner may assign the nonhighway certificate of title to the purchaser, and the purchaser may obtain a certificate of title and register such vehicle as provided in K.S.A.

8-135

, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A.

8-116a

, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle that has been rebuilt or restored or is otherwise in a condition that will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A.

8-135

, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A.

8-116a

, and amendments thereto, and the notice required in subsection (f)(3)(B) has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A.

8-116a

, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left door frame of the rebuilt salvage vehicle indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A.

8-116a

, and amendments thereto, a fee of $5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with K.S.A.

8-116a

(e), and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(g) The owner of a salvage vehicle that has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A.

40-3104

, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A.

40-3103

, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. The permit shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The fee for such permit shall be $1 and shall be retained by the county treasurer.

(h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A.

40-3101

through

40-3121

, and amendments thereto, except when such vehicle is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(i) (1) A salvage vehicle pool, or a salvage vehicle dealer, as both are defined and licensed to operate in this state pursuant to K.S.A.

8-2401

et seq., and amendments thereto, may apply for an ownership document with the division of vehicles without forwarding the certificate of title to the division for a vehicle that is the subject of an insurance claim when:

(A) At the request of an insurance company, the salvage vehicle pool or salvage vehicle dealer obtains possession of the vehicle;

(B) the insurance claim for the vehicle has been closed without payment or denied by the insurance company; and

(C) the vehicle has remained unclaimed at the salvage vehicle pool's or salvage vehicle dealer's facility for more than 30 days.

(2) An application made pursuant to this subsection shall provide sufficient evidence that at least two written notices were delivered by certified mail to the address provided by the division of vehicles' ownership verification, or through another courier service that provides proof of delivery, to the owner of the vehicle and any lienholder of the vehicle identified in the division of vehicles' records requesting that the vehicle be removed from the salvage vehicle pool's or salvage vehicle dealer's facility. A salvage vehicle dealer shall also provide sufficient evidence to the division of the request by the insurance company to obtain possession of the vehicle. Such written notice shall specify that the owner of the vehicle and any lienholder of the vehicle identified in the division of vehicles' records has at least 30 days from the receipt of the notice to remove the vehicle. If the salvage vehicle pool or salvage vehicle dealer does not receive proof of delivery for the notices, the salvage vehicle pool or salvage vehicle dealer shall cause notice of the application for an ownership document to be published in a newspaper of general circulation in the county where the vehicle is located.

(3) If the most recent ownership document for the vehicle was not issued by this state, the application shall also include evidence of an inspection of the vehicle completed pursuant to K.S.A.

8-116a

, and amendments thereto. The application shall also indicate whether a salvage title or a nonrepairable vehicle certificate shall be issued for the vehicle.

(4) Upon receipt of the application and all information required by this subsection, the division shall issue to the salvage vehicle pool or salvage vehicle dealer a salvage title or a nonrepairable vehicle certificate free and clear of all liens, security interests and encumbrances.

KSA 8-199 — Unlawful acts; violations classified; sales tax act unaffected

Unlawful acts; violations classified; sales tax act unaffected.

(a) Except as provided in subsection (b), it shall be unlawful for any person to sell or transfer the ownership of any nonhighway vehicle or salvage vehicle, unless such person shall give to the purchaser thereof an assigned nonhighway certificate of title or salvage title.

(b) The sale or transfer of ownership of a nonhighway vehicle or salvage vehicle shall include the acquisition of any such vehicle by an insurer, as defined by K.S.A.

40-3103

, and amendments thereto, from any person upon payment of consideration therefor in satisfaction of such insurer's obligation under a policy of motor vehicle insurance but the transferor of a vehicle for which a title has been issued under K.S.A.

8-135

, and amendments thereto, shall not be required to obtain a nonhighway certificate of title or salvage title for such vehicle and may assign to the insurer the certificate of title issued pursuant to K.S.A.

8-135

, and amendments thereto. It shall be unlawful for any insurer to sell or attempt to sell any nonhighway vehicle or salvage vehicle, through power of attorney or otherwise, unless such insurer shall obtain a nonhighway certificate of title or salvage title issued in the name of the insurer.

(c) Any person, firm, company, corporation, partnership, association or other legal entity who violates the provisions of this section shall be guilty of a class C misdemeanor.

(d) Nothing in this act shall be construed as relieving any person of the payment of the tax imposed on the sale of a motor vehicle or travel trailer pursuant to K.S.A.

79-3603

, and amendments thereto.

KSA 8-199a — Unlawful to remove notice required to be attached to rebuilt vehicles; penalty

Unlawful to remove notice required to be attached to rebuilt vehicles; penalty.

It shall be unlawful for any person to remove, obliterate or alter any notice required to be attached to a rebuilt salvage vehicle, as defined under K.S.A.

8-197

, and amendments thereto, in accordance with paragraph (3) of subsection (f) of K.S.A.

8-198

, and amendments thereto. A violation of this section shall be a class A nonperson misdemeanor.

KSA 8-1,100 — Apportioned registration of fleet vehicles engaged in interstate commerce; definitions

Apportioned registration of fleet vehicles engaged in interstate commerce; definitions.

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

(a) The words "vehicle," "motor vehicle," "truck," "truck tractor," "trailer," "semitrailer," "pole trailer," "specially constructed vehicle" and "passenger vehicle" shall have the meanings respectively ascribed to them by K.S.A.

8-126

, and amendments thereto;

(b) "division" means the division of vehicles of the department of revenue;

(c) "director" means the director of vehicles of the division of vehicles within the department of revenue;

(d) "commercial vehicle" means any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer or pole trailer drawn by such motor vehicle, which vehicle is designed, used and maintained for the transportation of persons or property for hire, compensation, profit, or in the furtherance of a commercial enterprise;

(e) "fleet" means one or more commercial vehicles, at least one of which is a motor vehicle;

(f) "jurisdiction" means the states and territories of the United States, the District of Columbia, the provinces of Canada, the states and territories of the Federal District of Mexico, and the states, provinces and territories of any foreign country;

(g) "person" means an individual, firm, partnership, association, corporation, estate or trust;

(h) "owner" means:

(1) Any person who is lawfully entitled to possession of a commercial vehicle and who has the right to control the operation of such vehicle;

(2) in the event a commercial vehicle is the subject of a lease without a driver, the lessor shall be deemed the owner;

(3) in the event a commercial vehicle is the subject of a lease with a driver, the lessee or the lessor shall be deemed the owner;

(i) "preceding year" means a period of 12 consecutive months authorized by any bilateral or multijurisdictional agreement lawfully entered into by the director of vehicles, which 12 consecutive months shall end on a date of the year immediately preceding the commencement of the registration or license year for which apportioned registration is sought. In the absence of an agreement, such 12 consecutive months shall coincide with the definition for preceding year as provided by any multijurisdictional agreement to which this state is a member jurisdiction and such multijurisdictional agreement has the greater number of member jurisdictions;

(j) "based, base point and base jurisdiction" means the jurisdiction where an owner has an established place of business where operational records of the owner's fleet are maintained or can be made available, and where mileage is accrued by such fleet, and the vehicles of such fleet are most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled;

(k) "place of business" means the place or location where an owner has a terminal, warehouse, office, garage or some permanent bona fide address at which one or more employees report and perform regular and continuing service for the owner;

(l) "base plate" means a registration or license plate issued by this state to a commercial vehicle based in and registered on an apportioned basis in this state;

(m) "total fleet miles" means the total number of miles operated during the preceding year in this state and in each and all other jurisdictions by the motor vehicles of a fleet, which motor vehicles were registered on an apportioned basis in this state during such preceding year by the owner operating such motor vehicles such total number of miles. Total fleet miles shall include miles operated upon a toll road;

(n) "in-state miles" means the total number of miles operated in this state during the preceding year by motor vehicles of a fleet which were registered on an apportioned basis in this state during such preceding year by the owner operating such total number of miles in this state. In the case of a fleet based in this state, in-state miles operated in jurisdictions other than Kansas shall be considered as Kansas in-state miles when such jurisdictions, by virtue of law or an agreement made with this state extends interstate reciprocity to the vehicles of such fleet;

(o) "utility trailer" means any trailer of a rental fleet of 250 or more trailers, each having an empty weight of 2,000 pounds or less and a gross weight of not more than 8,000 pounds; and

(p) "converter gear" means an auxiliary axle assembly having a fifth wheel used for the purpose of converting a semi-trailer to a full trailer. The axle assembly can be used to haul multiple trailers behind a single power unit, also referred to as dollies or bogie.

KSA 8-1,101 — Same; application; exemption from further registration; agreements of director of vehicles to forward fee to other jurisdictions; international registration plan clearing fund

Same; application; exemption from further registration; agreements of director of vehicles to forward fee to other jurisdictions; international registration plan clearing fund.

(a) An owner engaged in operating a fleet in this state in interstate commerce may, in lieu of registration of such fleet under the provisions of K.S.A.

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, inclusive, and amendments thereto, register such fleet for operation in this state upon payment of fees prescribed by this act and the filing of an application with the division of vehicles in a manner and upon a form prescribed by the division, or in accordance with the provisions of any apportioned fleet registration agreement made by this state. The application shall be signed by the owner, if an individual, or an officer or proper representative of an entity other than an individual, and such application shall contain the following and any other information pertinent to the registration of a fleet as the division of vehicles may require: (1) Name and base address of the owner of the fleet; (2) total fleet miles; and (3) a description of each fleet vehicle by year of manufacture, name of manufacturer, the identification or serial number, the declared gross weight of each motor vehicle, and the number of axles under each listed fleet vehicle.

(b) Fleet vehicles so registered shall be determined to be fully licensed and registered in this state, and shall be exempt from further registration and license fees under the provisions of K.S.A.

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, inclusive, and amendments thereto, but nothing in this act shall be deemed to relieve any owner of fleet vehicles operated in intrastate commerce in this state, from any duty to register and operate in conformity with requirements of the state corporation commission.

(c) If so authorized by any bilateral or multijurisdictional agreement lawfully entered into by the director of vehicles, the director may collect and forward applicable registration fees and applications to other jurisdictions and may take such other action on behalf of the applicant or another jurisdiction as will facilitate the administration of such agreements, including deposits for the state of Kansas and disbursal of refunds. Amounts collected under such agreements shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A.

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, 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 international registration plan clearing fund. Payments due and owing to member jurisdictions under any bilateral or multijurisdictional agreement and refunds for overpayment of fees shall be made from such fund. The director shall reconcile such clearing fund balances monthly and transfer the balance to the state highway fund. The funds shall be invested in the same manner as provided in K.S.A.

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, and amendments thereto, and all earnings shall be deposited in the state treasury and credited to the state highway fund.

KSA 8-1,102 — Same; renewal, when; fees; penalty; operation without registration not authorized; director may change registration date, when

Same; renewal, when; fees; penalty; operation without registration not authorized; director may change registration date, when.

(a) Apportioned fleet registration shall be renewed annually on January 1 of each year with such registration to be completed on or before March 1 of each year, and such registration shall expire on December 31 of each year. Apportioned fleet registration fees and other fees prescribed by this act shall be due January 1 of each year and shall be payable on or before March 1 of each year. If such registration fees and any other fees prescribed in this act are not paid by March 1 of each year, the owner of any vehicle for which such registration fees are delinquent shall be subject to a penalty fee of $2 for each fleet vehicle listed in an original or renewal application, but the sum of such penalty fee shall not exceed $100.

(b) Nothing in the provisions of subsection (a) shall be deemed to authorize the operation, prior to March 1 of any year on the highways of this state, of any vehicle required to be registered under the provisions of K.S.A.

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, inclusive, and amendments thereto, unless and until such vehicle is duly registered.

(c) If the director of vehicles determines that appropriate identification cannot be issued to vehicles required to be registered under the provisions of this act prior to March 1 of a registration year, the director may fix a different date for the registration enforcement for such registration year.

KSA 8-1,103 — Same; fees, computation

Same; fees, computation.

The director of vehicles shall compute apportioned registration fees for each fleet as follows: (a) Divide in-state miles by total fleet miles; (b) determine the total amount necessary under the provisions of K.S.A.

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, and amendments thereto, to register each and every vehicle of a fleet for which apportioned registration is sought, based on the regular annual fees for a registration year or applicable fees for the unexpired portion of the registration year; and (c) multiply the sum obtained under subsection (b) by the percentage factor obtained under subsection (a).

KSA 8-1,104 — Same; underpayment of fees, notice, penalty; unpaid fees and penalties constitute lien on property of owner; notice, filing, enforcement; hearing; overpayment of fees, refund

Same; underpayment of fees, notice, penalty; unpaid fees and penalties constitute lien on property of owner; notice, filing, enforcement; hearing; overpayment of fees, refund.

(a) Whenever the director shall determine that the amount of fleet registration fees paid by the owner of any fleet vehicle is less than that which the owner is required to pay under the provisions of K.S.A.

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, inclusive, and amendments thereto, the director shall mail to the owner a notice of additional fees and any penalty due and owing by the owner. Within 30 days after the mailing of such notice, the owner may request a hearing of the director relating to the fleet registration fees and penalty by filing a written request with the director. Based on the evidence presented at such hearing, the director shall make a final determination within a reasonable time and shall notify the owner of such decision, accompanied by a notice and demand for payment. If such additional fees and any penalty which are due and owing by the owner are not paid within 20 days after mailing to the owner the notice and demand for payment, the division shall withdraw the right for the owner to operate the vehicles of the owner's fleet upon the highways

of this state, and deny the owner future registration of additional or replacement vehicles as part of the owner's fleet pending payment of such additional fees and any penalty. All such unpaid fleet registration fees and penalties shall constitute a first and prior lien in favor of the state upon all the property of the owner and shall attach at the time such additional fees and any penalty accrue and shall be paramount to all prior liens or encumbrances of any character and to the rights of any holder of the legal titles in or to any owner's fleet vehicles. The division of vehicles may collect the debt by filing a notice of lien in any county of the state in which the fleet owner has any property, and in any county where the vehicles of the fleet of the owner are based, and the lien and debt thereby secured may be enforced and collected by the division in the same manner and to the extent as provided in K.S.A.

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, and amendments thereto. All such fees and penalties remaining unpaid shall constitute a debt due the state of Kansas, which may be collected from the person owing the same by suit or otherwise by the director of vehicles in the name of the state.

(b) Whenever the director shall determine that an owner has paid a larger fleet registration fee than is required under the provisions of this act, the director shall prepare a voucher showing the net amount of the overpayment refund due and the director of accounts and reports shall draw a warrant upon the state treasurer against the state highway fund for the amount certified by the director. All such warrants shall be delivered to the director who shall mail the same to the owner entitled thereto.

KSA 8-1,105 — Same; license plates or identification devices; fees; display of base plate or cab card

Same; license plates or identification devices; fees; display of base plate or cab card.

(a) The division of vehicles shall register the fleet of vehicles described and identified in an application submitted pursuant to K.S.A.

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, and amendments thereto, and may issue license plates or other suitable identification devices for each vehicle described in the application upon payment of the appropriate fleet registration fees, title fees applicable, and any other fees hereinafter provided. If an identification device is issued by the division, a fee of $3 shall be charged and collected for each vehicle described in the application, which fee shall be in addition to any fleet registration fees applicable.

(b) Apportioned fleet registration identification devices shall be issued by the division in accordance with the requirements of any contract, agreement, consent, arrangement or declaration made by the director and shall be displayed on a fleet vehicle as follows: (1) If an apportioned base plate is issued, it shall be displayed in accordance with the provisions of K.S.A.

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, and amendments thereto; or (2) if an apportioned registration cab card is issued, it shall be carried with the vehicle so described at all times, and in the case of a combination of vehicles such cab card shall be carried in the vehicle supplying the motive power.

(c) Apportioned base plates issued under this act shall be permanent in nature and designed in such a manner as to remain with a vehicle for the duration of the life span of the vehicle or until the vehicle is deleted from the owner's fleet. Such license plates shall be distinctive and there shall be no year date thereon.

(d) Motor vehicles registered under the provisions of this act shall be issued an annual apportioned registration cab card. Trailers registered under the provisions of this act shall be issued a permanent apportioned registration cab card for the duration of the life span of the trailer or until the trailer is deleted from the owner's fleet.

(e) Notwithstanding the provisions of this section, the director may require the reissuance of all apportioned base plates currently issued and being displayed.

(f) Apportioned fleet registration identification devices issued under this act shall not be transferable to any other vehicle.

KSA 8-1,106 — Same; benefits of apportioned fleet registration subject to proper registration in other jurisdictions; redetermination of fees by director

Same; benefits of apportioned fleet registration subject to proper registration in other jurisdictions; redetermination of fees by director.

The right to the privilege and benefits of apportioned registration of fleet vehicles extended by this act, or by any contract, agreement, consent, arrangement, or declaration made by the director of vehicles shall be subject to the condition that each of such fleet vehicles is properly, duly and regularly licensed and registered as part of an interstate fleet in each other jurisdiction entitled thereto. If the fees for such apportioned fleet registration are not paid to each other jurisdiction entitled thereto within a reasonable time, as shall be determined by the director, the director shall redetermine fees due this state, and such additional fees shall be due as are prescribed by K.S.A.

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and

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, and amendments thereto.

KSA 8-1,107 — Same; initial application, requirements; mileage calculation, applications and fees

Same; initial application, requirements; mileage calculation, applications and fees.

The initial application for apportioned registration of a fleet shall state the in-state miles and total fleet miles with respect to such fleet for the preceding year in this and other jurisdictions.

Mileage applications and fees shall be charged according to the international registration plan. All mileage calculations shall comply with the rules of the international registration plan.

KSA 8-1,108 — Same; addition of vehicles to fleet; determination of fees

Same; addition of vehicles to fleet; determination of fees.

Vehicles acquired by a fleet owner after commencement of a registration year and subsequently added to a fleet registered hereunder, shall be proportionately registered as part of such owner's fleet by making application to the division of vehicles upon a form and in a manner prescribed by the director, and the payment of fleet registration fees, determined by applying the in-state mileage percentage from the original application filed by the fleet owner for a registration year, to the regular annual registration fees applicable with respect to such additional vehicles for the remainder of such registration year, including any title applications, title fees, and any other fees or penalties prescribed by this act.

KSA 8-1,109 — Same; sale, repossession, foreclosure or transfer of title of fleet vehicles; notice to division; surrender of identification devices; replacement of vehicles; fees; conditions and limitations

Same; sale, repossession, foreclosure or transfer of title of fleet vehicles; notice to division; surrender of identification devices; replacement of vehicles; fees; conditions and limitations.

(a) When a vehicle which is a part of a fleet registered under the provisions of K.S.A.

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, inclusive, and amendments thereto, is sold, repossessed, foreclosed by mechanic's lien, has had the title transferred by operation of law or cancellation or expiration of a lease agreement or is otherwise disposed of by the owner, the owner of such vehicle shall delete such vehicle from the owner's fleet by notifying the division of vehicles in a manner and upon a form prescribed by the director. The director shall require such owner to surrender identification devices which have been issued with respect to such vehicle.

(b) A vehicle which is eligible for deletion as part of a fleet may be replaced in such fleet by a newly acquired vehicle during a registration year upon application therefor and payment of a transfer fee of $5, and any title fee applicable. New apportioned fleet registration identification devices shall be issued for such replacement vehicle. If the vehicle deleted from a fleet and the replacement vehicle to such fleet are both motor vehicles, and the declared gross weight of the replacement vehicle is greater than that for which the deleted vehicle was registered, the owner thereof shall pay the difference in apportioned registration fee for the time remaining in a registration year, including the transfer fee prescribed. The provisions of this subsection shall only be applicable if the vehicle to be deleted from a fleet and the replacement vehicle to such fleet are both motor vehicles, trailers or semitrailers respectively, or the deleted vehicle is deleted or disposed of on or before the date the replacement vehicle is purchased or leased by the fleet owner.

KSA 8-1,110 — Same; preservation and availability of records; agreements with other jurisdictions for joint audits; penalty for amounts due, when; failure to make records available; assessment of liability

Same; preservation and availability of records; agreements with other jurisdictions for joint audits; penalty for amounts due, when; failure to make records available; assessment of liability.

Any owner whose application for apportioned fleet registration has been accepted for a current registration year shall preserve such application records for the three immediate preceding years. "Preceding year" and "registration year" shall have the meanings ascribed to them by subsection (i) of K.S.A.

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and subsection (a) of K.S.A.

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, and amendments thereto. Audits conducted under the provisions of this section shall be limited to the records for the current registration year and the two registration years immediately preceding the current registration year. Such records shall be made available to the division of vehicles at the director's request for audit as to accuracy of computation and payment and assessment of deficiencies or allowances for credit. The director may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws or apportioned fleet registration laws or agreements for joint audits of any such fleet owner. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Upon audit, any sums found to be due and owing by an owner, except for any case where it is determined by the director that the amount due and owing is not due to negligence or intentional disregard, shall be subject to a penalty in a sum equal to 5% of the amount due and owing, and such amount due and owing including the penalty, shall be paid in accordance with the provisions of K.S.A.

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, and amendments thereto. If any owner fails to make records available to the division of vehicles upon request, or fails to maintain records from which such owner's true liability may be determined, the division of vehicles, 20 days after a written demand for available records or notification of insufficient records, may impose an arbitrary assessment of a liability based upon the division of vehicles' best estimate of the true liability of such owner as determined from information furnished by the owner, information gathered by the division of vehicles at its own instance, information available to the division concerning operations by similar owners and such other pertinent information as may be available to the division of vehicles.

KSA 8-1,111 — Same; negotiable title required; no Kansas title required, when

Same; negotiable title required; no Kansas title required, when.

Vehicles required to be registered as part of a fleet under the provisions of this act, which vehicles are based in the state of Kansas, shall be required to have a Kansas negotiable certificate of title or be covered by a negotiable title issued by another jurisdiction. In those cases where it is necessary to secure a Kansas certificate of title to a vehicle which is part of a fleet under the provisions of K.S.A.

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, inclusive, the division is authorized to issue such title upon the payment of the fee prescribed by law and the delivery of the necessary papers to support the issuance of such title. No Kansas title shall be required for a vehicle which is subject to a lease, if the lessor thereof has an outstanding negotiable title to such vehicle, issued by this state or another jurisdiction.

KSA 8-1,113 — Same; temporary authorization for operation of additional or replacement vehicle; fee; authorization by letter or electronic communication device; authorization to be carried in vehicle; failure to register additional or replacement vehicle, suspension of fleet registration

Same; temporary authorization for operation of additional or replacement vehicle; fee; authorization by letter or electronic communication device; authorization to be carried in vehicle; failure to register additional or replacement vehicle, suspension of fleet registration.

(a) Any owner of a fleet which is currently, duly and properly registered under the provisions of K.S.A.

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, inclusive, and amendments thereto, or under any contract, agreement, consent, arrangement or declaration made by the director of vehicles, upon making application to the division of vehicles in a manner and upon a form furnished and prescribed by the director, may be issued temporary authorization for the immediate operation of an additional or replacement vehicle to such owner's fleet, which additional or replacement vehicle is eligible for and subject to apportioned registration in this state as part of such owner's fleet. Temporary apportion authorizations, upon issuance, shall be valid for a period of time determined by the director, and shall not be renewable upon expiration. The division of vehicles shall charge and collect a fee of $5 for each temporary authorization form provided an owner, which fee shall be in addition to any apportioned registration fee, title fee or any other fee or penalty applicable under the provisions of K.S.A.

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, inclusive, and amendments thereto, or prescribed by law.

(b) The division of vehicles, upon written, oral or telephone request from an owner, or the proper representative of an owner, may issue a letter of authorization, or issue an authorization sent by an electronic communications device, for the immediate operation of an additional or replacement vehicle to such owner's fleet for a period of time to be determined by the director, if such owner has an application pending covering such additions or replacement vehicle. No fee shall be charged and collected by the division of vehicles for a letter of authorization or an authorization issued by the division by an electronic communications device.

(c) A temporary authorization issued under the provisions of this section shall be carried with the vehicle described in such authorization and, if such vehicle is a trailer, such authorization shall be carried in the vehicle supplying the motive power. An authorization issued under the provisions of this section shall be a valid registration identification device during the period of time covered by such authorization, and shall be in lieu of any other identification or registration device issued or required under the provisions of K.S.A.

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, inclusive, and amendments thereto.

(d) Whenever an owner fails to register an additional or replacement vehicle as part of such owner's fleet for which an authorization was issued under the provisions of this section, within the period of time extended by such authorization, the division of vehicles shall suspend the operation of such owner's fleet pending registration of such additional or replacement vehicle as part of such owner's fleet.

KSA 8-1,114 — Same; lost, misplaced or mutilated base plate or cab card, replacement; information required; fees

Same; lost, misplaced or mutilated base plate or cab card, replacement; information required; fees.

(a) Whenever a base plate or an apportioned registration cab card issued to an owner of a fleet vehicle registered under the provisions of this act has been lost, misplaced or mutilated, such fleet owner shall replace the identification device by filing with the division of vehicles a statement signed by an officer of the company or corporation which shall provide: (1) The serial number of the identification device being replaced; (2) the type of identification device lost, misplaced or mutilated; (3) a description of the vehicle by year of manufacture; (4) the name of the manufacturer; and (5) the identification or serial number of the vehicle to which such identification device was originally issued. The statement shall be accompanied by a replacement fee of $3 for a replacement base plate or $1 until January 1, 1995, and $3 thereafter, for a replacement apportioned registration cab card.

(b) On and after January 1, 1995, an apportioned registration cab card shall be reissued when additional jurisdictions are added or weight limits are modified. A cab card shall be reissued upon the payment of a fee of $1.

KSA 8-1,115 — Same; apportioned registration fee payable in quarterly installments; conditions; delinquent payments, unlawful to operate; penalty, when; lien; collection of delinquent payment, procedure; seizure and sale of property

Same; apportioned registration fee payable in quarterly installments; conditions; delinquent payments, unlawful to operate; penalty, when; lien; collection of delinquent payment, procedure; seizure and sale of property.

(a) An owner of a fleet, the vehicles of which are based in Kansas, and which is eligible for registration under the provisions of this act, or any apportioned fleet registration agreement, reciprocity agreement, arrangement, consent, or declaration made by the director of vehicles, may elect, at the time such owner's annual apportioned fleet registration fee is payable, to pay such annual apportioned fleet registration fee in equal quarterly installments, the first of which shall be due and payable at the time of such application, but not later than March 1 in each year, and each ensuing quarter thereafter shall be due and payable respectively on the first day of April, July and October. No owner shall be eligible for payment of apportioned fleet registration fees in quarterly installments unless the annual apportioned fleet registration fee for such owner's fleet exceeds $300. The election to pay annual apportioned fleet registration fees in quarterly installments shall not be construed so as to relieve any owner of the liability for payment of the entire amount of fees which would otherwise be due for the full registration year.

(b) If a fleet owner fails to pay any quarterly installment on or before the date the same is due and payable, the right to operate the fleet vehicles registered under the provisions of this act on the highways of this state shall terminate, and it shall be unlawful to operate such fleet vehicles on the highways of this state until the delinquent quarterly installment payment, including any penalty, shall have been paid in full.

(c) If a quarterly installment shall be delinquent more than 10 days beyond the due date of such installment, except for any case where it is determined by the director of vehicles that such delinquency is not due to negligence or intentional disregard of the provisions of this section, the entire balance of the annual apportioned registration fee remaining, including the delinquent quarterly installment, plus a penalty in a sum equal to 10% of the annual apportioned fleet registration fee shall be due and payable. Any such fleet owner so delinquent may be denied the privilege of paying the annual apportioned fleet registration fee for ensuing registration years on a quarterly basis. All such apportioned registration fees and penalties remaining unpaid shall constitute a debt due the state, which may be collected from the person owing the same by suit or otherwise. All such apportioned fleet registration fees remaining unpaid after the same are due and payable, and any penalty thereon shall constitute a first and prior lien in favor of the state upon the vehicles of a fleet registered hereunder and all other real and personal property of the fleet owner located within the state in the amount that such fees and penalty remain unpaid. Such lien shall attach at the time such unpaid fees and penalty accrue, and shall be paramount to all prior liens or encumbrances of any character, and to the rights of any holder of the legal title in or to any such fleet vehicles.

(d) When any installment payment has been delinquent more than 10 days, the division of vehicles shall forthwith file a notice of lien in the office of the register of deeds of the county where the principal place of business of such fleet owner is located, or any county where the vehicles of such fleet are based, or any other county in which such owner has any property. A copy of such notice of lien shall be mailed to the delinquent fleet owner. The notice of lien shall set forth the name and address of the fleet owner, the amount of the apportioned fleet registration fee and penalty payable and unpaid, and a description of the fleet vehicles to which applicable. It shall be the duty of each register of deeds in this state to index and file immediately all such notices of lien in the manner provided in the cases of financing statements, and no fee shall be charged for filing and indexing. The division of vehicles shall issue a release of lien upon payment of the apportioned fleet registration fee and penalty payable by such fleet owner, and such person may file the same with the register of deeds of any county in which such notice of lien has been filed, and no fee shall be charged for the release of lien.

Upon filing the notice of lien, the division of vehicles shall issue a tax warrant to the sheriff of any county in which the notice of lien has been filed and may issue further warrants as may be necessary, and such sheriff shall seize and hold all personal property subject thereto and proceed to advertise and sell the same or so much thereof as may be necessary, to satisfy the state's lien, together with all expenses of selling at public sale for cash, upon such notice as is provided by law in the case of a security agreement sale. Any surplus of the proceeds of such sale, after paying to the division of vehicles

the amount of the state's lien, the officer's cost of giving notice of and executing said warrant computed to the same extent as in judicial sales on execution, and the cost of securing and preserving the property pending such sale, shall be delivered to the person lawfully entitled thereto.

KSA 8-1,116 — Same; sale of fleet vehicle not to affect liability for fee payment; addition of vehicle, transfer of registration; fees; loss of vehicle not being replaced, refund; conditions of refund

Same; sale of fleet vehicle not to affect liability for fee payment; addition of vehicle, transfer of registration; fees; loss of vehicle not being replaced, refund; conditions of refund.

(a) If a fleet owner sells or otherwise disposes of a vehicle which is part of such owner's fleet registered hereunder, the sale or disposal of such vehicle shall not affect or reduce such fleet owner's obligation or liability to pay the annual apportioned registration fee for such fleet or any apportioned quarterly installments for such fleet as determined by such fleet owner's original application.

(b) If any vehicle which is part of a fleet registered under the provisions of this act is disposed of by the fleet owner, and such owner desires to register an additional or newly acquired vehicle during the registration year, and such additional or newly acquired vehicle is eligible for and part of the owner's apportioned fleet, such additional or newly acquired vehicle may be registered as part of such owner's fleet for the remainder of the registration year without the payment of an additional apportioned registration fee, other than transfer fee and title fee, if the annual apportioned fleet registration fee applicable for the additional or newly acquired vehicle is the same as that of the vehicle which is being deleted by such owner. If the annual apportioned registration fee for the additional or newly acquired vehicle is greater than the annual apportioned registration fee for the vehicle being deleted, such fleet owner shall pay the full difference in apportioned registration fee. No certificate of title shall be assigned or transferred or a new certificate of title be issued for any vehicle which is part of such owner's fleet when such fleet owner is delinquent in the payment of apportioned fleet registration fees.

(c) Any owner of a truck or truck tractor based in Kansas and registered as a vehicle in a fleet registered on an apportioned basis for which applicable apportioned registration fees have been paid, which truck or truck tractor is sold, junked, repossessed, foreclosed by a mechanic's lien or has had title transferred by operation of law, and which vehicle is not being replaced in the fleet by another motor vehicle, may secure a refund by making application to the division of vehicles on a form provided and prescribed by the director of vehicles. Such refund shall include only the portion of the fee applicable to the Kansas apportioned registration fee for that vehicle for the remaining portion of the registration year. Such application for refund shall be accompanied by the Kansas base plate issued for that vehicle and the cab card issued therewith. In the event the owner of such vehicle is deceased and such vehicle will not be used on the highways, and title is not currently being transferred, the proper representative of the estate shall be entitled to such refund. Where the vehicle is registered on an apportioned basis under a quarterly fleet registration, as provided in K.S.A.

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, and amendments thereto, such refund shall be made on the apportioned quarterly fee paid and unused and all remaining quarterly payments applicable to such motor vehicle shall be canceled. Notwithstanding any of the foregoing provisions of this section, refunds shall be made under the provisions of this section only where the amount exceeds $50.

KSA 8-1,117 — Same; fraudulent registration; penalty

Same; fraudulent registration; penalty.

Any person or owner who willfully files, or knowingly presents a fraudulent proration fleet registration application for the purpose of obtaining or attempting to obtain or to assist any other person to obtain a credit or refund for reduction of liability of proration fleet registration fees applicable under this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed five hundred dollars ($500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment.

KSA 8-1,118 — Same; insufficient or no fund check; penalty; collection of debt; suspension and reinstatement of registration

Same; insufficient or no fund check; penalty; collection of debt; suspension and reinstatement of registration.

Whenever any person, or owner, as payment for any fees or penalty provided by this act presents a check on a bank in which such person has no money on deposit, or in which there is insufficient money on deposit for the payment of such

check upon presentation, the division of vehicles shall immediately provide notice to the owner of a fleet registered hereunder that such owner's right to operate the vehicles of such fleet upon the highways of Kansas has been suspended. Upon the owner's receiving notice aforesaid, such owner shall return the identification devices issued for the vehicles of such owner's fleet or remit full payment to cover the amount of the insufficient or no fund check together with a penalty of ten dollars ($10) to the division of vehicles. If the insufficient or no fund check is not replaced by appropriate payment and penalty within ten (10) days of the date of notice, the division of vehicles may collect the debt by filing a notice of lien in the same manner and to the extent as provided in K.S.A.

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. The amount of the insufficient or no fund check together with penalty shall constitute a debt due the state, which may be collected by suit or otherwise. Nothing in this subsection shall be construed so as to exclude criminal prosecutions as in other cases involving insufficient or no fund checks.

Upon payment of the insufficient or no fund check and penalty by the fleet owner, the division of vehicles shall give notice to the fleet owner of reinstatement of such owner's right to operate the vehicles of a fleet registered hereunder, and return any identification devices to said owner which may have been received by the division of vehicles.

KSA 8-1,119 — Same; utility trailers, permanent registration; annual statement; identification devices; addition of trailers to fleet; cancellation of registration, when

Same; utility trailers, permanent registration; annual statement; identification devices; addition of trailers to fleet; cancellation of registration, when.

The division shall provide for the registration of and the issuance of license plates for utility trailers in accordance with the provisions of this section. License plates issued under this section shall be permanent in nature and designed in such a manner as to remain with the utility trailer for the duration of the life span of the trailer or until the trailer is deleted from the owner's fleet. Such license plates shall be distinctive and there shall be no year date thereon. Trailers registered under the provisions of this section shall be issued a permanent registration cab card for the duration of the life span of the trailer or until the trailer is deleted from the owner's fleet. License plates issued under this section shall not be transferable to any other utility trailer. The division shall require the payment of all fees imposed pursuant to this act as though such trailers were registered annually. Every application for the registration of utility trailers shall be accompanied by a total fee payment equal to the amount obtained by applying the proportion of such trailers operated in this state to the total trailers in the fleet, to the fees which would otherwise be required for total fleet registration in this state plus the amount of fees required by this act for the issuance of identification devices for the vehicles in the fleet. The director shall require every owner of utility trailers registered pursuant to this act to file an annual statement each year during the period of registration, providing such information as the director deems necessary to determine the amount of fees owed for such year. If, in any year subsequent to the first year of a registration period, the number of trailers operated within this state increases, the director shall require the owner thereof to register such additional trailers for the remainder of the registration period. The director may at any time cancel the registration of any or all of the vehicles within a fleet of utility trailers for nonpayment of fees or for failure to file or provide information required pursuant to this act.

KSA 8-1,120 — Same; enforcement of act; requests to law enforcement agencies for aid; remedies for enforcement and collection not exclusive

Same; enforcement of act; requests to law enforcement agencies for aid; remedies for enforcement and collection not exclusive.

(a) The director of vehicles may request the aid of the state highway patrol, any peace officer or any duly appointed representative of the division to enforce the provisions of this act within their respective jurisdiction and it shall be the duty of such officers to aid when so requested.

(b) The director may revoke, suspend, cancel, retrieve license plates, or refuse to issue or renew a registration certificate under the provisions of K.S.A.

8-1,100

through

8-1,123

, and amendments thereto, upon receipt of notice under the federal performance and registration information systems management program that the ability of the applicant or certificate holder to operate has been terminated or denied by a federal agency.

(c) The remedies for enforcement and collection provided in this act are cumulative and the use of one shall not be deemed to be a waiver of a right to use any other.

KSA 8-1,121 — Same; rules and regulations

Same; rules and regulations.

The secretary of revenue is authorized to adopt rules and regulations in order to administer and enforce the provisions of K.S.A.

8-1,101

to

8-1,123

, inclusive, and the terms and conditions of any proration fleet registration agreement, reciprocity agreement, contract, arrangement, consent or declaration made by the director of vehicles.

KSA 8-1,122 — Same; prior reciprocal contracts or agreements not affected

Same; prior reciprocal contracts or agreements not affected.

Nothing in this act* shall be construed as affecting any reciprocal contract or agreement made prior to the effective date of this act.

KSA 8-1,123 — Same; act supplemental to registration laws

Same; act supplemental to registration laws.

This act shall be construed as supplementary to and as a part of K.S.A.

8-126

to

8-149

, inclusive, and acts amendatory thereof.

KSA 8-1,123a — Converter gear, registration, fee

Converter gear, registration, fee.

A converter gear may be registered under the provisions of K.S.A.

8-1,100

through

8-1,123

, and amendments thereto, provided that the data required for registration is submitted electronically. The division shall assign a unique number to each converter gear and such number shall be durably marked on the converter gear as prescribed by the division. An annual fee of $1 shall be paid for each registration.

KSA 8-1,123b — Intrastate motor carriers; enforcement actions against

Intrastate motor carriers; enforcement actions against.

(a) The director of vehicles may revoke, suspend, cancel, retrieve license plate*, or refuse to issue or renew a registration certificate under the provisions of K.S.A.

8-126

through

8-149

, and amendments thereto, upon receipt of notice from the state corporation commission that the ability of an intrastate motor carrier to operate has been terminated or denied by the state corporation commission.

(b) The director of vehicles may request the aid of the state highway patrol, any law enforcement officer or any duly appointed representative of the division to enforce the provisions of this section within their respective jurisdiction and it shall be the duty of such officers to aid when so requested.

(c) The remedies for enforcement and collection provided in this section are cumulative and the use of one shall not be deemed to be a waiver of a right to use any other.

KSA 8-1,124 — Accessible parking, definition

Accessible parking, definition.

As used in this act, "person with a disability" means any individual who:

(a) Has a severe visual impairment;

(b) cannot walk 100 feet without stopping to rest;

(c) cannot walk without the use of or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;

(d) is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(e) uses portable oxygen;

(f) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association; or

(g) is severely limited in such person's ability to walk at least 100 feet due to an arthritic, neurological or orthopedic condition.

KSA 8-1,125 — License plates, placards, wheelchair emblem decals and individual identification cards for persons with disability; penalty

License plates, placards, wheelchair emblem decals and individual identification cards for persons with disability; penalty.

(a) Any Kansas resident who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person is a person with a disability or is responsible for the transportation of a person with a disability shall be issued a special license plate or a permanent placard for any motor vehicle owned by such person or shall be issued a temporary placard. Satisfactory proof of disability, condition or impairment shall include a statement from a person licensed to practice the healing arts in any state, a licensed optometrist, an advanced practice registered nurse licensed under K.S.A.

65-1131

, and amendments thereto, a licensed physician assistant or a Christian Science practitioner listed in The Christian Science Journal certifying that such person is a person with a disability. The placard shall be suspended immediately below the rear view mirror of any motor vehicle used for the transportation of a person with a disability so as to be maximally visible from outside the vehicle. In addition to the special license plate or permanent placard, the director of vehicles shall issue to the person with a disability an individual identification card which must be carried by the person with a disability when the motor vehicle being operated by or used for the transportation of such person is parked in accordance with the provisions of K.S.A.

8-1,126

, and amendments thereto. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. A person submitting satisfactory proof that such person's disability, condition or impairment is permanent in nature, and upon such person's request and payment of the fees prescribed in subsection (b), shall be issued an individual identification card and: (1) A permanent placard; (2) a permanent placard and a special license plate; or (3) a permanent placard and a wheelchair emblem decal to be affixed to a distinctive license plate. Upon proper request, one additional permanent placard shall be issued to the applicant who has not requested and received a special license plate. Upon proper request, one additional temporary placard shall be issued to the applicant certified as temporarily disabled. Temporary placards shall have an expiration date of not longer than six months from the date of issuance. The special license plates, decals and placards shall display the international symbol of access to the physically disabled.

(b) Special license plates issued pursuant to this section shall be issued for the same period of time as other license plates are issued or for the remainder of such period if an existing license plate is to be exchanged for the special license plate. There shall be no fee for such special license plates in addition to the regular registration fee. No person shall be issued more than one special license plate, except that agencies or businesses which provide transportation for persons with a disability as a service, may obtain additional special license plates for vehicles which are utilized in the provision of that service. Special license plates may be personalized license plates subject to the provisions of K.S.A.

8-132

, and amendments thereto, including the payment of the additional fee.

(c) Placards and individual identification cards issued pursuant to this section shall be valid as long as the person or a person responsible for the transportation of a person with a disability is eligible for a special license plate or permanent placard. The secretary of revenue shall promulgate the rules and regulations necessary to remain compliant with 23 C.F.R. Â§ 1235.4.

(d) The color of the permanent placard shall be white on a blue background and the temporary placard shall be white on a red background.

(e) In addition to such other information contained on individual identification cards, cards shall have the date of birth and the sex of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person with a disability. Temporary placards shall be returned to the department of revenue upon the expiration of the placard or upon the death of the person with a disability. Special license plates shall be returned to the county treasurer to be exchanged for another license plate upon the death of the person with a disability. The individual identification cards issued with the special license plates shall be returned to the department of revenue upon the death of the person with a disability.

(g) Violation of subsection (f) is an unclassified misdemeanor punishable by a fine of not more than $50.

KSA 8-1,126 — Parking privileges for persons with disability

Parking privileges for persons with disability.

When a motor vehicle which bears a special license plate, placard or decal 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.

KSA 8-1,127 — Acceptable identification from other jurisdictions for persons with a disability

Acceptable identification from other jurisdictions for persons with a disability.

Official identification devices issued to persons with a disability by any other state, district, or territory subject to the laws of the United States, or any foreign jurisdiction, shall be recognized as acceptable identification in the state of Kansas. Motor vehicles bearing a valid device from such a jurisdiction shall be accorded the parking privileges contained in K.S.A.

8-1,126

, and amendments thereto, except that if such person becomes a resident of the state of Kansas, such identification devices shall not be recognized as acceptable identification 60 days after such person becomes a resident of this state and such devices shall be deemed expired. Possession of an identification device deemed to have expired shall be subject to the provisions of subsection (a) of K.S.A.

8-1,130a

, and amendments thereto.

KSA 8-1,128 — Accessible parking spaces; marking

Accessible parking spaces; marking.

(a) Notwithstanding the provisions of K.S.A.

8-2003

, and amendments thereto, each designated accessible parking space shall be clearly marked by vertically mounted signs bearing the international symbol of access.

(b) All parking shall conform to Title II or Title III, as required by the Americans with disabilities act of 1990, 42 U.S.C.A. Â§ 12101 et seq. and 28 C.F.R. Parts 35 and 36.

KSA 8-1,129 — Unlawful parking in accessible parking; blocking access ramp or aisle; penalties

Unlawful parking in accessible parking; blocking access ramp or aisle; penalties.

(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.

KSA 8-1,130 — Falsely obtaining accessible parking identification; penalties

Falsely obtaining accessible parking identification; penalties.

(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.

KSA 8-1,130a — Unlawfully utilizing accessible parking identification device; penalties

Unlawfully utilizing accessible parking identification device; penalties.

(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.

KSA 8-1,130b — Reissuance, suspension or revocation of accessible parking privileges; rules and regulations

Reissuance, suspension or revocation of accessible parking privileges; rules and regulations.

(a) The secretary of revenue shall revoke, in accordance with rules and regulations adopted pursuant to subsection (c), any accessible parking identification device of any person who is convicted under the provisions of K.S.A.

8-1,130

, and amendments thereto.

(b) The secretary of revenue shall suspend or revoke, in accordance with rules and regulations adopted pursuant to subsection (c), an accessible parking identification device, when the person, agency or business to which an accessible parking identification device is issued, authorizes the use of such device or the use of a vehicle displaying such device to a person not authorized by law to use such device and such unauthorized person is convicted under subsection (b) of K.S.A.

8-1,130a

, and amendments thereto.

(c) The secretary of revenue shall adopt rules and regulations prescribing procedures for the reissuance, suspension and revocation of accessible parking privileges including the issuance or orders to return accessible parking identification devices, notification of law enforcement agencies and personnel with regard to the validity or invalidity of any accessible parking identification devices and revocation of accessible parking identification devices.

KSA 8-1,131 — Rules and regulations; handicapped accessible parking

Rules and regulations; handicapped accessible parking.

The secretary of revenue may adopt such rules and regulations necessary to carry out the provisions of this act.

KSA 8-1,132 — Act supplemental to K.S.A. 8-126 et seq

Act supplemental to K.S.A. 8-126 et seq.

K.S.A.

8-1,124

through

8-1,131

, shall be part of and supplemental to K.S.A.

8-126

et seq., and amendments thereto.

KSA 8-1,133 — Dispensing of motor-vehicle fuels for persons with a disability

Dispensing of motor-vehicle fuels for persons with a disability.

Every dealer engaged in the retail sale of motor-vehicle fuels at any service station providing facilities for both self-service and full-service sales shall require any attendant whose duties include the dispensing of motor-vehicle fuels at full-service

facilities to dispense motor-vehicle fuels into any motor vehicle parked at a self-service facility which displays a license plate issued to a disabled veteran pursuant to K.S.A.

8-161

, and amendments thereto, or a license plate or placard issued to a person with a disability pursuant to K.S.A.

8-1,125

, and amendments thereto, and such disabled veteran or person with a disability operating such motor vehicle is not accompanied by a person capable of dispensing motor-vehicle fuels. The price charged for such motor-vehicle fuel shall be the price charged the general public for motor-vehicle fuels dispensed at such self-service facility. Such service shall be provided only during hours in which full-service sales are offered to the general public and such attendant shall not be required to perform other services which are offered only at full-service facilities.

KSA 8-1,134 — Permanent registration of city, county, township, water district school district, community college or technical college vehicles; utility vehicles five-year registration

Permanent registration of city, county, township, water district school district, community college or technical college vehicles; utility vehicles five-year registration.

(a) Except as provided in subsection (c): (1) Each motor vehicle, trailer or semitrailer owned or leased by any city, county, township, water district or school district of this state or by any agency or instrumentality of any city, county or township and used exclusively for governmental, water district or school district purposes and not for any private purposes, which is not otherwise exempt from registration; or (2) each truck tractor, trailer or semitrailer leased by a community college or technical college and used exclusively for a truck driver training program, which is not otherwise exempt from registration, shall be registered for a fee established by rules and regulations adopted by the secretary of revenue, except that such fee shall not exceed the actual cost of such registration. Such registration shall be permanent in nature and designed in such a manner as to remain with a vehicle for the duration of the life span of the vehicle, the duration of the lease or until the title is transferred to an owner who is not a city, county, township, water district, school district, community college or technical college.

(b) License plates issued for city, county, township, water district, school district, community college or technical college vehicles shall be distinctive and shall contain the words city, county, township, water district, school district, community college or technical college, as applicable and there shall be no year date thereon.

(c) Vehicles registered under this section which are used for utility purposes shall be issued license plates as prescribed by subsection (b), except that such license plates shall be issued for periods of five years, but shall be required to pay all license fees imposed pursuant to K.S.A.

8-143

, and amendments thereto, as though such vehicles were registered annually. The secretary of revenue shall design decals to be affixed to such license plates containing the word utility and the date the registration is to expire.

(d) The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act.

KSA 8-1,135 — Waiver of penalty and interest on registration, when

Waiver of penalty and interest on registration, when.

Whenever the county treasurer is required to impose a penalty for the failure to comply with the registration requirements in article 1 of chapter 8 of the Kansas Statutes Annotated, the treasurer shall waive such penalty and interest if: (a) The last day to register or renew the registration on a vehicle falls on a day on which the treasurer's office is closed; and (b) the owner registers or renews the registration on the vehicle on the next day the treasurer's office is open.

KSA 8-1,137 — Vehicles sold for salvage, no certificate of title may be issued, exception; major component parts, selling

Vehicles sold for salvage, no certificate of title may be issued, exception; major component parts, selling.

(a) Except as provided in K.S.A.

8-135c

, and amendments thereto, if any vehicle for which a certificate of title has been issued shall be crushed, dismantled, disassembled or recycled by selling such vehicle to a scrap processor for recycling after the salvageable parts have been

removed by a licensed salvage vehicle dealer as defined in K.S.A.

8-2401

, and amendments thereto, such dealer shall surrender the original or duplicate title to the division with the word salvage or junk written or stamped across its face and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle.

(b) When any major component part, as defined in K.S.A.

8-2401

, and amendments thereto, is sold by a licensed salvage vehicle dealer to a licensed vehicle dealer, a sales receipt and a copy of the vehicle title must accompany such major component part as proof of legal possession. Any major component part, as defined in K.S.A.

8-2401

, and amendments thereto, sold by a licensed salvage dealer to any other person shall be accompanied by a bill of sale and a copy of the vehicle title as proof of legal possession of such major component part.

KSA 8-1,138 — Registration of vehicles; residency; exceptions

Registration of vehicles; residency; exceptions.

(a) For purposes of article 1 of chapter 8 of the Kansas Statutes Annotated, a person shall be deemed to be a resident of a county in this state if:

(1) The person, including a student, is registered to vote in such county; or

(2) the person, partnership, company, firm, corporation or association maintains an office within such county to lease or rent motor vehicles, if such motor vehicles are operated within the state for a period exceeding 60 days.

(b) For purposes of article 1 of chapter 8 of the Kansas Statutes Annotated, there is a rebuttable presumption that a person is a resident of a county in this state if any of the following exist:

(1) The person, other than a student, owns, leases or rents a place of domicile within such county and remains in such county for a period exceeding 90 days, except for infrequent or brief absences;

(2) the person enrolls the person's child in a school district, all or any part of which is located in such county, unless out-of-state tuition is being charged for the attendance of the child at school in such school district;

(3) the person has a place of domicile in such county and has accepted employment or engages in any trade, profession or occupation within this state;

(4) any individual, partnership, company, firm, corporation or association maintains a main or branch office or warehouse facility within such county or bases and operates motor vehicles in such county, if such motor vehicles are garaged in such county for a period exceeding 90 days; or

(5) any individual, partnership, company, firm, corporation or association operates motor vehicles in intrastate haulage in this state, if such motor vehicles are garaged in such county for a period exceeding 90 days.

(c) For purposes of this section, resident does not include:

(1) A student who is enrolled for at least nine hours of credit at a college or university in this state, if the student has a domicile in another state and has a valid driver's license and vehicle registration issued by the state of domicile; and

(2) members of the armed forces who are stationed in the state, provided such members' vehicles are properly registered in such members' state of residence.

KSA 8-1,139 — License plates for survivors of the attack on Pearl Harbor; application; issuance

License plates for survivors of the attack on Pearl Harbor; application; issuance.

(a) Any owner or lessee of a passenger vehicle or truck of a gross weight of 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a survivor of the attack on Pearl Harbor, upon compliance with the provisions of this section, may be issued one distinctive license plate designating such person as a survivor of the attack on Pearl Harbor. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person making application for a survivor of the attack on Pearl Harbor license plate must comply with the following:

(1) Was a member of the United States armed forces on December 7, 1941;

(2) was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu or offshore at a distance not to exceed three miles therefrom;

(3) received an honorable discharge from the United States armed forces; and

(4) has been approved by the chairperson of the Kansas Pearl Harbor survivors association as being a survivor of the attack on Pearl Harbor.

(c) Any survivor of the attack on Pearl Harbor may make application for the distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any application for the distinctive license plate shall furnish the director with such proof as the director shall require that the applicant was a survivor of the attack on Pearl Harbor. Application for the registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (c). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

KSA 8-1,140 — License plates for recipients of the purple heart medal

License plates for recipients of the purple heart medal.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a recipient of the purple heart medal. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any recipient of the purple heart medal may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the purple heart medal. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,141 — Distinctive and personalized license plates; procedure for issuance; requirements; fees; exceptions; discontinuance of certain plates; collection by county treasurer or benefitting entity; remittance to state treasurer; royalty fund, payments

Distinctive and personalized license plates; procedure for issuance; requirements; fees; exceptions; discontinuance of certain plates; collection by county treasurer or benefitting entity; remittance to state treasurer; royalty fund, payments.

(a) (1) Except as provided in paragraph (2), any new distinctive license plate authorized for issuance on and after July 1, 1994, shall be subject to the personalized license plate fee prescribed by K.S.A.

8-132

(d), and amendments thereto. This section shall not apply to any distinctive license plate authorized prior to July 1, 1994.

(2) On and after January 1, 2025, any distinctive license plate may be a personalized license plate subject to the provisions of K.S.A.

8-132

, and amendments thereto. Any personalized distinctive license plate shall be subject to a fee that is double the amount prescribed by K.S.A.

8-132

(d), and amendments thereto.

(b) The director of vehicles shall not issue any new distinctive license plate unless there is a guarantee of an initial issuance of at least 250 license plates.

(c) The provisions of this section shall not apply to distinctive license plates issued under the provisions of K.S.A.

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or
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, and amendments thereto, or K.S.A. 2025 Supp.
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or
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, and amendments thereto, except that such distinctive license plates may be personalized license plates pursuant to subsection (a)(2) if an applicant pays the personalized license plate fee prescribed by K.S.A.
8-132
(d), and amendments thereto.
(d) The provisions of subsection (a) shall not apply to distinctive license plates issued under the provisions of K.S.A.
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or
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, and amendments thereto, except that such distinctive license plates may be personalized license plates pursuant to subsection (a)(2) if an applicant pays the personalized license plate fee prescribed by K.S.A.
8-132
(d), and amendments thereto.
(e) The provisions of subsection (f) shall not apply to distinctive license plates issued under the provisions of K.S.A.
8-1,160
and
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, and amendments thereto, and K.S.A. 2025 Supp.
8-1,211
and
8-1,219

, and amendments thereto, except that the division shall delay the manufacturing and issuance of such distinctive license plate until the division has received not fewer than 100 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 100 paid orders for such plate have been received, the director of accounts and reports shall transfer $4,000 from the state highway fund to the distinctive license plate fund.

(f) (1) Any person or organization sponsoring any distinctive license plate authorized by the legislature shall submit to the division of vehicles a nonrefundable amount not to exceed $5,000, to defray the division's cost for developing such distinctive license plate.

(2) All moneys received under this subsection shall be remitted by the secretary of revenue 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 distinctive license plate fund which is hereby created in the state treasury. All moneys credited to the distinctive license plate fund shall be used by the department of revenue only for the purpose associated with the development of distinctive license plates. All expenditures from the distinctive license plate application fee fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

(g) The director of vehicles shall discontinue the issuance of any distinctive license plate if:

(1) Fewer than 250 plates, including annual renewals, are issued for that distinctive license plate by the end of the second year of sales; and

(2) fewer than 125 license plates, including annual renewals, are issued for that distinctive license plate during any subsequent two-year period.

(h) An application for any distinctive license plate issued and the corresponding royalty fee may be collected either by the county treasurer or the entity benefiting from the issuance of the distinctive license plate. Annual royalty payments collected by the county treasurers shall be remitted 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 a segregated royalty fund which shall be administered by the state treasurer. All expenditures from the royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the royalty fund shall be made to the entity benefiting from the issuance of the distinctive license plate on a monthly basis.

(i) Notwithstanding any other provision of law, for any distinctive license plate, the division shall produce such distinctive license plate for a motorcycle upon request to the division by the organization sponsoring the distinctive license plate.

(j) In addition to any residency requirements for all distinctive license plates, any person not a resident of Kansas, serving as a member of the armed forces stationed in this state shall be eligible to apply for any distinctive license plate as if the individual was a resident of this state. Such person shall be eligible to renew the distinctive license plate registration as long as the person is still stationed in this state at the time the registration is renewed.

KSA 8-1,142 — Educational institution license plate; procedure; requirements

Educational institution license plate; procedure; requirements.

(a) As used in this section, "educational institution" means:

(1) Any state educational institution under the control and supervision of the state board of regents;

(2) any municipal university;

(3) any not-for-profit independent institution of higher education that is accredited* an accrediting agency or association recognized by the United States department of education in the database maintained by such department, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment and the main campus or principal place of operation of which is located in Kansas;

(4) any community college organized and operating under the laws of this state; and

(5) Haskell Indian Nations university.

(b) Any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of not more than 20,000 pounds or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one educational institution license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, plus the payment of an additional fee of $5 for each plate, and either the payment to the county treasurer of the logo use royalty payment established by the alumni association or foundation or the presentation of the annual emblem use authorization statement provided for in subsection (c).

(c) Any educational institution may authorize through its officially recognized alumni association or foundation the use of such institution's official emblems to be affixed on license plates as provided by this section. Any royalty payment derived from this section, except reasonable administrative costs, shall be used for recognition of academic achievement or excellence subject to the approval of the chancellor or president of the educational institution. Any motor vehicle owner or lessee may annually apply to the alumni association or foundation for the use of the institution's emblems. Upon annual application and payment to either: (1) The alumni association or foundation in an amount of not less than $25 nor more than $100 as an emblem use royalty payment for each educational institution license plate to be issued, the alumni association or foundation shall issue to the motor vehicle owner or lessee, without further charge, an emblem use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(d) Any applicant for an educational institution license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the educational institution license plates shall provide either the annual emblem use authorization statement provided for in subsection (c) or pay to the county treasurer the logo use royalty payment established by the alumni association or foundation. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(e) No registration or educational institution license plate issued under this section shall be transferable to any other person.

(f) The director of vehicles may transfer educational institution license plates from a leased vehicle to a purchased vehicle.

(g) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (b), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual emblem use authorization statement provided for in subsection (c) or the payment of the annual emblem use royalty payment established by the alumni association or foundation. If such emblem use authorization statement is not presented at the time of registration or faxed by the alumni association or foundations, or the annual emblem use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the educational institution license plates to the county treasurer of such person's residence.

(h) The director of vehicles shall not issue any educational institution license plates for any educational institution, unless such educational institution's alumni association or foundation guarantees the initial issuance of at least 100 license plates.

(i) The director of vehicles shall discontinue the issuance of an educational institution's license plate authorized under this section if:

(1) Fewer than 100 educational institution license plates, including annual renewals, are issued for an educational institution by the end of the second year of sales; and

(2) fewer than 50 educational institution license plates, including annual renewals, are issued for an educational institution during any subsequent two-year period.

(j) Each educational institution's alumni association or foundation shall:

(1) Pay the initial cost of silk-screening for such educational license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the alumni association or foundation for information concerning the application process or the status of their license plate application.

(k) Each educational institution's alumni association or foundation, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a license plate to be issued under the provisions of this section.

(l) As a condition of receiving the educational institution license plate and any subsequent registration renewal of such plate, the applicant shall provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, emblem use royalty payment amount, plate number and vehicle type to the relevant educational institution and the state treasurer.

(m) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. In the case of an educational institution that is a state educational institution as defined by K.S.A.

76-711

, 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 appropriate account of the restricted fees fund of such state educational institution. In the case of an educational institution that is not a state educational institution as defined by K.S.A.

76-711

, and amendments thereto, upon receipt of each such remittance, the state treasurer shall remit the entire amount to the educational institutions emblem royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the educational institutions emblem royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the educational institutions emblem royalty fund to the respective educational institutions shall be made on a monthly basis.

KSA 8-1,143 — Hunter permit; requirements; application; fee

Hunter permit; requirements; application; fee.

(a) As used in this section, "Apportioned fleet registration" shall include apportioned registrations completed under the terms of the international registration plan. The international registration plan is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of registration fees on the basis of fleet miles operated in various jurisdictions.

(b) The owner of any motor vehicle which was duly and legally registered in Kansas on an apportioned basis with the division of vehicles, but which cannot legally be operated on Kansas highways because of lease cancellation, may, in lieu of the payment of other registration fees for such vehicle and upon proof of ownership and appropriate insurance, obtain a hunter's permit from the division of vehicles. Such permit shall authorize the operation of the vehicle on the highways of this state and the highways of all member jurisdictions of the international registration plan for a period not to exceed 30 days. Any vehicle operated under a hunter's permit issued in accordance with this section shall only be operated while empty and shall only be operated for the purpose of securing a new lease agreement under which proper registration may be obtained. No vehicle may be operated on the highways of this state when the registration of such vehicle has been canceled, unless the vehicle owner shall have been issued a hunter's permit for such vehicle. Operation of any vehicle without proper registration or a hunter's permit shall constitute a misdemeanor.

(c) No owner operating such a vehicle without proper registration or a hunter's permit shall be allowed to operate the vehicle until the owner has purchased a hunter's permit or otherwise obtained proper registration.

(d) Application for a hunter's permit shall be made upon forms prescribed by the director. Application shall be made to the division of vehicles. Before such a permit may be issued, the applicant shall provide: (1) A release signed by the previous registrant in such form as is acceptable to the division of vehicles, that the owner has surrendered all plates, cab cards and other evidence of previous registration to the previous registrant; and (2) evidence that appropriate insurance currently is in force in the vehicle owner's name.

(e) The fee for a hunter's permit shall be $26 and shall be collected by the division of vehicles and deposited by the division as provided in K.S.A.

8-146

, and amendments thereto. When such fee has been paid, no other registration fee shall be required for any trailer or semitrailer owned by the permit applicant and which is being towed by such permitted vehicle.

(f) Nothing contained in this section shall be construed to change the vehicle owner's duty to timely file any necessary fuel reports and to pay any fuel taxes owed.

(g) The secretary of revenue may adopt such rules and regulations for the administration of this section.

KSA 8-1,144 — Donated motor vehicles for charitable auctions

Donated motor vehicles for charitable auctions.

(a) Any motor vehicle donated to any charitable organization, which is exempt from federal income taxation pursuant to section 501(c)(3) and is an eligible recipient of a charitable contribution pursuant to section 170(c)(2) of the federal internal revenue code, for the purpose of selling such motor vehicle at a charitable auction, the proceeds of which are to be used for the benefit of such charitable organization, and the certificate of title of such motor vehicle has been assigned to such charitable organization, shall not be required to be registered in this state, as provided in K.S.A.

8-135

, and amendments thereto, until such motor vehicle is sold at such charitable auction. Nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A.

8-142

, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a motor vehicle required to be registered in this state.

(b) Charitable organizations receiving donated motor vehicles for charitable auctions shall make application for and obtain certificate of titles for such motor vehicles in accordance with the provisions of K.S.A.

8-135

, and amendments thereto.

KSA 8-1,145 — License plates for recipients of the congressional medal of honor

License plates for recipients of the congressional medal of honor.

(a) On and after January 1, 2001, any owner or lessee of one or more passenger vehicles or trucks of a gross weight of 20,000 pounds or less, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded the congressional medal of honor, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle or truck designating such person as a recipient of the congressional medal of honor. Such license plates shall be issued for the same period of time as other license plates upon proper registration and without payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any recipient of the congressional medal of honor may make application for the distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with such proof as the director shall require that the applicant was a recipient of the congressional medal of honor. Application for the registration of a passenger vehicle or truck and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, without charge, in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,146 — License plates for United States military; military veterans; military branch decal

License plates for United States military; military veterans; military branch decal.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less, motorcycles or travel trailers, who is a resident of the state of Kansas and submits satisfactory proof to the director of vehicles as provided in subsection (c) that such person: (1) Has served and is designated as a veteran, and was discharged or released under an honorable discharge or a general discharge under honorable conditions from the United States army, navy, air force, marine corps, coast guard, space force or merchant marines; or (2) is currently serving in the United States army, navy, air force, marine corps, coast guard, space force or merchant marines, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck, motorcycle or travel trailer designating such person as an United States military veteran. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person issued a license plate under this section may request a decal for each license plate indicating the appropriate military branch in which the person served or is currently serving.

(c) Any person who is a veteran or current member of the United States army, navy, air force, marine corps, coast guard, space force or merchant marines may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a veteran or current member of the United States army, navy, air force, marine corps, coast guard, space force or merchant marines. As proof of military veteran status, an applicant shall provide a Kansas driver's license with a veteran designation pursuant to K.S.A.

8-243

(e), and amendments thereto, or a copy of the veteran's DD form 214, NGB form 22 or an equivalent discharge document as permitted by the director of vehicles showing character of service as honorable or general under honorable conditions. Application for the registration of a passenger vehicle, truck, motorcycle or travel trailer and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (c). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(f) A fee of $2 shall be paid for each decal issued under subsection (a). The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director.

KSA 8-1,147 — Distinctive license plates, right to possession; limitations

Distinctive license plates, right to possession; limitations.

In the event of the death of any person issued distinctive license plates under the provisions of K.S.A.

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, and amendments thereto, or K.S.A. 2025 Supp.

8-1,221

or

8-1,222

, and amendments thereto, the surviving spouse or other family member, if there is no surviving spouse, shall be entitled to possession of any such distinctive license plates. Such license plates shall not be displayed on any vehicle unless otherwise authorized by statute.

KSA 8-1,148 — Children's trust fund license plates; procedures; requirements

Children's trust fund license plates; procedures; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one children's trust fund license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the cabinet or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas children's cabinet established in K.S.A.

38-1901

, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment derived from this section shall be credited to the family and children trust account of the family and children investment fund, established in K.S.A.

38-1808

, and amendments thereto, and, shall be used in accordance with the provisions of paragraph (2) of subsection (c) of K.S.A.

38-1808

, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the cabinet for the use of such logo. Upon annual application and payment to either: (1) The cabinet in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each children's trust fund plate to be issued, the cabinet shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a children's trust fund license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the children's trust fund license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the cabinet. Application for registration of a passenger or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or children's trust fund license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer children's trust fund license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the cabinet. If such logo use authorization statement is not presented at the time of registration or faxed by the cabinet, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the children's trust fund license plate to the county treasurer of such person's residence.

(g) The Kansas children's cabinet shall:

(1) Pay the initial cost of silk-screening for such children's trust fund license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the children's trust fund for information concerning the application process or the status of their license plate application.

(h) The Kansas children's cabinet, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the children's trust fund license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number, school district and vehicle type to the Kansas children's cabinet.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted 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 family and children trust account of the family and children investment fund, established by K.S.A.

38-1808

, and amendments thereto.

KSA 8-1,150 — Kansas foundation for agriculture in the classroom license plates; procedures; requirements

Kansas foundation for agriculture in the classroom license plates; procedures; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas foundation for agriculture in the classroom license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by Kansas foundation for agriculture in the classroom or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of the Kansas foundation for agriculture in the classroom may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used in accordance with the by-laws of the foundation to further the mission of the foundation. Any motor vehicle owner or lessee annually may apply to the board for the use of such logo. Upon annual application and payment to either: (1) The board in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the board shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization

statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the board. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Kansas foundation for agriculture in the classroom license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the board. If such logo use authorization statement is not presented at the time of registration or faxed by the board, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The board of directors of the Kansas foundation for agriculture in the classroom shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the board for information concerning the application process or the status of their license plate application.

(h) The board of directors of the Kansas foundation for agriculture in the classroom, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Kansas foundation for agriculture in the classroom license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the Kansas foundation for agriculture in the classroom.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted 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 agriculture in the classroom royalty fund which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the agriculture in the classroom royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the agriculture in the classroom royalty fund to the Kansas foundation for agriculture in the classroom shall be made on a monthly basis.

KSA 8-1,151 — Shriners license plates; procedures; requirements

Shriners license plates; procedures; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Ancient Arabic Order, Nobles of the Mystic Shrine of North America (Shriners) license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the

regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the temple or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The shrine temple to which the person is a member in good standing may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the shriners hospitals for children. Any motor vehicle owner or lessee annually may apply to the shrine temple for the use of such logo. Upon annual application and payment to either: (1) The shrine temple in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the shrine temple shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the temple. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer shriners license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the temple. If such logo use authorization statement is not presented at the time of registration or faxed by the temple, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The shrine temples of Kansas shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the shrine temples for information concerning the application process or the status of their license plate application.

(h) The shrine temples of Kansas, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the shriner's license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the designated shrine temple of Kansas and the state treasurer.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted 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 shriner's royalty fund which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the shriner's royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the shriner's royalty fund to the appropriate designee of

the designated shrine temples of Kansas shall be made on a monthly basis.

KSA 8-1,152 — Fleet motor vehicles; permanent registration; conditions

Fleet motor vehicles; permanent registration; conditions.

(a) As used in this section, "fleet motor vehicle" means:

(1) Any motor vehicle which is part of a public utility commercial fleet of 250 or more and which is not required to file for apportioned registration pursuant to K.S.A.

8-1,100

through K.S.A.

8-1,124

, inclusive, and amendments thereto; or

(2) any motor vehicle of a motor carrier who registers a fleet of interstate apportioned registration commercial vehicles of 250 or more in any international registration plan jurisdiction, and will register a fleet of 250 or more commercial vehicles as Kansas fleet registration vehicles, which are registered for a gross weight of at least 12,000 pounds, and is part of the commercial fleet, and such vehicle is not driven out of state, such commercial vehicle shall pay the commercial vehicle fee prescribed in K.S.A.

8-143m

, and amendments thereto, at the allocation factor of 35% of the commercial vehicle fee.

(b) Upon the payment of the applicable registration fees under K.S.A.

8-143

, and amendments thereto, the division shall provide for the registration of and the issuance of license plates for fleet motor vehicles in accordance with the provisions of this section. License plates issued under this section shall be permanent in nature and designed in such a manner as to remain with the fleet motor vehicle for the duration of the life span of the fleet motor vehicle or until the fleet motor vehicle is deleted from the owner's fleet. Such license plates shall be distinctive and there shall be no year date thereon. Fleet motor vehicles registered under the provisions of this section shall be issued a permanent registration cab card for the duration of the life span of the fleet motor vehicle or until the fleet motor vehicle is deleted from the owner's fleet. License plates issued under this section shall not be transferable to any other fleet motor vehicle, except that the unused registration fee may be transferred to another fleet motor vehicle which is registered at the same or greater weight. The data required for registration under this section shall be submitted electronically.

(c) The secretary of revenue may adopt rules and regulations in order to administer the provisions of this section.

KSA 8-1,153 — Helping schools license plate; procedure; requirements

Helping schools license plate; procedure; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one helping schools license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the board or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The state board of education may authorize the use of the logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the helping schools license plate program fund. Any motor vehicle owner or lessee annually may apply to the state board of education for the use of such logo. Upon annual application and payment to

either: (1) The board in an amount of $40 as a logo use royalty payment for each license plate to be issued, the board shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the board. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director. The school district to receive the royalty payment shall be designated by the applicant on such forms.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer helping schools license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the board. If such logo use authorization statement is not presented at the time of registration or faxed by the board, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The helping schools license plate shall not be developed by the division until the state board of education has collected sufficient logo use royalty payments under subsection (b), to comply with the provisions of paragraph (1) of subsection (e) of K.S.A.

8-1,141

, and amendments thereto.

(h) The state board of education, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the helping schools license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number, school district and vehicle type to the state board of education and the state treasurer.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted 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 helping schools license plate program fund.

KSA 8-1,154 — Same; helping schools license plate program fund

Same; helping schools license plate program fund.

(a) There is hereby created in the state treasury, the helping schools license plate program fund. All moneys credited to the helping schools license plate program fund, except for an amount for the development of the helping schools license plate under subsection (f) of K.S.A.

8-1,153

, and amendments thereto, and reasonable costs to administer the helping schools license plate program provided under K.S.A.

8-1,153

, and amendments thereto, shall be allocated and distributed annually on or after July 1 of each year to the school districts designated by the applicants under K.S.A.

8-1,153

, and amendments thereto. Such money allocated and distributed to the school districts shall be used for the purchase of classroom supplies and equipment in grades K through 12 of the public schools of the school district. No moneys shall be distributed under the provisions of this section until the provisions of K.S.A.

8-1,141

, and amendments thereto, have been satisfied. All expenditures from the helping schools license plate program fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education or the state board's designee.

(b) Moneys allocated and distributed under subsection (a), shall be deemed a donation under K.S.A.

72-1142

, and amendments thereto.

KSA 8-1,155 — Firefighter license plates; procedures; requirements; firefighters training fund established; remittances and expenditures

Firefighter license plates; procedures; requirements; firefighters training fund established; remittances and expenditures.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a firefighter, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a firefighter. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) On and after January 1, 2022, any applicant or renewal for a firefighter license plate authorized by this section shall make an annual payment of a firefighters training fee of $10 to the county treasurer for each license plate to be issued.

(c) Any person who is a firefighter may make an application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a firefighter. An application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(f) Annual firefighters training fee payments collected by county treasurers under this section shall be remitted 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 firefighters training fund, which is hereby created in the state treasury and shall be administered by the state treasurer. Expenditures from the firefighting training fund may be made for the purposes of providing financial support related to honoring Kansas firefighters, training Kansas firefighters or any general use that supports Kansas firefighters. All expenditures from the firefighters training fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the firefighters training fund shall be made on a monthly basis to the appropriate designee of the Kansas state firefighters association.

KSA 8-1,156 — Decals for certain military medals or badges; fee; requirements

Decals for certain military medals or badges; fee; requirements.

(a) Any person issued a distinctive military license plate, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary that such person was awarded a silver star or bronze star medal by the United States government, may request a decal for each license plate indicating the person was a recipient of a silver star or bronze star medal.

(b) Any person issued a distinctive military license plate, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary that such person was awarded a combat medical badge, combat infantry badge, combat action badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross, distinguished flying cross, army of occupation medal or navy occupation service medal by the United States government, may request a decal for each license plate indicating the person was a recipient of a combat medical badge, combat infantry badge, combat action badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross, distinguished flying cross, army of occupation medal or navy occupation service medal.

(c) A fee of $2 shall be paid for each decal issued. The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director. Not more than two decals authorized by this section shall be affixed to any one license plate.

(d) As used in this section, "distinctive military license plate" means any distinctive license plate for which a person is required to submit proof of military service to the director of vehicles.

KSA 8-1,157 — Satisfaction of lien on vehicle; requirements for release; penalties; rules and regulations

Satisfaction of lien on vehicle; requirements for release; penalties; rules and regulations.

(a) Upon the satisfaction of a lien or encumbrance on a vehicle, the lienholder shall:

(1) Within three business days after receipt of a payment of the type described by subsection (b) and a request for the release of the lien, fully execute a release of the lien or encumbrance on a form approved by and in the manner prescribed by the division and shall mail or deliver such release where directed by the person who requested the release; or

(2) within 10 business days after receipt of a payment of a type not described by subsection (b) and a request for the release of the lien, fully execute a release of the lien or encumbrance on a form approved by and in the manner prescribed by the division and shall mail or deliver such release where directed by the person who requested the release.

(b) If the payment in satisfaction of the lien or encumbrance is in cash or by intra-bank transfer of funds or wired funds, the payment shall be considered cleared immediately upon receipt by a lienholder, at which point the satisfaction of the lien or encumbrance shall be deemed to have occurred.

(c) For purposes of subsection (a), the release is deemed fully executed where the release is not by electronic means at that point in time when it is completed and placed in the United States mail, postage prepaid, or delivered to the person requesting the lien release as shown on the form so requesting it or if the release is accomplished electronically, the release is deemed fully executed when it is delivered electronically to the division, in the manner prescribed by the division.

(d) If a lienholder fails to comply with subsection (a), an aggrieved party may file a complaint against the lienholder with the division. For the purposes of this section, an aggrieved party shall be the division, the owner of the vehicle subjected

to the lien or any person making a valid lien request on a form approved by the division and the lienholder has failed to comply with subsection (a).

(e) Notwithstanding any other provision of law, the director of vehicles, or other duly appointed hearing officer, on a complaint filed with the division may assess a civil administrative penalty on a lienholder who fails to comply with the applicable portions of subsection (a) or any rule and regulation adopted by the division pursuant to this section after a hearing pursuant to the Kansas administrative procedures act. A lienholder shall not be found liable for such noncompliance if the noncompliance occurred as a result of the action or inaction of the division or county treasurer. A lienholder who is found to be in violation of this section may, in the discretion of the director of vehicles or other duly appointed hearing officer, have a civil administrative penalty imposed as follows: (1) For the first violation not less than $100, but not more than $500; (2) except as provided in paragraph (3), for each subsequent violation within a twelve-month period, not less than $500, but not more than $2,000; or (3) if the lienholder has been cited and penalized five or more times in the preceding twelve-month period, for each subsequent violation not less than $1,000, but not more than $5,000.

(f) Whenever the division seeks to assess a civil administrative penalty itself or on complaint by a person pursuant to this section, the division shall cause to be served upon the lienholder, either by service in hand, or by certified mail, return receipt requested, written notice in the manner provided for instituting an action under the Kansas administrative procedures act of the intent to assess a civil administrative penalty, which shall include a concise statement of the alleged act or omission for which the civil administrative penalty is sought to be assessed, the law that has not been complied with as a result of the alleged act or omission, the amount that the division seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the lienholder's right to a hearing on the proposed assessment, the requirements the lienholder shall comply with to avoid being considered to have waived the right to a hearing, and the manner of payment thereof if the lienholder elects to pay the penalty and waive a hearing.

(g) Whenever the division seeks to have a civil administrative penalty assessed against a lienholder, the lienholder shall have the right to a hearing as provided by the Kansas administrative procedures act, which shall apply except as provided in this section.

(h) Each lienholder who fails to pay a civil administrative penalty after it becomes final, shall be liable to the division for up to three times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate of 10% per annum.

(i) In addition to the civil administrative penalties provided by this section, a lienholder who fails to provide a lien release in compliance with the provisions of subsection (a), shall be liable to the holder of the title requesting the release for any loss caused to the holder by such lienholder's failure to comply.

(j) Civil administrative 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 vehicle dealers and manufacturers fee fund.

(k) The secretary of revenue may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(l) This section shall be part of and supplemental to article 1 of chapter 8 of the Kansas Statutes Annotated.

KSA 8-1,158 — Breast cancer research and outreach license plate; application and logo use royalty payment; application for registration, issuance, renewal

Breast cancer research and outreach license plate; application and logo use royalty payment; application for registration, issuance, renewal.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one breast cancer research and outreach license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the university of Kansas or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The university of Kansas cancer center may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support a statewide coordinator for the midwest cancer alliance that serves as a liaison between the university of Kansas cancer center, hospitals, physicians and clinics across the state of Kansas. This statewide coordination includes the provision of assistance to the university of Kansas cancer center statewide medical director in working to ensure that breast cancer patients in communities across Kansas are aware of what prevention and early detection protocols, treatment choices and clinical studies are available to them. Any motor vehicle owner or lessee annually may apply to the university of Kansas cancer center for use of such logo. Upon annual application and payment to either: (1) The university of Kansas cancer center in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued, the university of Kansas cancer center shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the university of Kansas. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer breast cancer research and outreach license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the university of Kansas. If such statement is not presented at the time of registration or faxed by the university of Kansas, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The university of Kansas cancer center shall provide to all county treasurers a toll-free telephone number where applicants can call the university of Kansas cancer center for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the breast cancer research and outreach license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the university of Kansas cancer center and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted 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 breast cancer research royalty fund, which is hereby created in the state treasury and shall be administered by the university of Kansas medical center. All expenditures from the breast cancer research royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chancellor of the university of Kansas or the chancellor's designee.

KSA 8-1,159 — Emergency medical services license plates; procedure; requirements

Emergency medical services license plates; procedure; requirements.

(a) On and after January 1, 2008, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles that such person is an emergency medical service provider, as defined in K.S.A.

65-6112

, and amendments thereto, upon compliance with the provisions of this section, may be issued one emergency medical services license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any applicant for a license plate authorized by this section may make application for such distinctive license plates, not less than 60 days prior to such applicant's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require under subsection (a). Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer.

KSA 8-1,160 — In God We Trust license plate; procedure; requirements

In God We Trust license plate; procedure; requirements.

(a) On and after January 1, 2009, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less, motorcycles or travel trailers, who is a resident of the state of Kansas, may apply for and be issued one distinctive license plate for each such passenger vehicle, truck, motorcycle or travel trailer, an In God We Trust license plate. Such license plates shall be issued for the same period of time as other plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Application for the registration of a passenger vehicle, truck, motorcycle or travel trailer and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) The In God We Trust license plate shall have a background design, an emblem or colors that designate the license plate as an In God We Trust license plate.

KSA 8-1,161 — Support Kansas arts license plate; procedure; requirements

Support Kansas arts license plate; procedure; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support Kansas arts license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the commission or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas creative arts industries commission, created under K.S.A.

74-5207

, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment derived from this section shall be credited to the Kansas creative arts industries commission special gifts fund and shall be used in accordance with the provisions of K.S.A.

74-5208

, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the commission for the use of such logo. Upon annual application and payment to either: (1) The commission in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the commission shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a support Kansas arts license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the support Kansas arts license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the commission. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or support Kansas arts license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer support Kansas arts license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the commission. If such logo use authorization statement is not presented at the time of registration or faxed by the commission, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the support Kansas arts license plate to the county treasurer of such person's residence.

(g) The Kansas creative arts industries commission shall:

(1) Pay the initial cost of silk-screening for such support Kansas arts license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas creative arts industries commission for information concerning the application process or the status of their license plate application.

(h) The Kansas creative arts industries commission, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the support Kansas arts license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas creative arts industries commission.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted 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 Kansas creative arts industries commission special gifts fund.

KSA 8-1,162 — Boy Scouts of America license plate; requirements

Boy Scouts of America license plate; requirements.

(a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Boy Scouts of America license plate for each such passenger vehicle or truck. In addition to the license plate, a person issued such a license plate may request a decal for the order of the arrow, wood badge, God and country award and eagle scout for each license plate. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the council or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) A Boy Scouts of America council may authorize the use of their logo to be affixed on license plates or any decal as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Boy Scouts of America. Any motor vehicle owner or lessee annually may apply to the Boy Scouts of America for the use of such logo. Upon annual application and payment to either: (1) The Boy Scouts of America in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate and decal to be issued, the Boy Scouts of America shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the council. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Boy Scouts of America license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the council. If such logo use authorization statement is not presented at the time of registration or faxed by the Boy Scouts of America, or the annual use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Boy Scouts of America councils shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Boy Scouts of America councils for information concerning the application process or the status of their license plate application.

(h) The Boy Scouts of America councils, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate and decals to be issued under the provisions of this section.

(i) A fee of $2 shall be paid for each decal issued under this section. Such decals shall be affixed to the license plate in the location required by the director.

(j) As a condition of receiving the Boy Scouts of America license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, decal types used, plate number and vehicle type to the designated Kansas Boy Scouts of America council and the state treasurer.

(k) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Boy Scouts of America royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Boy Scouts of America royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Boy Scouts of America royalty fund to the designated Boy Scouts of America council shall be made on a monthly basis.

KSA 8-1,163 — Vietnam war license plate; requirements

Vietnam war license plate; requirements.

(a) On and after January 1, 2012, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a veteran of the Vietnam war, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a veteran of the Vietnam war. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person who is a veteran of the Vietnam war may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of the Vietnam war. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,164 — I'm pet friendly license plate; requirements

I'm pet friendly license plate; requirements.

(a) Any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one I'm pet friendly license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the college of veterinary medicine at Kansas state university or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The college of veterinary medicine at Kansas state university may authorize the use of their I'm pet friendly logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support education regarding the spaying and neutering of dogs and cats in Kansas and veterinary student externships at animal shelters in Kansas. Any motor vehicle owner or lessee annually may apply to the college of veterinary medicine at Kansas state university for the use of such logo. Upon annual application and payment to either: (1) The college of veterinary medicine at Kansas state university in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the college of veterinary medicine at Kansas state university shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the college. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer I'm pet friendly license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the college. If such logo use authorization statement is not presented at the time of registration or faxed by the college, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The college of veterinary medicine at Kansas state university shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all the county treasurers a toll-free number where applicants can call the college of veterinary medicine at Kansas state university for information concerning the application process or the status of their license plate application.

(h) The college of veterinary medicine at Kansas state university, with approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the I'm pet friendly license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the college of veterinary medicine at Kansas state university.

(j) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 appropriate account of the restricted fees fund of the Kansas state university veterinary medical center.

KSA 8-1,165 — Permanent registration for certain trailers; fee; cab card; rules and regulations

Permanent registration for certain trailers; fee; cab card; rules and regulations.

(a) On and after January 1, 2013, the division of vehicles shall provide for the registration of and the issuance of license plates for trailers used in combination with vehicles registered for a gross weight, as defined by K.S.A.

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, and amendments thereto, of 54,000 pounds or more in accordance with the provisions of this section. License plates issued under this section shall be permanent in nature and designed in such a manner as to remain with the trailer for the duration of the life span of the trailer or until the title to the trailer is transferred by the owner. Such license plates shall be distinctive and there shall be no year date thereon. Trailers registered under the provisions of this section shall pay a one-time registration fee of $10 and shall be issued a permanent registration cab card for the duration of the life span of the trailer or until the title to the trailer is transferred by the owner. License plates issued under this section shall not be transferable to any other trailer.

(b) The secretary of revenue may adopt rules and regulations in order to administer the provisions of this section.

(c) This section shall be part of and supplemental to article 1 of chapter 8 of the Kansas Statutes Annotated.

KSA 8-1,166 — Families of the fallen license plate; requirements

Families of the fallen license plate; requirements.

(a) On and after January 1, 2012, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a department of defense-recognized next of kin of deceased military personnel, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle, with the designation "families of the fallen." Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person who is a department of defense-recognized next of kin of deceased military personnel may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a department of defense-recognized next of kin of deceased military personnel pursuant to subsection (a). Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) The families of the fallen license plate shall have a gold star design printed on the plate.

(f) As used in this section, "department of defense-recognized next of kin of deceased military personnel" means any person entitled to receive the gold star lapel button under 10 U.S.C. Â§ 1126 or the lapel button for next of kin of deceased personnel.

KSA 8-1,167 — Ducks unlimited license plate; procedure; requirements

Ducks unlimited license plate; procedure; requirements.

(a) On and after January 1, 2013, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one ducks unlimited license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by ducks unlimited or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of ducks unlimited may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support ducks unlimited. Any motor vehicle owner or lessee annually may apply to ducks unlimited for the use of such logo. Upon annual application and payment to either: (1) Ducks unlimited in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, ducks unlimited shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by ducks unlimited. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer ducks unlimited license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by ducks unlimited. If such logo use authorization statement is not presented at the time of registration or faxed by ducks unlimited, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Ducks unlimited shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call ducks unlimited for information concerning the application process or the status of their license plate application.

(h) Ducks unlimited, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the ducks unlimited license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to ducks unlimited and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 ducks unlimited royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the ducks unlimited royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the ducks unlimited royalty fund to the appropriate designee of ducks unlimited of Kansas shall be made on a monthly basis.

KSA 8-1,168 — Masonic lodge license plate; procedure; requirements

Masonic lodge license plate; procedure; requirements.

(a) On and after January 1, 2013, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one masonic lodge license plate for each such passenger vehicle or truck. In addition to the license plate, a person issued such license plate may request a decal of various masonic designations, such as previous offices held in the organization and organizational affiliations, as determined by the grand lodge of Kansas. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the grand lodge of ancient free and accepted masons of Kansas or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The grand lodge of ancient free and accepted masons of Kansas may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be divided to support the Kansas masonic library and museum and other charities through Kansas freemasons charities, inc. Any motor vehicle owner or lessee annually may apply to the grand lodge of ancient free and accepted masons of Kansas for use of such logo. Upon annual application and payment to either: (1) The grand lodge of ancient free and accepted masons of Kansas in an amount of not less than $25 or more than $100 as a logo use royalty payment for each license plate to be issued, the grand lodge of ancient free and accepted masons of Kansas shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of the registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the grand lodge of ancient free and accepted masons of Kansas. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Masonic lodge license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be annually, upon payment of the fee prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by the grand lodge of ancient free and accepted masons of Kansas. If such logo use authorization statement is not presented at the time of registration or faxed by the masonic lodge, or the annual logo use royalty payment is not made to a county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The grand lodge of ancient free and accepted masons of Kansas shall:

(1) Pay the initial cost of silk-screening plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the grand lodge of Kansas for information concerning the application process or the status of their license plate application.

(h) The grand lodge of ancient free and accepted masons of Kansas, with the approval of the director of vehicles and subject to availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) A fee of $2 shall be paid for each decal issued under this section. Such decals shall be affixed to the license plate in the location required by the director of vehicles.

(j) As a condition of receiving the Masonic lodge license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the masonic lodge and the state treasurer.

(k) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Masonic lodge royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Masonic lodge royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Masonic lodge royalty fund to the appropriate designee of the grand lodge of ancient and free accepted masons of Kansas shall be made on a monthly basis.

KSA 8-1,169 — Eisenhower foundation license plate; procedure; requirements

Eisenhower foundation license plate; procedure; requirements.

(a) On and after January 1, 2014, any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Eisenhower foundation license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Eisenhower foundation or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of the Eisenhower foundation may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the

Eisenhower foundation. Any motor vehicle owner or lessee annually may apply to the Eisenhower foundation for the use of such logo. Upon annual application and payment to either: (1) The Eisenhower foundation in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the Eisenhower foundation shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Eisenhower foundation. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer the Eisenhower foundation license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by the Eisenhower foundation. If such logo use authorization statement is not presented at the time of registration or faxed by the Eisenhower foundation, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Eisenhower foundation shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Eisenhower foundation for information concerning the application process or the status of their license plate application.

(h) The Eisenhower foundation, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Eisenhower foundation license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the Eisenhower foundation and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Eisenhower foundation royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Eisenhower foundation royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Eisenhower foundation royalty fund to the appropriate designee of the Eisenhower foundation shall be made on a monthly basis.

KSA 8-1,170 — Distinctive license plates; transferability of plates

Distinctive license plates; transferability of plates.

Except as otherwise provided by statute, the secretary of revenue shall adopt rules and regulations to establish a procedure for allowing the transfer of distinctive license plates issued pursuant to article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, from one vehicle to another for which such distinctive plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the title to both vehicles are identical.

KSA 8-1,171 — Donate life license plate; procedure; requirements

Donate life license plate; procedure; requirements.

(a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one donate life license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by midwest transplant network or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of midwest transplant network may authorize the use of their donate life logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support midwest transplant network. Any motor vehicle owner or lessee annually may apply to midwest transplant network for the use of such logo. Upon annual application and payment to either: (1) Midwest transplant network in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, midwest transplant network shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by midwest transplant network. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer donate life license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by midwest transplant network. If such logo use authorization statement is not presented at the time of registration or faxed by midwest transplant network, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Midwest transplant network shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call midwest transplant network for information concerning the application process or the status of their license plate application.

(h) Midwest transplant network, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the donate life license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to midwest transplant network and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 midwest transplant network royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the midwest transplant network royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the midwest transplant network royalty fund to the appropriate designee of midwest transplant network shall be made on a monthly basis.

KSA 8-1,172 — Rotary international license plate; procedure; requirements

Rotary international license plate; procedure; requirements.

(a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one rotary international license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by rotary international or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Rotary international may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support rotary international. Any motor vehicle owner or lessee annually may apply to rotary international for the use of such logo. Upon annual application and payment to either: (1) Rotary international in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, rotary international shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by rotary international. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer rotary international license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by rotary international. If such logo use authorization statement is not presented at the time of registration or faxed by rotary international, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Rotary international shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call rotary international for information concerning the application process or the status of their license plate application.

(h) Rotary international, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the rotary international license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to rotary international and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 rotary international royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the rotary international royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the rotary international royalty fund to the appropriate designee of the rotary international shall be made on a monthly basis.

KSA 8-1,173 — Kansas horse council license plate; procedure; requirements

Kansas horse council license plate; procedure; requirements.

(a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles, trailers or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas horse council license plate for each such passenger vehicle, trailer or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Kansas horse council or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas horse council may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Kansas horse council. Any motor vehicle owner or lessee annually may apply to the Kansas horse council for the use of such logo. Upon annual application and payment to either: (1) The Kansas horse council in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the Kansas horse council shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Kansas horse council. Application for registration of a passenger vehicle, trailer or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer the Kansas horse council license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A.

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, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by the Kansas horse council. If such logo use authorization statement is not presented at the time of registration or faxed by the Kansas horse council, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas horse council shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas horse council for information concerning the application process or the status of their license plate application.

(h) The Kansas horse council, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Kansas horse council license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the Kansas horse council and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Kansas horse council royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas horse council royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas horse council royalty fund to the appropriate designee of the Kansas horse council shall be made on a monthly basis.

KSA 8-1,174 — Omega psi phi license plate; procedure; requirements

Omega psi phi license plate; procedure; requirements.

(a) On and after January 1, 2016, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one omega psi phi license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by omega psi phi or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Omega psi phi may authorize the use of its logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support omega psi phi. Any motor vehicle owner or lessee annually may apply to omega psi phi for the use of such logo. Upon annual application and payment to either: (1) Omega psi phi in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, omega psi phi shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by omega psi phi. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer the omega psi phi license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by omega psi phi. If such logo use authorization statement is not presented at the time of registration or faxed by omega psi phi, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Omega psi phi shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call omega psi phi for information concerning the application process or the status of their license plate application.

(h) Omega psi phi, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the omega psi phi license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to omega psi phi and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 omega psi phi royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the omega psi phi royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the omega psi phi royalty fund to the appropriate designee of omega psi phi shall be made on a monthly basis.

KSA 8-1,175 — Alzheimer's disease awareness license plates; procedure; requirements

Alzheimer's disease awareness license plates; procedure; requirements.

(a) On and after January 1, 2017, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Alzheimer's disease awareness license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Alzheimer's association or the presentation of the annual logo use authorization statement provided for in subsection

(b).

(b) The board of directors of the Alzheimer's association may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Alzheimer's association. Any motor vehicle owner or lessee annually may apply to the Alzheimer's association for use of such logo. Upon annual application and payment to either: (1) The Alzheimer's association in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued, the Alzheimer's association shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Alzheimer's association. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Alzheimer's disease awareness license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the Alzheimer's association. If such statement is not presented at the time of registration or faxed by the Alzheimer's association, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Alzheimer's association shall provide to all county treasurers a toll-free telephone number where applicants can call the Alzheimer's association for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the Alzheimer's disease awareness license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Alzheimer's association and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Alzheimer's disease awareness royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Alzheimer's disease awareness royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Alzheimer's disease awareness royalty fund to the appropriate designee of the Alzheimer's association shall be made on a monthly basis.

KSA 8-1,176 — Kansas highway patrol staffing and training surcharge

Kansas highway patrol staffing and training surcharge.

In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay at the time of registration a nonrefundable Kansas highway patrol staffing and training surcharge in the amount of $2 for each vehicle being registered.

KSA 8-1,177 — Vehicle registration surcharge

Vehicle registration surcharge.

In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay, at the time of registration, a nonrefundable surcharge in the amount of $1.25 for each vehicle being registered.

KSA 8-1,178 — Autism awareness license plate; procedure; requirements

Autism awareness license plate; procedure; requirements.

(a) On and after January 1, 2018, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one autism awareness license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by autism hope for families, inc., or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of autism hope for families, inc., may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support autism hope for families, inc. Any motor vehicle owner or lessee annually may apply to autism hope for families, inc., for use of such logo. Upon annual application and payment to either: (1) Autism hope for families, inc., in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued, autism hope for families, inc., shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by autism hope for families, inc. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer autism awareness license plates from a leased motor vehicle to a purchased motor vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by autism hope for families, inc. If such statement is not presented at the time of registration or faxed by autism hope for families, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Autism hope for families, inc., shall provide to all county treasurers a toll-free telephone number where applicants can call autism hope for families, inc., for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the autism awareness license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to autism hope for families, inc., and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 autism awareness royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the autism awareness royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the autism awareness royalty fund to the appropriate designee of autism hope for families, inc., shall be made on a monthly basis.

KSA 8-1,179 — Kansas 4-H foundation license plate; procedure; requirements

Kansas 4-H foundation license plate; procedure; requirements.

(a) On and after January 1, 2018, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas 4-H foundation license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Kansas 4-H foundation, inc. or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas 4-H foundation, inc. may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Kansas 4-H foundation, inc. Any motor vehicle owner or lessee annually may apply to the Kansas 4-H foundation, inc. for use of such logo. Upon annual application and payment to either: (1) The Kansas 4-H foundation, inc. in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued, the Kansas 4-H foundation, inc. shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Kansas 4-H foundation, inc. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Kansas 4-H foundation license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the Kansas 4-H foundation, inc. If such statement is not presented at the time of registration or faxed by the Kansas 4-H foundation, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas 4-H foundation, inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas 4-H foundation, inc. for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the Kansas 4-H foundation license plate and any subsequent registration renewal of such license plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas 4-H foundation, inc. and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 Kansas 4-H foundation royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas 4-H foundation royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas 4-H foundation royalty fund to the appropriate designee of the Kansas 4-H foundation, inc. shall be made on a monthly basis.

KSA 8-1,180 — Decals, placards and individual identification cards for persons needing assistance with cognition; penalty

Decals, placards and individual identification cards for persons needing assistance with cognition; penalty.

(a) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, shall be issued a placard of a design to be determined by the director for use in any motor vehicle operated or occupied by such person. The placard shall be suitable for attachment to the visor of the vehicle or placing on the dash of the vehicle. A person meeting the requirements of this section may also request the director to issue a decal to be affixed to the license plate of a motor vehicle in addition to the placard and that such information be included as part of the vehicle registration.

(b) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A.

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, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

(c) In addition to the placard, the director of vehicles shall issue to the person who needs assistance with cognition an individual identification card that must be carried by the person who needs assistance with cognition when the motor vehicle is being operated or occupied by such person.

(d) Placards and individual identification cards issued pursuant to this section shall be valid as long as the person who needs assistance with cognition is eligible for a placard.

(e) In addition to such other information contained on individual identification cards, cards shall have the date of birth and the gender of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person who needs assistance with cognition.

(g) Any person who willfully and falsely represents that such person has the qualifications to obtain a placard pursuant to this section shall be guilty of a class C misdemeanor.

(h) Any person authorized to certify that a person who needs assistance with cognition under subsection (a) who willfully and falsely certifies that a person has the qualifications to obtain a placard and an individual identification card pursuant to this section shall be guilty of a class C misdemeanor.

(i) Any person who utilizes any placard or identification card issued to another person pursuant to this section shall be guilty of an unclassified misdemeanor punishable by a fine of not less than $100 and not more than $300.

(j) The secretary of revenue may adopt such rules and regulations necessary to carry out the provisions of this act.

KSA 8-1,181 — Seat belt safety fund; creation

Seat belt safety fund; creation.

There is hereby established in the state treasury the seat belt safety fund which shall be administered by the secretary of transportation. All expenditures of moneys in the seat belt safety fund shall be used for the purpose of promotion and education of occupant protection among children, including, but not limited to, programs in schools in Kansas and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary of transportation. The secretary of transportation may accept all gifts, grants, donations and bequests to the fund. The secretary of transportation shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A.

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, 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 seat belt safety fund.

KSA 8-1,182 — Special olympics Kansas license plate; requirements

Special olympics Kansas license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one special olympics Kansas license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by special olympics Kansas or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Special olympics Kansas may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support special olympics Kansas. Any motor vehicle owner or lessee annually may apply to special olympics Kansas for the use of such logo. Upon annual application and payment to either: (1) Special olympics Kansas in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, special olympics Kansas shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by special olympics Kansas. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer special olympics Kansas license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by special olympics Kansas. If such logo use authorization statement is not presented at the time of registration or faxed by special olympics Kansas, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Special olympics Kansas shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call special olympics Kansas for information concerning the application process or the status of their license plate application.

(h) Special olympics Kansas, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the special olympics Kansas license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to special olympics Kansas and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

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, 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 special olympics Kansas royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the special olympics Kansas royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the special olympics Kansas royalty fund to the appropriate designee of special olympics Kansas shall be made on a monthly basis.

KSA 8-1,183 — Choose life license plate; requirements

Choose life license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less, motorcycles or travel trailers, who is a resident of the state of Kansas, may apply for and be issued one distinctive license plate for each such passenger vehicle, truck, motorcycle or travel trailer, a choose life license plate. Such license plates shall be issued for the same period of time as other plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Application for the registration of a passenger vehicle, truck, motorcycle or travel trailer and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with

K.S.A.

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, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) The choose life license plate shall have a background design, an emblem or colors that designate the license plate as a choose life license plate.

KSA 8-1,184 — City of Wichita license plate; requirements

City of Wichita license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one city of Wichita license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the city of Wichita or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The city of Wichita may authorize the use of its flag image as its logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support physical assets identified by the Wichita parks foundation and license plate administrative costs incurred by the Wichita parks foundation. Any motor vehicle owner or lessee annually may apply to the city of Wichita for the use of such logo. Upon annual application and payment to either: (1) The city of Wichita in an amount of not less than $25 nor more than $100 as a logo use royalty payment for each license plate to be issued, the city of Wichita shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the city of Wichita. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer city of Wichita license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by the city of Wichita. If such logo use authorization statement is not presented at the time of registration or faxed by the city of Wichita, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The city of Wichita shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the city of Wichita for information concerning the application process or the status of their license plate application.

(h) The city of Wichita, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the city of Wichita license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the city of Wichita and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted 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 city of Wichita royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the city of Wichita royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the city of Wichita royalty fund to the appropriate designee of the city of Wichita shall be made on a monthly basis. A change of the city's designee shall occur only by mutual agreement of the city of Wichita and the Wichita parks foundation.

KSA 8-1,185 — Korean war veteran license plate; requirements

Korean war veteran license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a veteran of the Korean war, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a veteran of the Korean war. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person who is a veteran of the Korean war may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of the Korean war. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,186 — Operation desert storm veteran license plate; requirements

Operation desert storm veteran license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a veteran of operation desert storm, upon compliance with the provisions of this section, may be issued one distinctive

license plate for each such passenger vehicle, truck or motorcycle designating such person as a veteran of operation desert storm. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a veteran of operation desert storm may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of operation desert storm. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,187 — Operation Iraqi freedom veteran license plate; requirements

Operation Iraqi freedom veteran license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a veteran of operation Iraqi freedom, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a veteran of operation Iraqi freedom. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a veteran of operation Iraqi freedom may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of operation Iraqi freedom. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,188 — Operation enduring freedom veteran license plate; requirements

Operation enduring freedom veteran license plate; requirements.

(a) On and after January 1, 2019, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person is a veteran of operation enduring freedom, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a veteran of operation enduring freedom. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a veteran of operation enduring freedom may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of operation enduring freedom. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,189 — Fleet rental motor vehicles; registration; conditions

Fleet rental motor vehicles; registration; conditions.

(a) Any person registering in this state in excess of 250 motor vehicles that are subject to the taxation imposed pursuant to K.S.A.

79-5117

, and amendments thereto, shall register such vehicles with the division of vehicles. Such registration shall be submitted electronically with the division.

(b) The division of vehicles shall register and issue a license plate for any motor vehicle satisfying the provisions of subsection (a) upon payment of all applicable registration fees provided in K.S.A.

8-143

, and amendments thereto. License plates issued under this subsection shall be permanent in nature and designed in such a manner as to remain with the motor vehicle so long as the motor vehicle is subject to the taxation imposed pursuant to K.S.A.

79-5117

, and amendments thereto. The license plates shall be designed by the division of vehicles and shall be distinct from all other license plates and there shall be no year or date listed on the license plate. There shall be a marking on the license plate that the license plate is a rental fleet plate.

(c) For any vehicle registered pursuant to this section, the division of vehicles shall issue to the person registering such vehicle a registration receipt. The registration receipt shall contain the registration number and any other statements of facts as may be determined by the division. Such registration receipt shall immediately become invalid if the motor vehicle is no longer subject to the taxation imposed pursuant to K.S.A.

79-5117

, and amendments thereto.

(d) License plates and any unused registration fees issued pursuant to this section may be transferable to any other motor vehicle owned by the same person so long as such vehicle is subject to the taxation imposed pursuant to K.S.A.

79-5117

, and amendments thereto.

(e) The division may impose an additional fee in an amount not exceeding $1 for each registration issued pursuant to this section. The division shall remit all fees received by the division under this section 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 credit such fees in accordance with K.S.A.

8-145

, and amendments thereto.

KSA 8-1,190 — Fleet rental vehicle administration fund; creation

Fleet rental vehicle administration fund; creation.

There is hereby created in the state treasury the fleet rental vehicle administration fund. All moneys credited to the fleet rental vehicle administration fund shall be used by the department of revenue only for the purposes of funding the administration costs for registering and tagging fleet rental vehicles. All expenditures from the fleet rental vehicle administration fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

KSA 8-1,191 — Braden's hope for childhood cancer license plate; requirements

Braden's hope for childhood cancer license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Braden's hope for childhood cancer license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Braden's hope for childhood cancer may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to Braden's hope for childhood cancer for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to Braden's hope for childhood cancer as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) Braden's hope for childhood cancer, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles,

and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Braden's hope for childhood cancer license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by Braden's hope for childhood cancer, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Braden's hope for childhood cancer shall provide to all county treasurers an electronic mail address where applicants can contact Braden's hope for childhood cancer for information concerning the application process or the status of such applicant's license plate application.

(h) Braden's hope for childhood cancer, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Braden's hope for childhood cancer license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to Braden's hope for childhood cancer and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,192 — Proud educator license plate; requirements

Proud educator license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one proud educator license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas educators support foundation may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the Kansas educators support foundation for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the Kansas educators support foundation as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The Kansas educators support foundation, who shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of

registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a proud educator license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by the Kansas educators support foundation, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas educators support foundation shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas educators support foundation for information concerning the application process or the status of such applicant's license plate application.

(h) The Kansas educators support foundation, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the proud educator license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas educators support foundation and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the Kansas educators support foundation royalty fund shall be made on a monthly basis to the Kansas independent college foundation, unless another designee is made by the Kansas educators support foundation.

KSA 8-1,193 — Alpha kappa alpha license plate; requirements

Alpha kappa alpha license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one alpha kappa alpha license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Alpha kappa alpha may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to alpha kappa alpha for the use of such logo. Such owner

or lessee shall pay an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) Alpha kappa alpha, who shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer an alpha kappa alpha license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by alpha kappa alpha, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Alpha kappa alpha shall provide to all county treasurers an electronic mail address where applicants can contact alpha kappa alpha for information concerning the application process or the status of such applicant's license plate application.

(h) Alpha kappa alpha, with the approval of the director of vehicles, shall design a license plate to be issued under the provisions of this section.

(i) As a condition of receiving the alpha kappa alpha license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, license plate number and vehicle type to alpha kappa alpha and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,194 — United States army license plate; requirements; retired member designation

United States army license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

8-1,146

, and amendments thereto, that such person is currently serving in the United States army or was discharged or released from the United States army under an honorable discharge or general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States army. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a current member or veteran of the United States army may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States army. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States army.

KSA 8-1,195 — United States navy license plate; requirements; retired member designation

United States navy license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

8-1,146

, and amendments thereto, that such person is currently serving in the United States navy or was discharged or released from the United States navy under an honorable discharge or a general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States navy. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person who is a current member or veteran of the United States navy may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States navy. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States navy.

KSA 8-1,196 — United States marine corps license plate; requirements; retired member designation

United States marine corps license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

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, and amendments thereto, that such person is currently serving in the United States marine corps or was discharged or released from the United States marine corps under an honorable discharge or a general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States marine corps. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto.

(b) Any person who is a current member or veteran of the United States marine corps may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States marine corps. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States marine corps.

KSA 8-1,197 — United States air force license plate; requirements; retired member designation

United States air force license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

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, and amendments thereto, that such person is currently serving in the United States air force or was discharged or released from the United States air force under an honorable discharge or a general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States air

force. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a current member or veteran of the United States air force may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States air force. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States air force.

KSA 8-1,198 — United States coast guard license plate; requirements; retired member designation

United States coast guard license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

8-1,146

, and amendments thereto, that such person is currently serving in the United States coast guard or was discharged or released from the United States coast guard under an honorable discharge or a general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States coast guard. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a current member or veteran of the United States coast guard may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States coast guard. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States coast guard.

KSA 8-1,199 — United States space force license plate; requirements; retired member designation

United States space force license plate; requirements; retired member designation.

(a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas and submits satisfactory proof to the director of vehicles, as provided in K.S.A.

8-1,146

, and amendments thereto, that such person is currently serving in the United States space force or was discharged or released from the United States space force under an honorable discharge or a general discharge under honorable conditions, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a current member or veteran of the United States space force. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a current member or veteran of the United States space force may make application for such distinctive license plate on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is a current member or veteran of the United States space force. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a retired member of the United States space force.

KSA 8-1,200 — Gadsden flag license plate; requirements

Gadsden flag license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less, motorcycles or travel trailers, who is a resident of the state of Kansas, may apply for and be issued one distinctive license plate for each such passenger vehicle, truck, motorcycle or travel trailer, a Gadsden flag license plate. Such license plate shall be issued for the same period of time as other plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any applicant or renewal for a Gadsden flag license plate authorized by this section shall make an annual payment of a Gadsden flag license plate fee of $25 to the county treasurer for each license plate to be issued. Any fee received pursuant to this section shall be used to support the Kansas state rifle association.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date on a form prescribed and furnished by the director of vehicles. Application for the registration of a passenger vehicle, truck, motorcycle or travel trailer, and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under the authority of this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed a form with the director as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(f) The Gadsden flag license plate shall have a background design, an emblem or colors that designate the license plate as a Gadsden flag license plate.

(g) Annual Gadsden flag license plate fee payments collected by county treasurers under this section shall be remitted 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 Gadsden flag license plate fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Gadsden flag license plate fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Gadsden flag license plate fund shall be made on a monthly basis to the appropriate designee of the Kansas state rifle association.

KSA 8-1,201 — Love, Chloe foundation license plate; requirements

Love, Chloe foundation license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one love, Chloe foundation license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The love, Chloe foundation may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the love, Chloe foundation for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the love, Chloe foundation as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The love, Chloe foundation, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make applicationÂ for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a love, Chloe foundation license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by the love, Chloe foundation or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The love, Chloe foundation shall provide to all county treasurers an electronic mail address where applicants can contact the love, Chloe foundation for information concerning the application process or the status of such applicant's license plate application.

(h) The love, Chloe foundation, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the love, Chloe foundation license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the love, Chloe foundation and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,202 — Delta sigma theta license plate; requirements

Delta sigma theta license plate; requirements.

(a) On and after January 1, 2022, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one delta sigma theta license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Delta sigma theta may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to delta sigma theta for the use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) Delta sigma theta, who shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a delta sigma theta license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by delta sigma theta, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Delta sigma theta shall provide to all county treasurers an electronic mail address where applicants can contact delta sigma theta for information concerning the application process or the status of such applicant's license plate application.

(h) Delta sigma theta, with the approval of the director of vehicles, shall design a license plate to be issued under the provisions of this section.

(i) As a condition of receiving the delta sigma theta license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, license plate number and vehicle type to delta sigma theta and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,203 — Distinctive license plate fee collection; report to legislature

Distinctive license plate fee collection; report to legislature.

KSA 8-1,204 — Silver star medal license plate; requirements

Silver star medal license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles who is a resident of Kansas and submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a silver star medal by the United States government may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a silver star medal recipient. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any silver star medal recipient may make application for such distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant was a silver star medal recipient. Application for the registration of a passenger vehicle, truck or motorcycle and the issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

KSA 8-1,205 — Bronze star medal license plate; requirements

Bronze star medal license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles who is a resident of Kansas and submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person was awarded a bronze star medal by the United States government may be issued one distinctive license plate for each such passenger vehicle, truck or motorcycle designating such person as a bronze star medal recipient. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a bronze star medal recipient may make application for such distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant was a bronze star medal recipient. Application for the registration of a passenger vehicle, truck or motorcycle and the issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

KSA 8-1,206 — Kansas department of wildlife and parks license plate; requirements

Kansas department of wildlife and parks license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles, motorcycles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued a Kansas department of wildlife and parks license plate established pursuant to this section for each such passenger vehicle, motorcycle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the wildlife and parks license plate royalty payment established pursuant to this section.

(b) Any applicant or renewal for a Kansas department of wildlife and parks license plate authorized by this section shall make an annual payment of a wildlife and parks license plate royalty payment of an amount determined by the secretary of the Kansas department of wildlife and parks of not less than $40 nor more than $100. Payment of such wildlife and parks license plate royalty payment shall be made to the county treasurer for each such license plate to be issued.

(c) Subject to the approval of the director of vehicles, the Kansas department of wildlife and parks is authorized to establish four new distinctive license plates. Each such plate shall be subject to the provisions of K.S.A.

8-1,141

, and amendments thereto. The plates are intended to depict and promote the following:

(1) State parks;

(2) hunting;

(3) fishing; and

(4) nongame wildlife.

(d) Any person may make an application for a license plate authorized by this section not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the wildlife and parks license plate royalty payment. Application for registration of a passenger vehicle, motorcycle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(e) No registration or license plate issued under this section shall be transferable to any other person.

(f) The director of vehicles may transfer a Kansas department of wildlife and parks license plate from a leased vehicle to a purchased vehicle.

(g) Renewals of registration under this section shall be made annually, upon payment of the regular license fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the payment of the wildlife and parks license plate royalty payment. If such annual wildlife and parks license plate royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(h) As a condition of receiving the Kansas department of wildlife and parks license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type, to the Kansas department of wildlife and parks and the state treasurer.

(i) Annual wildlife and parks license plate royalty payments collected by county treasurers under this section shall be remitted 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. Of each deposit, amounts shall be credited as follows:

(1) For license plates issued pursuant to subsection (c)(1), the entire annual wildlife and parks license plate royalty payment shall be credited to the parks fee fund created by K.S.A.

32-991

, and amendments thereto; and

(2) for license plates issued pursuant to subsections (c)(2), (3) and (4):

(A) An amount equal to the current cost of an annual park and recreation motor vehicle permit that is established according to K.S.A.

8-134

, and amendments thereto, shall be credited to the parks fee fund created by K.S.A.

32-991

, and amendments thereto; and

(B) the balance remaining after crediting pursuant to subparagraph (A) shall be credited to the wildlife fee fund created by K.S.A.

32-990

, and amendments thereto.

KSA 8-1,207 — City of Hutchinson license plate; requirements

City of Hutchinson license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one city of Hutchinson license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The city of Hutchinson may authorize the use of its flag image as its logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Hutch rec foundation and park development in Hutchinson. Any motor vehicle owner or lessee may apply annually to the city of Hutchinson for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the city of Hutchinson as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The city of Hutchinson, who shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and the issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a city of Hutchinson license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the city of Hutchinson, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The city of Hutchinson shall provide to all county treasurers an electronic mail address where applicants can contact the city of Hutchinson for information concerning the application process or the status of such applicant's license plate application.

(h) The city of Hutchinson, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the city of Hutchinson license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the city of Hutchinson and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the city of Hutchinson royalty fund shall be made on a monthly basis to the appropriate designee of the Hutch rec foundation. A change of the city's designee shall occur only by mutual agreement of the city of Hutchinson and the Hutch rec foundation.

KSA 8-1,208 — Daughters of the American revolution license plate; requirements

Daughters of the American revolution license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one daughters of the American revolution license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The daughters of the American revolution may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the daughters of the American revolution for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the daughters of the American revolution as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The daughters of the American revolution, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a daughters of the American revolution license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

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, and amendments thereto, and in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the daughters of the American revolution, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The daughters of the American revolution shall provide to all county treasurers an electronic mail address where applicants can contact the daughters of the American revolution for information concerning the application process or the status of such applicant's license plate application.

(h) The daughters of the American revolution, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the daughters of the American revolution license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the daughters of the American revolution and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,209 — Kansas down syndrome awareness license plate; requirements

Kansas down syndrome awareness license plate; requirements.

(a) On and after January 1, 2023, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas down syndrome awareness license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The north central Kansas down syndrome society may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the north central Kansas down syndrome society for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the north central Kansas down syndrome society as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The north central Kansas down syndrome society, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles,

and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Kansas down syndrome awareness license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or faxed by the north central Kansas down syndrome society, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The north central Kansas down syndrome society shall provide to all county treasurers an electronic mail address where applicants can contact the north central Kansas down syndrome society for information concerning the application process or the status of such applicant's license plate application.

(h) The north central Kansas down syndrome society, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the order of the Kansas down syndrome awareness license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type, to the north central Kansas down syndrome society and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,210 — Buffalo soldier license plate; requirements

Buffalo soldier license plate; requirements.

(a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one buffalo soldier license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Richard Allen cultural center & museum, inc. may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the Richard Allen cultural center & museum, inc. for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the Richard Allen cultural center & museum, inc. as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The Richard Allen cultural center & museum, inc., which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the

time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a buffalo solder license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

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, and amendments thereto, and in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the Richard Allen cultural center & museum, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Richard Allen cultural center & museum, inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Richard Allen cultural center & museum, inc. for information concerning the application process or the status of such applicant's license plate application.

(h) The Richard Allen cultural center & museum, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the buffalo soldier license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Richard Allen cultural center & museum, inc. and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the buffalo soldier royalty fund shall be made on a monthly basis to the Richard Allen cultural center & museum, inc. of which a portion of such funds shall be dedicated to the construction and maintenance of the reimagined frontier museum.

KSA 8-1,211 — Back the blue license plate; requirements

Back the blue license plate; requirements.

(a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one back the blue license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and payment to the county treasurer of the law enforcement support fee as provided for in subsection (b).

(b) Any applicant or renewal of registration for a back the blue license plate authorized by this section shall make payment of a law enforcement support fee to the county treasurer of $30 for each license plate to be issued. Any law enforcement support fee payment received pursuant to this section shall be used to support the purposes of the Kansas chapter of concerns of police survivors (COPS), inc.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the law enforcement training support fee as provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer back the blue license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

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(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant pays the law enforcement support fee to the county treasurer as provided for in subsection (b). If the annual law enforcement support fee payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas chapter of concerns of police survivors (COPS), inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas chapter of concerns of police survivors (COPS), inc. for information concerning the application process or the status of such applicant's license plate application.

(h) The back the blue license plate shall have a background design, an emblem or colors that designate the license plate as a back the blue license plate.

(i) As a condition of receiving the back the blue license plate and any subsequent registration renewal of such license plate, the applicant shall provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, law enforcement support fee payment amount, plate number and vehicle type to the Kansas chapter of concerns of police survivors (COPS), inc. and the state treasurer.

(j) The collection and remittance of annual law enforcement support fee payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the back the blue royalty fund shall be made on a monthly basis to the Kansas chapter of concerns of police survivors (COPS), inc.

KSA 8-1,212 — City of Topeka license plate; requirements

City of Topeka license plate; requirements.

(a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one city of Topeka license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and payment to the county treasurer of the flag image payment provided for in subsection (b).

(b) Any motor vehicle owner or lessee may apply annually to use the city of Topeka flag image on a license plate as provided for in this section. Such owner or lessee shall pay an amount of not less than $25 but not more than $100 for

each such license plate to be issued. The flag image payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for such license plate shall pay to the county treasurer the flag image payment. Application for registration of a passenger vehicle or truck and the issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a city of Topeka license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the flag image payment. If the annual flag image payment is not provided to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The city of Topeka flag image referred to in subsection (b) was adopted by the city of Topeka governing body on November 12, 2019. The flag was designed through a community input process managed by the greater Topeka partnership, inc. No individual or entity claims intellectual property rights to the city of Topeka flag image. Use of the city of Topeka flag image to be displayed on a license plate shall be designed with the approval of the director of vehicles.

(h) As a condition of receiving the city of Topeka license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, flag image payment amount, plate number and vehicle type to the city of Topeka and the state treasurer.

(i) The collection and remittance of annual flag image payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the city of Topeka flag image fund shall be made on a monthly basis to the greater Topeka partnership, inc. A change of the city's designee shall occur only by mutual agreement by the city of Topeka and the greater Topeka partnership, inc.

KSA 8-1,213 — Kansas City Chiefs license plate; requirements

Kansas City Chiefs license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas City Chiefs license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) The Kansas City Chiefs football club, inc., may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 nor more than $100, as determined by the Kansas City Chiefs football club, inc., as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for

registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Kansas City Chiefs license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas City Chiefs football club, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the Kansas City Chiefs license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas City Chiefs football club, inc., and the state treasurer.

(i) Annual Kansas City Chiefs license plate fee payments collected by county treasurers under this section shall be remitted 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 Kansas City Chiefs license plate fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas City Chiefs license plate fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas City Chiefs license plate fund shall be made on a monthly basis to the Hunt family foundation.

KSA 8-1,214 — Sporting Kansas City license plate; requirements

Sporting Kansas City license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one sporting Kansas City license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) OnGoal, LLC, may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 nor more than $100, as determined by OnGoal, LLC, as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a sporting Kansas City license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) OnGoal, LLC, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the sporting Kansas City license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to OnGoal, LLC, and the state treasurer.

(i) Annual sporting Kansas City license plate fee payments collected by county treasurers under this section shall be remitted 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 sporting Kansas City license plate fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the sporting Kansas City license plate fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the sporting Kansas City license plate fund shall be made on a monthly basis to the Kansas City soccer foundation in support of the victory project.

KSA 8-1,215 — Sedgwick county zoo license plate; requirements

Sedgwick county zoo license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Sedgwick county zoo license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Sedgwick county zoological society may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the Sedgwick county zoological society for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the Sedgwick county zoological society as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The Sedgwick county zoological society, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles,

and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Sedgwick county zoo license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the Sedgwick county zoological society, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Sedgwick county zoological society shall provide to all county treasurers an electronic mail address where applicants can contact the Sedgwick county zoological society for information concerning the application process or the status of such applicant's license plate application.

(h) The Sedgwick county zoological society, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Sedgwick county zoo license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type, to the Sedgwick county zoological society and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,216 — Kansas City royals license plate; requirements

Kansas City royals license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas City royals license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) The Kansas City royals may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 but not more than $100, as determined by the Kansas City royals as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for

registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Kansas City royals license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas City royals with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the Kansas City royals license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas City royals and the state treasurer.

(i) Annual Kansas City royals license plate fee payments collected by county treasurers under this section shall be remitted 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 Kansas City royals license plate fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas City royals license plate fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas City royals license plate fund shall be made on a monthly basis to the Kansas City royals foundation.

KSA 8-1,217 — Kansas City current license plate; requirements

Kansas City current license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas City current license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) The Kansas City current may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 but not more than $100, as determined by the Kansas City current as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Kansas City current license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

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, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas City current with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the Kansas City current license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas City current and the state treasurer.

(i) Annual Kansas City current license plate fee payments collected by county treasurers under this section shall be remitted 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 Kansas City current license plate fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas City current license plate fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas City current license plate fund shall be made on a monthly basis to the united way of greater Kansas City.

KSA 8-1,218 — Topeka zoo license plate; requirements

Topeka zoo license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Topeka zoo license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

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, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The friends of the Topeka zoo, inc., may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the friends of the Topeka zoo, inc., for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the friends of the Topeka zoo, inc., as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The friends of the Topeka zoo, inc., which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger

vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a Topeka zoo license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the friends of the Topeka zoo, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The friends of the Topeka zoo, inc., shall provide to all county treasurers an electronic mail address where applicants can contact the friends of the Topeka zoo, inc., for information concerning the application process or the status of such applicant's license plate application.

(h) The friends of the Topeka zoo, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Topeka zoo license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type, to the friends of the Topeka zoo, inc., and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,219 — Support the troops license plate; requirements

Support the troops license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support the troops license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any applicant or renewal of registration for a support the troops license plate authorized by this section shall make payment of an annual support the troops fee to the county treasurer of $25 for each license plate to be issued. Any support the troops fee payment received pursuant to this section shall be used to support the purposes of the Kansas department of the American Legion and the Kansas department of veterans of foreign wars.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a support the troops license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed a form with the director as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The support the troops license plate shall have a background design, an emblem or colors that designate the license plate as a support the troops license plate.

(h) As a condition of receiving the support the troops license plate and any subsequent registration renewal of such license plate, the applicant shall provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, support the troops fee payment amount, plate number and vehicle type to the Kansas department of the American Legion and the Kansas department of veterans of foreign wars.

(i) The collection and remittance of annual support the troops fee payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the support the troops license plate royalty fund shall be disbursed on a monthly basis with 50% of the moneys disbursed to the Kansas department of the American Legion and 50% of the moneys disbursed to the Kansas department of veterans of foreign wars.

KSA 8-1,220 — First city of Kansas license plate; requirements

First city of Kansas license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one first city of Kansas license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Leavenworth county historical society may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the Leavenworth county historical society for use of such logo. Such owner or lessee shall pay an amount of not less than $25 nor more than $100 to the Leavenworth county historical society as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The Leavenworth county historical society, which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a first city of Kansas license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the Leavenworth county historical society, or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Leavenworth county historical society shall provide to all county treasurers an electronic mail address where applicants can contact the Leavenworth county historical society for information concerning the application process or the status of such applicant's license plate application.

(h) The Leavenworth county historical society, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the first city of Kansas license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type, to the Leavenworth county historical society and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,221 — 1st infantry division license plate; requirements; definition of veteran

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infantry division license plate; requirements; definition of veteran.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas, and who submits satisfactory proof to the director of vehicles that such person is currently serving in any unit of the 1

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infantry division, the Fort Riley garrison or a unit assigned to the Fort Riley garrison or has separated from the United States military, was honorably discharged and served an assignment of at least nine months in any unit of the 1

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infantry division, the Fort Riley garrison or any unit assigned to the Fort Riley garrison may be issued one 1

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infantry division license plate for each such passenger vehicle, truck or motorcycle. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who meets the criteria in subsection (a) may make application for such distinctive license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for the distinctive license plate shall furnish the director with proof as the director shall require that the applicant is currently serving in the 1

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infantry division or is a retired member or veteran that was assigned to the 1

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infantry division or Fort Riley garrison. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plate issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plate to the county treasurer of such person's residence.

(e) Upon satisfactory proof submitted to the director of vehicles, any person issued a license plate under this section may request that the license plate be printed to indicate that such person is a veteran or retired member of the 1

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infantry division or Fort Riley garrison.

(f) As used in this section, "veteran" means a person who served in the active military, naval, air or space service, including those groups and individuals listed under 38 C.F.R. Â§ 3.7.

KSA 8-1,222 — Occupational service medal license plate; requirements

Occupational service medal license plate; requirements.

(a) On and after January 1, 2025, any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of 20,000 pounds or less or motorcycles, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles that such person is a recipient of the Army of occupation medal or the Navy occupation service medal, upon compliance with the provisions of this section, may be issued one armed services occupation medal license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any person who is a recipient of the Army of occupation medal or the Navy occupation service medal may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive plates shall furnish the director with proof as the director shall require that the applicant is a recipient of the Army of occupation medal or the Navy occupation service medal. Application for the registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

KSA 8-1,223 — License plates, county of registration designation

License plates, county of registration designation.

(a) Any license plate design that has not been approved for production and issuance by the division of vehicles by July 1, 2024, shall designate the county of registration for the motor vehicle that will bear such license plate. The director of vehicles may either print the horizontal abbreviation of the county of registration directly on the license plate or affix to the license plate by a decal the abbreviation of the county of registration. Except as otherwise provided in subsection (b), the provisions of this section shall apply to:

(1) Any passenger vehicle or truck as defined in K.S.A.

8-126

, and amendments thereto, that is subject to taxation pursuant to K.S.A.

79-5101

et seq., and amendments thereto; or

(2) any vehicle that displays a distinctive or personalized license plate.

(b) The provisions of this section shall not apply to distinctive license plates designating a person as a recipient of the congressional medal of honor issued pursuant to K.S.A.

8-1,145

, and amendments thereto.

KSA 8-1,224 — FFA license plate; requirements

FFA license plate; requirements.

(a) On and after January 1, 2026, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one FFA license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) The Kansas FFA foundation may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 nor more than $100, as determined by the Kansas FFA foundation, as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a FFA license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas FFA foundation, with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the FFA license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas FFA foundation and the state treasurer.

(i) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,225 — Route 66 association of Kansas license plate; requirements

Route 66 association of Kansas license plate; requirements.

(a) On and after January 1, 2026, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one route 66 association of Kansas license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) Route 66 association of Kansas, inc., may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 nor more than $100, as determined by route 66 association of Kansas, inc., as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a route 66 association of Kansas license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Route 66 association of Kansas, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the route 66 association of Kansas license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to Route 66 association of Kansas, inc., and the state treasurer.

(i) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto.

KSA 8-1,226 — Blackout license plate; requirements

Blackout license plate; requirements.

(a) On and after January 1, 2026, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one blackout license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto.

(b) Any applicant or renewal of registration for a blackout license plate authorized by this section shall pay an annual fee of $50 to the county treasurer for each such license plate to be issued. Any new blackout license plate shall be subject to the fee prescribed in K.S.A

8-1,141

(a)(1), and amendments thereto. A blackout license plate may be a personalized license plate and subject to the personalized license plate fee pursuant to K.S.A.

8-1,141

(a)(2), and amendments thereto.

(c) Any applicant for a license plate authorized by this section may make application for such license plate on a form prescribed and furnished by the director of vehicles. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a blackout license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has paid the fee provided in subsection (b). If such fee is not paid, such applicant shall be required to comply with K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such applicant's residence.

(g) The blackout license plate shall have a background design, an emblem or colors that designate the license plate as a blackout license plate.

(h) There is hereby established in the state treasury the license plate replacement fund. The license plate replacement fund shall be administered by the secretary of revenue. Annual blackout license plate fees collected by county treasurers pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the license plate replacement fund. All expenditures from such fund shall be for the costs associated with replacing license plates when the lifespan of such license plates has been exhausted as determined by the director of vehicles. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or the secretary's designee.

KSA 8-1,227 — Hunter nation license plate; requirements

Hunter nation license plate; requirements.

(a) On and after January 1, 2026, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one hunter nation license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A.

8-143

, and amendments thereto, and the payment to the county treasurer of the logo use royalty payment.

(b) Hunter nation, inc., may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee shall pay an amount of not less than $25 nor more than $100, as determined by hunter nation, inc., as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a hunter nation license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A.

8-143

, and amendments thereto, and in the manner prescribed in K.S.A.

8-132

(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the annual royalty payment. If such annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A.

8-143

, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Hunter nation, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(h) As a condition of receiving the hunter nation license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to hunter nation, inc., and the state treasurer.

(i) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A.

8-1,141

(h), and amendments thereto, except that payments from the hunter nation license plate royalty fund shall be made on a monthly basis to hunter nation foundation, inc.

KSA 8-222 — Liability of owner for damages caused by negligence of minors under age of sixteen

Liability of owner for damages caused by negligence of minors under age of sixteen.

Every owner of a motor vehicle causing or knowingly permitting a minor under the age of sixteen years to drive such vehicle upon a highway, and any person who gives or furnishes a motor vehicle to such minor, shall be jointly and severally liable with such minor for any damages caused by the negligence of such minor in driving such vehicle.

KSA 8-234a — Definitions

Definitions.

(a) As used in the motor vehicle drivers' license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) "Drivers' license examiner" or "examiner" means a drivers' license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by this act, to accept applications for drivers' licenses and administer the examinations required for the issuance or renewal of drivers' licenses. Any county treasurer authorized to accept applications for drivers' licenses or administer drivers' license examinations shall be deemed to be acting as an agent of the state of Kansas;

(2) "nonresident" means every person who is not a resident of this state. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

(3) "patrol" means the state highway patrol;

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence;

(5) "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of Northern Mariana Islands;

(6) "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; and

(7) "religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.

KSA 8-234b — Classes of drivers' licenses; applications for original licenses; examinations; rules and regulations

Classes of drivers' licenses; applications for original licenses; examinations; rules and regulations.

(a) Every original driver's license issued by the division shall indicate the class or classes of motor vehicles which the licensee is entitled to drive. For this purpose the following classes are established:

(1) Commercial class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, providing the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;

(2) commercial class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating;

(3) commercial class C motor vehicles include any single vehicle less than 26,001 pounds gross vehicle weight rating, or any such vehicle towing a vehicle not in excess of 10,000 pounds, or any vehicle less than 26,001 pounds gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided the gross combination weight rating of the combination is less than 26,001 pounds comprising:

(A) Vehicles designed to transport 16 or more passengers, including the driver; or

(B) vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded;

(4) class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross combination weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds, and all other lawful combinations of vehicles with a gross combination weight rating of 26,001 pounds, or more; except that, class A does not include a combination of vehicles that has a truck registered as a farm truck under K.S.A.

8-143

, and amendments thereto;

(5) class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating. Class B motor vehicles do not include a single vehicle registered as a farm truck under K.S.A.

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, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more; or any fire truck operated by a volunteer fire department;

(6) class C motor vehicles include any single vehicle with a gross vehicle weight rating less than 26,001 pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating, or any vehicle with a less than 26,001 gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided the gross combination weight rating of the combination is less than 26,001 pounds, or any single vehicle registered as a farm truck under K.S.A.

8-143

, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more, or any fire truck operated by a volunteer fire department or any autocycle; and

(7) class M motor vehicles includes motorcycles, but does not include autocycles.

As used in this subsection, "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.

(b) Every applicant for an original driver's license shall indicate on such person's application the class or classes of motor vehicles for which the applicant desires a license to drive, and the division shall not issue a driver's license to any person unless such person has demonstrated satisfactorily ability to exercise ordinary and reasonable control in the operation of motor vehicles in the class or classes for which the applicant desires a license to drive. The division shall administer an appropriate examination of each applicant's ability to drive such motor vehicles. Except as provided in K.S.A.

8-2,125

through

8-2,142

, and amendments thereto, the director of vehicles may accept a copy of the certificate of a person's road test issued to an individual under the regulatory requirements of the United States department of transportation, in lieu of requiring the person to demonstrate ability to operate any motor vehicle or combination of vehicles, if such certificate was issued not more than three years prior to the person's application for a driver's license.

(c) Any person who is the holder of a valid driver's license which entitles the person to drive class A motor vehicles may also drive class B and C motor vehicles. Any person who is the holder of a valid driver's license which entitles the person to drive class B motor vehicles may also drive class C motor vehicles.

(d) The secretary of revenue shall adopt rules and regulations establishing qualifications for the safe operation of the various types, sizes and combinations of vehicles in each class of motor vehicles established in subsection (a). Such rules and regulations shall include the adoption of at least the minimum qualifications for commercial drivers' licenses contained in the commercial motor vehicle safety act of 1986.

(e) Any reference in the motor vehicle drivers' license act to a class or classes of motor vehicles is a reference to the classes of motor vehicles established in subsection (a), and any reference in the motor vehicle drivers' license act to a classified driver's license or a class of driver's license means a driver's license which restricts the holder thereof to driving one or more of such classes of motor vehicles.

(f) The secretary of revenue may enter into a contract with any person, who meets the qualifications imposed on persons regularly employed by the division as drivers' license examiners, to accept applications for drivers' licenses and to administer the examinations required for the issuance of drivers' licenses.

(g) Notwithstanding the provisions of subsection (a), any person employed as an automotive mechanic who possesses a valid class C driver's license may drive any class A or class B motor vehicle on the highways for the purpose of determining the proper performance of the vehicle, except that this does not include commercial class A, B or C vehicles.

KSA 8-234d — Motor vehicle drivers' license act; scope and effect of certain sections

Motor vehicle drivers' license act; scope and effect of certain sections.

(a) Nothing in K.S.A.

8-234b

and

8-234c

shall be construed as abrogating, limiting or otherwise affecting any other provision of the motor vehicle drivers' license act which imposes restrictions or limitations on driving any types, sizes or combinations of vehicles.

(b) The provisions of K.S.A.

8-234a

,

8-234b

and

8-234c

and the provisions of this section shall be a part of and supplemental to the motor vehicle drivers' license act.

KSA 8-235 — Drivers' licenses required; exercise of privileges granted licensees; city license, when; appeal from denial of license; penalty; motorized bicycle driver's license

Drivers' licenses required; exercise of privileges granted licensees; city license, when; appeal from denial of license; penalty; motorized bicycle driver's license.

(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 shall be the holder of a driver's license that is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle that is registered in this state shall be the holder of a class M driver's license.

(d) No person shall drive any motorized bicycle upon a highway of this state unless such person:

(1) Has a valid driver's license that entitles the licensee to drive a motor vehicle in any class or classes;

(2) 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 shall clearly indicate that such license is valid only for the operation of motorized bicycles; or

(3) has had their driving privileges revoked under K.S.A.

8-286

, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A.

8-1013

, and amendments thereto, in the last five years, has not been convicted of a violation of K.S.A.

8-1568

(b), and amendments thereto, in the last five years and has made application to the division for issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles. As used in this subsection, "motorized bicycle" shall have the meaning ascribed to it in K.S.A.

8-126

, and amendments thereto.

(e) Violation of this section is a class B nonperson misdemeanor.

KSA 8-235b — Findings of department upon receipt of application; issuance of license, when

Findings of department upon receipt of application; issuance of license, when.

The division, upon receipt of an application for an original driver's license, if it finds the applicant to be the then holder of a valid driver's license and finds from said application that the statements required under subsection (b) of K.S.A.

8-240

, relating to prior revocation, suspension or refusal of licenses are answered correctly in the negative, and finds that all other applicable requirements of the motor vehicle drivers' license act have been complied with, including the requirements of K.S.A.

8-234b

and

8-234c

, shall issue to said applicant a properly classified driver's license, which license shall be issued as provided in this act.

KSA 8-235c — Findings of division; when examination required; exception

Findings of division; when examination required; exception.

If the division finds that an applicant for an original driver's license does not then have a valid driver's license, or finds that any of the statements relating to prior revocation, suspension or refusal of licenses required to be made on the application

under subsection (b) of K.S.A.

8-240

are in the affirmative, then the division before issuing such license shall require said applicant to take an examination as provided in K.S.A.

8-235d

: Provided, That any applicant who was a student within the two (2) years immediately prior to the date of making application and who has successfully completed a drivers' training course conducted by an accredited school or educational institution, or conducted by a driver training school which has been issued a license certificate pursuant to K.S.A.

8-277

shall be granted without examination a driver's license indicating the class of vehicles which the applicant is qualified to drive as a result of successfully completing such drivers' training course.

KSA 8-235d — Applications for licenses other than renewals; examinations; locations; issuance of license; requirements for applicant under age of eighteen years

Applications for licenses other than renewals; examinations; locations; issuance of license; requirements for applicant under age of eighteen years.

(a) Drivers' license examiners of the division shall accept original applications for drivers' licenses and instruction permits, as distinguished from applications for renewals of licenses, on forms prescribed by the division and also shall issue instruction permits. Drivers' license examiners of the division shall examine every applicant for a driver's license who is required by the provisions of the motor vehicle drivers' license act to be examined. Such examination shall be held in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant or at a location established by the secretary. Such examination shall include a test of the applicant's eyesight, the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of the traffic laws of this state and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of motor vehicles which the class of license applied for would entitle the applicant to drive. At the conclusion of the examination the examiner shall issue a license to the applicant, if the applicant has successfully passed the examination with the class of license the applicant has applied for.

(b) In addition to the requirements of subsection (a):

(1) Any person applying for a driver's license shall comply with the provisions of subsection (b) of K.S.A.

8-240

, and amendments thereto; and

(2) any person who is under the age of 18 years and at least 17 years of age, who is applying for a driver's license for the first time, not including an instruction permit, shall submit a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The required adult supervised driving required in this subsection shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

KSA 8-235e — Application for driver's license, instructional permit or nondriver's identification card constitutes consent to selective service registration

Application for driver's license, instructional permit or nondriver's identification card constitutes consent to selective service registration.

(a) Any person, who is subject to registration under the provisions of section 3 of the military selective service act, 50 U.S.C. App. section 453, as amended, and who applies for any driver's license or instructional permit under the provisions of article 2 of chapter 8 of the Kansas Statutes Annotated, or any nondriver's identification card under the provisions of K.S.A.

8-1324

through

8-1334

, and amendments thereto, or any renewal of such driver's license, instructional permit or nondriver's identification card and who is at least 16 years of age but less than 26 years of age shall consent to such applicant's registration in compliance with the requirements of section 3 of the military selective service act, 50 U.S.C. App. section 453, as amended.

(b) The division of vehicles shall forward, in an electronic format, the necessary personal information of the applicants identified in subsection (a), to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that the applicant is authorizing the division of vehicles to forward to the selective service system the necessary information for such registration. The division of vehicles shall notify the applicant that the applicant's submission of the application will serve as the applicant's consent to registration with the selective service system, if such registration is required by federal law.

KSA 8-236 — Persons exempt from license

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.

KSA 8-237 — Persons to whom license not issued

Persons to whom license not issued.

The division of vehicles shall not issue any driver's license to any person:

(a) Who is under the age of 17 years, except that the division may issue a restricted class C or M license, as provided in K.S.A.

8-2,101

, and amendments thereto, or a farm permit, under K.S.A.

8-296

, and amendments thereto.

(b) Who is under the age of 18 years, except as provided in K.S.A.

8-2,147

, and amendments thereto, for the purpose of driving a commercial or class A or B motor vehicle.

(c) Whose license is currently revoked, suspended or canceled in this or any other state, except as provided in K.S.A.

8-256

, and amendments thereto.

(d) Who is a habitual drunkard, habitual user of narcotic drugs or habitual user of any other drug to a degree which renders the user incapable of safely driving a motor vehicle.

(e) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of making application for a driver's license, has not been restored to capacity in the manner provided by law. Application of this limitation to any person known to have suffered any seizure disorder is subject to the provisions of K.S.A.

8-247

, and amendments thereto.

(f) Who is required by the motor vehicle drivers' license act to take an examination, unless the person has successfully passed the examination.

(g) Who is at least 16 years of age and less than 17 years of age, who is applying for a driver's license for the first time since reaching 16 years of age and who, three times or more, has been adjudged to be a traffic offender under the Kansas juvenile code or a juvenile offender under the revised Kansas juvenile justice code, by reason of violation of one or more statutes regulating the movement of traffic on the roads, streets or highways of this state, except that, in the discretion of the director, the person may be issued a driver's license which is restricted in the manner the division deems to be appropriate. No person described by this subsection shall be eligible to receive a driver's license which is not restricted until the person has reached the age of 17 years.

(h) Who has not submitted proof of age or proof of identity, as required by K.S.A.

8-240

, and amendments thereto.

(i) Whose presence in the United States is in violation of federal immigration laws.

KSA 8-238 — Operators of school buses; operators of vehicles transporting persons or certain property for compensation; age restrictions

Operators of school buses; operators of vehicles transporting persons or certain property for compensation; age restrictions.

No person who is under the age of 18 years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons for a fee or when in use for the transportation of property, other than property owned or sold by the owner or lessee of such vehicle, for compensation.

KSA 8-239 — Instruction permits for persons 17 years of age and older; conditions and requirements

Instruction permits for persons 17 years of age and older; conditions and requirements.

Any person who is at least 17 years of age may apply to the division for an instruction permit. 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 which shall entitle the applicant while having such permit in such person's immediate possession to drive a passenger car upon the public highways for a period of one year subject to the restrictions herein contained. The one having the instruction permit may operate a passenger car at any time when accompanied by 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, who has had at least one year of driving experience and who is occupying a seat beside the driver. Any person who is at least 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, and such permit shall entitle the permittee to operate a motorcycle if

such person 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 riding a motorcycle in the general proximity of the permittee.

KSA 8-240 — Drivers' licenses and instruction permits; application for; requirements; examination tests; reexamination; drivers' records; fees; late application penalties; electronic online renewal; quarterly report to secretary of state of noncitizens who were issued drivers' licenses

Drivers' licenses and instruction permits; application for; requirements; examination tests; reexamination; drivers' records; fees; late application penalties; electronic online renewal; quarterly report to secretary of state of noncitizens who were issued drivers' licenses.

(a) (1) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of $2 for class A, B, C or M and $5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of $3, unless a different fee is required by K.S.A.

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, and amendments thereto, and by the proper fee for the license for which the application is made. All commercial class applicants shall be charged a $15 driving test fee for the drive test portion of the commercial driver's license application. If the applicant is not required to take an examination or the commercial license drive test, the examination or commercial drive test fee shall not be required. The examination shall consist of three tests, as follows: (A) Vision; (B) written; and (C) driving. For a commercial driver's license, the drive test shall consist of three components, as follows: (A) Pre-trip; (B) skills test; and (C) road test. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of $1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of $1.50. If an applicant for a commercial driver's license fails any portion of the commercial drive test, the applicant may take such test again upon the payment of an additional drive test fee of $10. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of $3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period shall be required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(2) Applicants for class M licenses who have completed prior motorcycle safety training in accordance with department of defense instruction 6055.04 (DoDI 6055.04) or the motorcycle safety foundation are not required to complete further written and driving testing pursuant to paragraph (1). An applicant seeking exemption from the written and driving tests pursuant to this paragraph shall provide a copy of the motorcycle safety foundation completion form to the division prior to receiving a class M license.

(3) On and after January 1, 2017, an applicant for a class M license who passes a driving examination on a three-wheeled motorcycle that is not an autocycle shall have a restriction placed on such applicant's license limiting the applicant to the operation of a registered three-wheeled motorcycle. An applicant for a class M license who passes a driving examination on a two-wheeled motorcycle may operate any registered two-wheeled or three-wheeled motorcycle. The driving examination required by this paragraph shall be administered by the division, by the department of defense or as part of a curriculum recognized by the motorcycle safety foundation.

(b) (1) For the purposes of obtaining any driver's license or instruction permit, an applicant shall submit, with the application, proof of age and proof of identity as the division may require. The applicant also shall provide a photo identity document, except that a non-photo identity document is acceptable if it includes both the applicant's full legal name and date of birth, and documentation showing the applicant's name, the applicant's address of principal residence and the applicant's social security number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A.

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, and amendments thereto. If the applicant does not have a social security number, the applicant shall provide proof of lawful presence and Kansas residency. The division shall assign a distinguishing number to the license or permit.

(2) The division shall not issue any driver's license or instruction permit to any person who fails to provide proof that the person is lawfully present in the United States. Before issuing a driver's license or instruction permit to a person, the division shall require valid documentary evidence that the applicant: (A) Is a citizen or national of the United States; (B) is an alien lawfully admitted for permanent or temporary residence in the United States; (C) has conditional permanent resident status in the United States; (D) has an approved application for asylum in the United States or has entered into the United States in refugee status; (E) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States; (F) has a pending application for asylum in the United States; (G) has a pending or approved application for temporary protected status in the United States; (H) has approved deferred action status; or (I) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(3) If an applicant provides evidence of lawful presence set out in subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for temporary residence under subsection (b)(2)(B), the division may only issue a driver's license to the person under the following conditions: (A) A driver's license issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year; (B) a driver's license issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires; (C) no driver's license issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by K.S.A.

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(a), and amendments thereto; and (D) a driver's license issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and conditions as set out in this subsection (b) for the issuance of the original driver's license.

(4) The division shall not issue any driver's license or instruction permit to any person who is not a resident of the state of Kansas, except as provided in K.S.A.

8-2,148

, and amendments thereto.

(5) The division shall not issue a driver's license to a person holding a driver's license issued by another state without making reasonable efforts to confirm that the person is terminating or has terminated the driver's license in the other state.

(6) The parent or guardian of an applicant under 16 years of age shall sign the application for any driver's license submitted by such applicant.

(c) Every application shall state the full legal name, date of birth, gender and address of principal residence of the applicant, and briefly describe the applicant, and shall state whether the applicant has been licensed as a driver prior to such application, and, if so, when and by what state or country. Such application shall state whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition, applications for commercial drivers' licenses and instruction permits for commercial licenses shall include the following: The applicant's social security number, the person's signature and the person's: (1) Digital color image or photograph; or (2) a laser engraved photograph, certifications, including those required by 49 C.F.R. Â§ 383.71(a), effective January 1, 1991, a consent to release driving record information and any other information required by the division. Each application for a driver's license shall include a question asking if the applicant is willing to give such applicant's authorization to be listed as an organ, eye or tissue donor in the Kansas donor registry in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

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65-3244

, and amendments thereto. The gift would become effective upon the death of the donor.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee shall be charged as follows:

(1) For a class C driver's license issued to a person at least 21 years of age, but less than 65 years of age, $18;

(2) for a class C driver's license issued to a person 65 years of age or older, $12;

(3) for a class M driver's license issued to a person at least 21 years of age, but less than 65 years of age, $12.50;

(4) for a class M driver's license issued to a person 65 years of age or older, $9;

(5) for a class A or B driver's license issued to a person who is at least 21 years of age, but less than 65 years of age, $24;

(6) for a class A or B driver's license issued to a person 65 years of age or older, $16;

(7) for any class of commercial driver's license issued to a person 21 years of age or older, $18; or

(8) for class A, B, C or M, or a farm permit, or any commercial driver's license issued to a person less than 21 years of age, $20.

A fee of $10 shall be charged for each commercial driver's license endorsement, except air brake endorsements, which shall have no charge.

A fee of $3 per year shall be charged for any renewal of a license issued prior to the effective date of this act to a person less than 21 years of age.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of $1 shall be added to the fee charged for the driver's license.

(g) Any person who possesses an identification card as provided in K.S.A.

8-1324

, and amendments thereto, shall surrender such identification card to the division upon being issued a valid Kansas driver's license or upon reinstatement and return of a valid Kansas driver's license.

(h) The division shall require that any person applying for a driver's license submit to a mandatory facial image capture. The captured facial image shall be displayed on the front of the applicant's driver's license.

(i) The director of vehicles may issue a temporary driver's license to an applicant who cannot provide valid documentary evidence as defined by subsection (b)(2), if the applicant provides compelling evidence proving current lawful presence. Any temporary license issued pursuant to this subsection shall be valid for one year.

(j) (1) For purposes of this subsection, the division may rely on the division's most recent, existing color digital image and signature image of the applicant for the class C or M driver's license or any class of commercial driver's license if the division has the information on file. The determination on whether an electronic online renewal application or equivalent of a driver's license is permitted shall be made by the director of vehicles or the director's designee. The division shall not renew a driver's license through an electronic online or equivalent process if the license has been previously renewed through an electronic online application in the immediately preceding driver's license period. No renewal under this subsection shall be granted to any person who is:

(A) Younger than 30 days from turning 21 years of age;

(B) 65 years of age or older;

(C) a registered offender pursuant to K.S.A.

22-4901

et seq., and amendments thereto;

(D) a person issued a temporary driver's license issued pursuant to K.S.A. 8-240(b)(3), and amendments thereto, provided the license is not otherwise withdrawn; or

(E) a person issued a commercial driver's license that has a hazardous materials endorsement.

(2) The vision examination requirements in K.S.A.

8-247

(e), and amendments thereto, are not required for electronic online renewal applications, except that the electronic online renewal applicant must certify under penalty of law that the applicant's vision satisfies the requirements of K.S.A.

8-295

, and amendments thereto, and has undergone an examination of eyesight by a licensed ophthalmologist or a licensed optometrist within the last year. As a condition for any electronic online renewal application, the applicant must: (A) Authorize the exchange of vision and medical information between the division and the applicant's ophthalmologist or optometrist; and (B) is at least 21 years of age but less than 65 years of age. The ophthalmologist or optometrist shall have four business days to confirm or deny the vision and medical information of the applicant. If no response is received by the division, the division shall accept the vision and medical information provided for processing the renewal application. The waiver of vision examination for online renewal applications contained within this subsection shall expire on July 1, 2022.

(3) The secretary of revenue shall adopt and administer rules and regulations to implement a program to permit an electronic online renewal of a driver's license, including, but not limited to, requirements that an electronic online renewal applicant shall have previously provided documentation of identity, lawful presence and residence to the division for electronic scanning.

(4) Prior to February 1, 2022, the division shall report to the house and the senate committees on transportation regarding the online renewal process of this subsection and its effects to safety on the state's roads and highways.

(5) Any person seeking to renew a commercial driver's license pursuant to this subsection shall be required to provide the division with a valid medical examiner's certificate and proof of completion of the truckers against trafficking training.

(k) The director of the division of motor vehicles shall submit a quarterly report to the secretary of state for all persons for whom a driver's license has been issued as required by K.S.A. 2025 Supp.

25-2324

, and amendments thereto.

KSA 8-241 — Licensee must submit to examination, when; examination and reinstatement fees; disposition of moneys; notice; restriction, suspension or revocation of license, when; license with DUI-IID designation, requirements, fees

Licensee must submit to examination, when; examination and reinstatement fees; disposition of moneys; notice; restriction, suspension or revocation of license, when; license with DUI-IID designation, requirements, fees.

(a) Except as provided in K.S.A.

8-2,125

through

8-2,142

, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A.

8-1014

, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A.

8-1567

, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A.

8-1567

, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A.

8-240

, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be $25. In addition, any person required to submit to an examination pursuant to subsection (a)(2) as the result of a test failure, a conviction for a violation of K.S.A.

8-1567

, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A.

8-1567

, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of $200 after the first occurrence, $400 after the second occurrence, $600 after the third occurrence and $800 after the fourth or subsequent occurrence; and as a result of a test refusal, shall be required, at the time of examination, to pay a reinstatement fee of $600 after the first occurrence, $900 after the second occurrence, $1,200 after the third occurrence and $1,500 after the fourth or subsequent occurrence.

(1) All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A.

8-267

, and amendments thereto.

(2) All reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A.

41-1126

, and amendments thereto, 20% to the juvenile alternatives to detention fund created by K.S.A.

79-4803

, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A.

28-176

, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A.

75-5660

, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by K.S.A.

8-247

(e), and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A.

8-245

, and amendments thereto.

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

(e) The division may issue a driver's license with a DUI-IID designation for a licensee that is operating under ignition interlock restrictions required by K.S.A.

8-1014

, and amendments thereto. The reexamination requirement in subsection (a)(2) shall not require reexamination and payment of reinstatement fees until the end of the licensee's ignition interlock restriction period. If the applicant's Kansas driver's license has been expired for one year or more, the applicant must complete a reexamination and pay any applicable reinstatement fees before qualifying for a driver's license with an ignition interlock designation. All other requirements for issuance and renewal of a driver's license under K.S.A.

8-240

, and amendments thereto, shall continue to apply. The renewal periods and other requirements in K.S.A.

8-247

, and amendments thereto, shall apply. The fees charged for the driver's license with ignition interlock designation shall include: (1) The fee amounts set out in K.S.A.

8-240

(f), and amendments thereto; (2) fees prescribed by the secretary of revenue and required in K.S.A.

8-243

(a), and amendments thereto; and (3) a $10 fee to the DUI-IID designation fund. There is hereby created in the state treasury the DUI-IID designation fund. All moneys credited to the DUI-IID designation fund shall be used by the highway patrol only for the purpose of funding the administration and oversight of state certified ignition interlock manufacturers and their service providers.

KSA 8-243 — Issuance of licenses; contents; signature; photograph, exception; fee; anatomical gift; distinguishable license for deaf and hard of hearing; distinguishable number for registered offenders; veterans; persons needing assistance with cognition

Issuance of licenses; contents; signature; photograph, exception; fee; anatomical gift; distinguishable license for deaf and hard of hearing; distinguishable number for registered offenders; veterans; persons needing assistance with cognition.

(a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles that the licensee is entitled to drive, a distinguishing number assigned to the licensee, the full legal name, date of birth, gender, address of principal residence and a brief description of the licensee, either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of the licensee, a facsimile of the signature of the licensee and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. The secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, no driver's license issued by the division shall be valid until either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than $8 and upon the payment of such fee, the division shall cause either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A.

8-246

, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee. A driver's license that does not contain the principal address as required may be issued to persons who are program participants

pursuant to K.S.A.

75-455

, and amendments thereto, upon payment of the fee required by K.S.A.

8-246

, and amendments thereto. All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.

(b) A Kansas driver's license issued to any person 16 years of age or older who indicated on the person's application that the person wished to make a gift of all or any part of the body of the licensee in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto, shall have the word "Donor" placed on the front of the licensee's driver's license.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older. Upon satisfaction of subsection (a), the division shall issue a receipt of application permitting the operation of a vehicle consistent with the requested class, if there are no other restrictions or limitations, pending the division's verification of the information and production of a driver's license.

(d) A driver's license issued to a person required to be registered under K.S.A.

22-4901

et seq., and amendments thereto, shall be assigned a distinguishing number by the division which will readily indicate to law enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

(e) (1) Any person who is a veteran may request that the division issue to such person a driver's license that shall include the designation "VETERAN" displayed on the front of the driver's license at a location to be determined by the secretary of revenue. In order to receive a license described in this subsection, the veteran shall provide a copy of the veteran's DD form 214, NGB form 22 or equivalent discharge document showing character of service as honorable or general under honorable conditions.

(2) As used in this subsection, "veteran" means a person who served in the active military, naval, air or space service, including those groups and individuals listed under 38 C.F.R. Â§ 3.7, and who was discharged or released therefrom under an honorable discharge or a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(f) (1) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a driver's license, that shall note such impairment on the driver's license at a location to be determined by the secretary of revenue.

(2) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A.

65-1131

, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

KSA 8-244 — Licenses to be carried and delivered upon demand; defense

Licenses to be carried and delivered upon demand; defense.

(a) Every licensee shall have such person's driver's license in such person's immediate possession at all times when operating a motor vehicle. However, no person charged with violating this subsection 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.

(b) Every licensee operating a motor vehicle shall promptly deliver such person's driver's license upon demand of any officer of a court of competent jurisdiction, any peace officer or any examiner or officer of the division of vehicles when the license is in such person's immediate possession at the time of the demand.

KSA 8-245 — Restrictions on licensees; suspension or revocation; misdemeanor

Restrictions on licensees; suspension or revocation; misdemeanor.

(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.

KSA 8-246 — Replacement drivers' licenses

Replacement drivers' licenses.

(a) If a driver's license issued under the provisions of this act is lost or destroyed, or if a new name is acquired, the person to whom such driver's license was issued may obtain a replacement upon:

(1) Furnishing satisfactory proof of the loss, destruction or name change to the division, including an affidavit stating the circumstances of the loss, destruction or name change;

(2) payment of a fee of $8; and

(3) furnishing proof of the person's identity as provided in subsection (b). The driver's license examiner also shall compare the applicant with the division's existing information and facial image database.

(b) For the purposes of obtaining a replacement driver's license, proof of a person's identity shall include at least two of the following documents, one of the documents shall bear the person's signature and one of the documents shall bear the person's age or one of the documents shall bear the person's signature and age:

(1) Military identification card;

(2) military dependent identification card;

(3) military discharge papers;

(4) military DD214;

(5) an original or certified copy of a state issued birth certificate;

(6) marriage license;

(7) medicare identification card;

(8) certified copy of court order specifying a change of name of the person;

(9) commercially produced school yearbook with photograph of the person, and the book is less than five years old;

(10) an official passport issued by any country;

(11) alien registration documents issued by the United States;

(12) expired or current driver's license or identification card issued by the Kansas division of vehicles or an expired or current driver's license or identification card of another state issued by similar authority, and for any document in this

paragraph the document must bear a photograph of the person;

(13) student identification card bearing the photograph of the person;

(14) employee identification card bearing the photograph of the person;

(15) a copy of any federal or state income tax return bearing the signature of the person;

(16) an identification certificate issued by the department of corrections to an offender under the supervision of the secretary of corrections; or

(17) an identification certificate issued by a court services or community corrections agency to an offender under the probation supervision of such agency.

(c) The division may waive the furnishing of one of the documents required by subsection (b) in the case of:

(1) A person who is 65 or more years of age; or

(2) an inmate who has been released on parole, conditional release or expiration of the inmate's maximum sentence. When additional clarification is needed to adequately describe any of the above items, the division shall specify such clarification in making the requirement for such item.

(d) In lieu of providing one of the documents required by subsection (b), a person may recite to the satisfaction of the driver's license examiner the recent motor vehicle operating record of the person.

(e) Any person who loses a driver's license and who, after obtaining a replacement, finds the original license shall immediately surrender the original license to the division.

KSA 8-247 — Expiration of licenses; annual renewal for registered offenders; notice; renewal of license; reexamination; additional examinations; seizure disorders; extension of license when out-of-state; anatomical gift; state organ and tissue registry

Expiration of licenses; annual renewal for registered offenders; notice; renewal of license; reexamination; additional examinations; seizure disorders; extension of license when out-of-state; anatomical gift; state organ and tissue registry.

(a) (1) All original licenses issued on and after July 1, 2018, shall expire as follows:

(A) Licenses issued to persons who are at least 21 years of age, but less than 65 years of age shall expire on the sixth anniversary of the date of birth of the licensee that is nearest the date of application;

(B) licenses issued to persons who are 65 years of age or older shall expire on the fourth anniversary of the date of birth of the licensee that is nearest the date of application;

(C) any commercial drivers license shall expire on the fifth anniversary of the date of birth of the licensee that is nearest the date of application;

(D) licenses issued to an offender, as defined in K.S.A.

22-4902

, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A.

22-4901

et seq., and amendments thereto, shall expire every year on the date of birth of the licensee; or

(E) licenses issued to persons who are less than 21 years of age shall expire on the licensee's 21

st

birthday.

(2) All renewals under: (A) Paragraph (1)(A) shall expire on every sixth anniversary of the date of birth of the licensee; (B) paragraph (1)(B) shall expire on every fourth anniversary of the date of birth of the licensee; (C) paragraph (1)(C) shall expire on every fifth anniversary of the date of birth of the licensee; (D) paragraph (1)(D) shall expire every year on the date of birth of the licensee; and (E) paragraph (1)(E), if a renewal license is issued, shall expire on the licensee's 21

st

birthday. No driver's license shall expire in the same calendar year when 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 in accordance with the

provisions of this subsection.

(b) If the driver's license of any person expires while such person is outside of the state of Kansas and such person is on active duty in the armed forces of the United States, or is the spouse or a person who is residing with and is a dependent of such person on active duty, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within 90 days after residence within the state is reestablished, whichever time is sooner. If the driver's license of any person under this subsection expires while such person is outside the United States, the division shall provide for renewal by mail, as long as the division has a photograph or digital image of such person maintained in the division's records. A driver's license renewed under the provisions of this subsection shall be renewed by mail only once.

(c) At least 30 days prior to the expiration of a person's license the division shall mail, or send electronically if authorized by the person, a notice of expiration or renewal application to such person at the address shown on the license or the electronic mail address provided to the division. The division shall include with such notice a written explanation of substantial changes to traffic regulations enacted by the legislature.

(d) (1) Except as provided in paragraph (2) and (3), every driver's license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver's license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of K.S.A.

8-240

(b), and amendments thereto. Such notice shall also include a question asking if the applicant is willing to give such applicant's authorization to be listed as an organ, eye and tissue donor in the Kansas donor registry in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A.

8-235b

, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant's driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under K.S.A.

8-240

(b), and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make application for renewal of such person's license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A.

8-235d

, and amendments thereto.

(2) Any licensee, whose driver's license expires on the licensee's 21

st

birthday, shall have 45 days from the date of expiration of such license to make application to renew such licensee's license. Such license shall continue to be valid for such 45 days or until such license is renewed, whichever occurs sooner. A licensee who renews under the provisions of this paragraph shall not be required by the division to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A.

8-235d

, and amendments thereto.

(3) Any licensee, whose driver's license has expired after March 12, 2020, and before March 31, 2021, shall have until June 30, 2021, to renew such licensee's driver's license.

(e) (1) Prior to renewal of a driver's license, the applicant shall pass an examination of eyesight. Such examination shall be equivalent to the test required for an original driver's license under K.S.A.

8-235d

, and amendments thereto. A driver's license examiner shall administer the examination without charge and shall report the results of the examination on a form provided by the division.

(2) In lieu of the examination of the applicant's eyesight by the examiner, the applicant may submit a report on the examination of eyesight by a physician licensed to practice medicine and surgery or by a licensed optometrist. The report shall be based on an examination of the applicant's eyesight not more than three months prior to the date the report is submitted, and it shall be made on a form furnished by the division to the applicant.

(3) The division shall determine whether the results of the eyesight examination or report is sufficient for renewal of the license and, if the results of the eyesight examination or report is insufficient, the division shall notify the applicant of such fact and return the license fee. In determining the sufficiency of an applicant's eyesight, the division may request an advisory opinion of the medical advisory board, and the board is hereby authorized to render such opinions.

(4) An applicant who is denied a license under this subsection may reapply for renewal of such person's driver's license, except that if such application is not made within 90 days of the date the division sent notice to the applicant that the license would not be renewed, the applicant shall proceed as if applying for an original driver's license.

(5) When the division has good cause to believe that an applicant for renewal of a driver's license is incompetent or otherwise not qualified to operate a motor vehicle in accord with the public safety and welfare, the division may require such applicant to submit to such additional examinations as are necessary to determine that the applicant is qualified to receive the license applied for. Subject to paragraph (6), in so evaluating such qualifications, the division may request an advisory opinion of the medical advisory board, and the board is hereby authorized to render such opinions in addition to its duties prescribed by K.S.A.

8-255b

(b), and amendments thereto. Any such applicant who is denied the renewal of such a driver's license because of a mental or physical disability shall be afforded a hearing in the manner prescribed by K.S.A.

8-255

(c), and amendments thereto.

(6) Seizure disorders that are controlled shall not be considered a disability. In cases where such seizure disorders are not controlled, the director or the medical advisory board may recommend that such person be issued a driver's license to drive class C or M vehicles and restricted to operating such vehicles as the division determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. Restricted licenses issued pursuant to this paragraph shall be subject to suspension or revocation. For the purpose of this paragraph, seizure disorders that are controlled means that the licensee has not sustained a seizure involving a loss of consciousness in the waking state within six months preceding the application or renewal of a driver's license and whenever a person licensed to practice medicine and surgery makes a written report to the division stating that the licensee's seizures are controlled. The report shall be based on an examination of the applicant's medical condition not more than three months prior to the date the report is submitted. Such report shall be made on a form furnished to the applicant by the division. Any physician who makes such report shall not be liable for any damages that may be attributable to the issuance or renewal of a driver's license and subsequent operation of a motor vehicle by the licensee.

(f) If the driver's license of any person expires while such person is outside the state of Kansas, the license of such person shall be extended for a period not to exceed six months and shall be renewable, without a driving examination, at any time prior to the end of the sixth month following the original expiration date of such license or within 10 days after such person returns to the state, whichever time is sooner. This subsection shall not apply to temporary drivers' licenses issued pursuant to K.S.A.

8-240

(b)(3), and amendments thereto.

(g) (1) The division shall reference the website of the agency in a person's notice of expiration or renewal under subsection (c). The division shall provide the following information on the website of the agency:

(A) Information explaining the person's right to make an anatomical gift in accordance with K.S.A.

8-243

, and amendments thereto, and the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto;

(B) information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

(C) information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (B); and

(D) information that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in subparagraph (B), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (3);

(2) the division may fulfill the requirements of paragraph (1)(D) by one or more of the following methods:

(A) Providing such information on the website of the agency; or

(B) providing printed material to an applicant who personally appears at an examining station.

(3) If an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry, the division shall within 10 days forward the applicant's name, gender, date of birth and most recent address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

(h) Notwithstanding any other provisions of law, any offender under subsection (a)(1)(D) who held a valid driver's license on the effective date of this act may continue to operate motor vehicles until the next anniversary of the date of birth of such offender. Upon such date such driver's license shall expire and the offender shall be subject to the provisions of this section.

KSA 8-248 — Notice of change of address or name

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.

KSA 8-249 — Records to be kept by division; rules and regulations

Records to be kept by division; rules and regulations.

(a) The division shall file every application for a driver's license received by it and shall maintain suitable records from which information showing the following may be obtained:

(1) All applications denied and the reason for such denial;

(2) all applications granted;

(3) the name of every licensee whose driver's license has been suspended or revoked by the division and after each such name note the reasons for such action; and

(4) all data fields printed on drivers' licenses and identification cards issued by the state.

(b) The division also shall file all accident reports and abstracts of court records of convictions received by it under the laws of the state and, in connection therewith, maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of moving violations, as defined by rules and regulations adopted by the secretary of revenue, of such licensee and the traffic accidents in which such licensee has been involved shall be readily ascertainable and available for the consideration of the division upon any application for renewal of a driver's license and at other suitable times.

KSA 8-250 — Authority of division to cancel license; surrender of license

Authority of division to cancel license; surrender of license.

(a) The division is hereby authorized to cancel any driver's license upon determining that the person was not entitled to the issuance thereof or failed to give the required or correct information in his or her application or committed any fraud in making such application. If the division determines that a person is not lawfully present in the United States, the division shall have the authority to cancel the person's driver's license.

(b) Upon cancellation of a driver's license or loss of lawful presence in the United States, the person must surrender the driver's license to the division.

KSA 8-251 — Suspending or revoking privileges of nonresidents; reporting convictions and bond or collateral forfeitures

Suspending or revoking privileges of nonresidents; reporting convictions and bond or collateral forfeitures.

(a) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the division in like manner and for like cause as a driver's license may be suspended or revoked.

(b) The division is further authorized and directed, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor-vehicle laws of this state or notice of the forfeiture of any bond or collateral given for such violation, to forthwith forward a certified copy of such record or notice to the motor-vehicle administrator in the state wherein the person so convicted is a resident.

KSA 8-252 — Suspension or revocation of resident's license upon conviction in another state; period of suspension or revocation; return of license after suspension; granting new license after revocation; exceptions

Suspension or revocation of resident's license upon conviction in another state; period of suspension or revocation; return of license after suspension; granting new license after revocation; exceptions.

The division is authorized to suspend or revoke the driver's license of any resident of this state upon receiving notice of the conviction of such person in another state of an offense which, if committed in this state, would be grounds for the suspension or revocation of a driver's license. Any suspension or revocation of a driver's license by the division pursuant to this section shall be for a specific period of time designated in the division's order of suspension, not to exceed the period of time for which such person's privilege to drive in the other state was suspended or revoked for such offense, but in no event shall any suspension or revocation pursuant to this section exceed one year, except as provided in K.S.A.

8-2,125

through

8-2,142

. The return of a person's license after the expiration of the period of any suspension hereunder, and the granting of a new license upon application of a person following the expiration of the period of any revocation hereunder, shall not be conditioned upon the restoration of such person's privilege to operate a motor vehicle by the state in which such person was convicted.

KSA 8-252a — Suspension or revocation of driving privileges of nonresident or unlicensed person

Suspension or revocation of driving privileges of nonresident or unlicensed person.

(a) Whenever a nonresident or a person who is unlicensed is convicted of any offense or is subject to a juvenile adjudication or an order of the division which would require the revocation or suspension of such person's driving privileges, if the person had been issued a driver's license by the division, such nonresident's privilege to operate a motor vehicle in this state or such unlicensed person's privilege of obtaining a driver's license issued by the division shall be revoked or suspended. Such revocation or suspension shall be for a period of time equal to the period of time that the driver's license of a licensed driver would be revoked or suspended. If the driving privileges of a licensed driver would be restricted by a court or the division, the driving privileges of a nonresident shall be restricted in the same manner. If the driving privileges of a licensed driver would be restricted by a court or the division, an unlicensed driver shall be eligible to apply for a driver's license during the period of restriction, but any license issued shall be subject to the same restrictions which would apply to a licensed driver.

(b) The division is hereby authorized to create a record with an identifying number and other identifying information, including address and date of birth, if known, for any nonresident or unlicensed driver subject to subsection (a). Such record shall include information showing any revocation, suspension or restriction entered under subsection (a) and the reason for such action in the same manner that records are maintained for licensed drivers, pursuant to K.S.A.

8-249

, and amendments thereto. If any such person becomes a licensed driver, the information contained in such record shall be included in the person's driving record maintained by the division.

(c) The purpose of this section is to make nonresident and unlicensed drivers subject to the same driving sanctions as licensed residents.

(d) This section shall be part of and supplemental to the motor vehicle drivers' license act, article 2 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

KSA 8-253 — Duty of court to require surrender of license upon revocation; report of convictions and adjudications; records; forms; notice of disposition of appeals

Duty of court to require surrender of license upon revocation; report of convictions and adjudications; records; forms; notice of disposition of appeals.

(a) When K.S.A.

8-254

, and amendments thereto, makes mandatory the revocation of a person's driving privileges by the division, the court in which such conviction or adjudication is had shall require the surrender to it of all driver's licenses then held by the person so convicted or adjudicated, and the court shall forward the same, or if such court has a clerk shall direct the clerk to forward the same, together with a record of such conviction or adjudication to the division, within 10 days from the date the conviction or adjudication becomes final.

(b) Every court having jurisdiction over offenses committed under the motor vehicle drivers' license act shall forward to the division a record of the conviction of any person by such court for a violation of that act. Such record shall be made upon a form or in a format approved by the division.

(c) For the purpose of this act, the term "conviction" means a final conviction and without regard to whether sentence was suspended or probation granted after such conviction. Also, for the purposes of this act, a 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.

(d) The clerk of any court of record to which a conviction for violation of any law described in subsection (b) has been appealed shall within 10 days of the final disposition of the appeal forward a notification of such final disposition to the division.

KSA 8-254 — Mandatory revocation of driver's license by division of vehicles; exceptions for court imposed restrictions

Mandatory revocation of driver's license by division of vehicles; exceptions for court imposed restrictions.

(a) Subject to the provisions of subsection (b), the division shall revoke a person's driving privileges upon receiving a record of the person's conviction of any of the following offenses, including municipal violations, when the conviction has become final, or upon receiving a record of a person's adjudication as a juvenile offender for commission of an act which, if committed by a person 18 or more years of age, would constitute any of the following offenses when the adjudication has become final:

(1) Involuntary manslaughter, as defined in subsection (a)(2) of K.S.A.

21-5405

, and amendments thereto, if the crime is committed while committing a violation of K.S.A.

8-1566

or subsection (a) of

8-1568

, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any acts prohibited by those statutes;

(2) vehicular homicide, as defined in K.S.A.

21-5406

, and amendments thereto;

(3) battery, as defined in subsection (a)(1) of K.S.A.

21-5413

, and amendments thereto, if the crime is committed while committing a violation of K.S.A.

8-1566

or

8-1568

, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits the acts prohibited by those statutes;

(4) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) conviction, or forfeiture of bail not vacated, upon a charge of reckless driving;

(6) conviction, or forfeiture of bail not vacated of any felony in the commission of which a motor vehicle is used; or

(7) fleeing or attempting to elude a police officer as provided in K.S.A.

8-1568

, and amendments thereto, or conviction of violation of an ordinance of any city or a law of another state which is in substantial conformity with such statute.

(b) In lieu of revoking a person's driving privileges as provided by subsection (a), the court in which the person is convicted or adjudicated may place restrictions on the person's driving privileges as provided by K.S.A.

8-292

, and amendments thereto, unless the violation was committed while operating a commercial motor vehicle, as defined in K.S.A.

8-2,128

. Driving privileges are to be automatically revoked if the violation which leads to the subsequent conviction occurs in a commercial motor vehicle, as defined in K.S.A.

8-2,128

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KSA 8-255 — Restriction, suspension or revocation of driving privileges by division of vehicles; grounds; procedure for restriction, suspension or revocation; driver improvement clinics;

reinstatement fee

Restriction, suspension or revocation of driving privileges by division of vehicles; grounds; procedure for restriction, suspension or revocation; driver improvement clinics; reinstatement fee.

(a) The division is authorized to restrict, suspend or revoke a person's driving privileges upon a showing by its records or other sufficient evidence the person:

(1) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(2) has been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period;

(3) is incompetent to drive a motor vehicle;

(4) has been convicted of a moving traffic violation, committed at a time when the person's driving privileges were restricted, suspended or revoked; or

(5) is a member of the armed forces of the United States stationed at a military installation located in the state of Kansas, and the authorities of the military establishment certify that such person's on-base driving privileges have been suspended, by action of the proper military authorities, for violating the rules and regulations of the military installation governing the movement of vehicular traffic or for any other reason relating to the person's inability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) (1) The division shall:

(A) Suspend a person's driving privileges:

(i) When required by K.S.A.

8-262

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8-1014

or

41-727

, and amendments thereto;

(ii) upon a person's second conviction of theft, as defined in subsection (a)(5) of K.S.A.

21-5801

, and amendments thereto, for six months; and

(iii) upon a person's third or subsequent conviction of theft, as defined in subsection (a)(5) of K.S.A.

21-5801

, and amendments thereto, for one year;

(B) disqualify a person's privilege to drive commercial motor vehicles when required by K.S.A.

8-2,142

, and amendments thereto; and

(C) restrict a person's driving privileges when required by K.S.A.

39-7,155

, and amendments thereto.

(2) As used in this subsection, "conviction" means a final conviction without regard to whether the 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. "Conviction" includes being convicted of a violation of K.S.A.

21-3765

, prior to its repeal, or subsection (a)(5) of K.S.A.

21-5801

, and amendments thereto.

(c) When the action by the division restricting, suspending, revoking or disqualifying a person's driving privileges is based upon a report of a conviction or convictions from a convicting court, the person may not request a hearing but, within 30 days after notice of restriction, suspension, revocation or disqualification is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted, suspended, revoked or disqualified by the division was not convicted of the offense upon which the restriction, suspension, revocation or disqualification is based. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction, suspension, revocation or disqualification has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(d) Upon restricting, suspending, revoking or disqualifying the driving privileges of any person as authorized by this act, the division shall immediately notify the person in writing. Except as provided by K.S.A.

8-1002

and

8-2,145

, and amendments thereto, and subsections (c) and (g), if the person makes a written request for hearing within 30 days after such notice of restriction, suspension or revocation is mailed, the division shall afford the person an opportunity for a hearing as early as practical not sooner than five days nor more than 30 days after such request is mailed. If the division has not revoked or suspended the person's driving privileges or vehicle registration prior to the hearing, the hearing may be held within not to exceed 45 days. Except as provided by K.S.A.

8-1002

and

8-2,145

, and amendments thereto, the hearing shall be held in the person's county of residence or a county adjacent thereto, unless the division and the person agree that the hearing may be held in some other county. Upon the hearing, the director or the director's duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require an examination or reexamination of the person. When the action proposed or taken by the division is authorized but not required, the division, upon the hearing, shall either rescind or affirm its order of restriction, suspension or revocation or, good cause appearing therefor, extend the restriction or suspension of the person's driving privileges, modify the terms of the restriction or suspension or revoke the person's driving privileges. When the action proposed or taken by the division is required, the division, upon the hearing, shall either affirm its order of restriction, suspension, revocation or disqualification, or, good cause appearing therefor, dismiss the administrative action. If the person fails to request a hearing within the time prescribed or if, after a hearing, the order of restriction, suspension, revocation or disqualification is upheld, the person shall surrender to the division, upon proper demand, any driver's license in the person's possession.

(e) In case of failure on the part of any person to comply with any subpoena issued on behalf of the division or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of the division, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the director or the director's duly authorized agent by order or subpoena, other than an officer or employee of the state or of a political subdivision of the state, shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness.

(f) The division, in the interest of traffic and safety, may establish or contract with a private individual, corporation, partnership or association for the services of driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. Any person other than a person issued a commercial driver's license under K.S.A.

8-2,125

et seq., and amendments thereto, desiring to attend a driver improvement clinic shall make application to the division and such application shall be accompanied by the required fee. The secretary of revenue shall adopt rules and regulations prescribing a driver's improvement clinic fee which shall not exceed $500 and such rules and regulations deemed necessary for carrying out the provisions of this section, including the development of standards and criteria to be utilized by such driver improvement clinics. Amounts received under this subsection shall be remitted 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 same in the state treasury as prescribed by subsection (f) of K.S.A.

8-267

, and amendments thereto.

(g) When the action by the division restricting a person's driving privileges is based upon certification by the secretary for children and families pursuant to K.S.A.

39-7,155

, and amendments thereto, the person may not request a hearing but, within 30 days after notice of restriction is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted by the division is not the person certified by the secretary for children and families, did not receive timely notice of the proposed restriction from the secretary for children and families or has been decertified by the secretary for children and families. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(h) Any person whose driving privileges have been suspended under subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in the amount of $100 to the division. The division shall remit all revenues received from such fees, at least monthly, to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto, for deposit in the state treasury and credit to the state highway fund.

KSA 8-255b — Medical advisory board; appointment; procedure; advisory opinions; limiting tort liability

Medical advisory board; appointment; procedure; advisory opinions; limiting tort liability.

(a) The secretary of revenue may appoint a medical advisory board which shall be composed of five members. Such board shall be within the department of revenue and attached to the division of vehicles. The members of the board shall include, but not be limited to, a physician licensed to practice ophthalmology, a licensed optometrist, a licensed psychiatrist, and a licensed physician specializing in internal medicine. The board shall meet at the request of the director of vehicles or at the request of any two members of the advisory board or upon petition to the advisory board by a person whose license to operate a motor vehicle has been suspended or revoked. Members of the medical advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A.

75-3223

, and amendments thereto.

(b) The medical advisory board is created for the purpose of giving advisory opinions to the director of vehicles in the case of any person whose license to operate a motor vehicle has been suspended, revoked or reviewed by the director of vehicles and for good cause shown that the operation of a motor vehicle on a highway by such person would be inimical to public safety and welfare because of an existing or suspected mental or physical disability.

(c) The providing of advisory opinions by the medical advisory board and action pursuant thereto by the director of vehicles is a discretionary function or duty under the Kansas tort claims act.

KSA 8-255c — No duty to report information to division or medical advisory board; nonliability for reports of information; information to be kept confidential

No duty to report information to division or medical advisory board; nonliability for reports of information; information to be kept confidential.

(a) No person reporting to the division or to the medical advisory board in good faith any information that any such person may have relating to the mental or physical condition of an applicant for or a holder of a driver's license shall be subject to a civil action for damages as a result of reporting such information. Nothing in this section shall be construed to create a duty to report, nor shall a physician or optometrist be required by law to report information to the division or to the medical advisory board as to the mental or physical condition of any patient.

(b) A physician or optometrist may report to the division or to the medical advisory board any person diagnosed or assessed as having a disorder or condition that in such physician's or optometrist's professional judgment could prevent such person from safely operating a motor vehicle or could constitute an immediate and serious danger to the public. Such report shall state the diagnosis or assessment and whether the condition is likely to be permanent or temporary. The existence of a privilege pursuant to K.S.A.

60-427

, and amendments thereto, shall not prevent a physician or optometrist from making a report. All reports made to, and all medical records reviewed and maintained by, the division pursuant to this section shall be kept confidential and shall not be disclosed except upon the order of a court of competent jurisdiction, pursuant to the request of the division or medical advisory board and shall not be subject to subpoena, discovery or other demand in any other administrative, criminal or civil matter.

KSA 8-256 — Period of suspension or revocation

Period of suspension or revocation.

The division shall not suspend or revoke a person's license to operate a motor vehicle on the public highways for a period of more than one year, except as specifically authorized by statute.

KSA 8-256a — Application of act to certain persons

Application of act to certain persons.

The provisions of this act* shall apply to all persons whose licenses are presently revoked.

KSA 8-257 — Surrender of license; division authorized to destroy; application

Surrender of license; division authorized to destroy; application.

(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.

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8-250

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8-253

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8-255

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8-260

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8-292

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8-298
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8-2,142
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8-1002
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8-1567a
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8-1599
and
8-2117
and K.S.A.
38-2361
, and amendments thereto.

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

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.

KSA 8-259 — Cancellation, suspension, revocation or denial of license by division; judicial review

Cancellation, suspension, revocation or denial of license by division; judicial review.

(a) Except in the case of mandatory revocation under K.S.A.
8-254
or
8-286
, and amendments thereto, mandatory suspension for an alcohol or drug-related conviction under subsection (b) of K.S.A.
8-1014
, and amendments thereto, mandatory suspension under K.S.A.
8-262
, and amendments thereto, or mandatory disqualification of the privilege to drive a commercial motor vehicle under subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(2)(A), (a)(3)(A) or (a)(3)(B) of K.S.A.
8-2,142
, and amendments thereto, the cancellation, suspension, revocation, disqualification or denial of a person's driving privileges by the division is subject to review. Such review shall be in accordance with the Kansas judicial review act. In the case of review of an order of suspension under K.S.A.
8-1001
et seq., and amendments thereto, or of an order of disqualification under subsection (a)(1)(D) of K.S.A.
8-2,142

, and amendments thereto, the petition for review shall be filed within 14 days after the effective date of the order and venue of the action for review is the county where the administrative proceeding was held or the county where the person was arrested. In all other cases, the time for filing the petition is as provided by K.S.A.

77-613

, and amendments thereto, and venue is the county where the licensee resides. The action for review shall be by trial de novo to the court. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension, cancellation or revocation under the provisions of this act. Unless the petitioner's driving privileges have been extended pursuant to subsection (o) of K.S.A.

8-1020

, and amendments thereto, the court on review may grant a stay or other temporary remedy pursuant to K.S.A.

77-616

, and amendments thereto, after considering the petitioner's traffic violations record and liability insurance coverage. If a stay is granted, it shall be considered equivalent to any license surrendered. If a stay is not granted, trial shall be set upon 21 days' notice to the legal services bureau of the department of revenue. No stay shall be issued if a person's driving privileges are canceled pursuant to K.S.A.

8-250

, and amendments thereto.

(b) The clerk of any court to which an appeal has been taken under this section, within 14 days after the final disposition of such appeal, shall forward a notification of the final disposition to the division.

KSA 8-260 — Unlawful use of driver's license or nondriver's identification card; other unlawful acts relating thereto

Unlawful use of driver's license or nondriver's identification card; other unlawful acts relating thereto.

(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.

KSA 8-261a — Making false affidavit perjury

Making false affidavit 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.

KSA 8-262 — Driving while license canceled, suspended or revoked; criminal penalty; fine; confinement required in certain circumstances; extension of time of suspension or revocation

Driving while license canceled, suspended or revoked; criminal penalty; fine; confinement required in certain circumstances; extension of time of suspension or revocation.

(a) (1) Except as provided in subsections (a)(3), (a)(4) and (c), 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. In addition to any other criminal penalties provided by law, any person convicted of a violation of this section shall be subject to a fine of not less than $100.

(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 provided in subsection (a)(4) or (c), every person 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 any violation other than a violation of K.S.A.

8-2110

, and amendments thereto, or any ordinance of any city, resolution of any county or a law of another state that prohibits the acts prohibited by those statutes other than K.S.A.

8-2110

, and amendments thereto, shall be sentenced to at least five days of confinement and, upon a second conviction, shall not be eligible for parole until completion of five days of confinement.

(4) Except as provided in 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, resolution of any county or a law of another state that 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, resolution of any county or law of another state that 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 of confinement, and any fine imposed on such person shall be in addition to such a term of confinement.

(b) (1) Except as provided in subsection (b)(2), 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.

(2) For any person found guilty of driving a vehicle while the license of such person is suspended for violating K.S.A.

8-2110

, and amendments thereto, such offense shall not extend the additional period of suspension pursuant to subsection (b)(1).

(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 of confinement 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 K.S.A.

21-5405

(a)(3) and (a)(5), 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 of confinement. The 90 days of confinement mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours of confinement and only if 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 of confinement.

(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, resolution of any county or a law of another state that is in substantial conformity with this section.

KSA 8-263 — Permitting unauthorized minor to drive

Permitting unauthorized minor to drive.

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.

KSA 8-264 — Permitting unauthorized person to drive

Permitting unauthorized person to drive.

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.

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

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.

KSA 8-266 — Renting motor vehicle to another; record

Renting motor vehicle to another; record.

(a) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder to operate such motor vehicle or, in the case of a nonresident, then duly licensed under the laws of the state of his or her residence, except a nonresident whose home state does not require that a driver be licensed.

(b) No person shall rent a motor vehicle to another until such person has inspected the license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his or her presence.

(c) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or officer or employee of the division.

KSA 8-266b — Drivers' manual

Drivers' manual.

The director of vehicles shall cause to be prepared and printed a suitable Kansas drivers' manual. It shall be the duty of the division to distribute the manual in such manner that each applicant for a driver's license, upon request, may be presented with a copy thereof at the time of making application for a driver's license. The cost of such manuals shall be paid from the state highway fund.

KSA 8-267 — Disposition and use of moneys; state safety fund, motorcycle safety fund, truck driver training fund, photo fee fund, hazmat fee fund, state highway fund, division of vehicles operating fund and correctional services special revenue fund

Disposition and use of moneys; state safety fund, motorcycle safety fund, truck driver training fund, photo fee fund, hazmat fee fund, state highway fund, division of vehicles operating fund and correctional services special revenue fund.

All moneys received under this act shall be remitted by the secretary of revenue 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:

(a) Credit 37.5% of all moneys so received from class C driver's licenses and 20% of all moneys so received from class M driver's licenses and 20% of all moneys so received from class A or B driver's licenses and 20% of all moneys so received from all commercial driver licensee classes remaining after the $2 credit provided in subsection (c) to a special fund, which is hereby created and shall be known as the state safety fund;

(b) credit 20% of all moneys so received from class M driver's licenses to a special fund which is hereby created and shall be known as the motorcycle safety fund;

(c) credit $2 from each commercial driver's license fee to a special fund which is hereby created and shall be known as the truck driver training fund;

(d) credit all photo fees collected under K.S.A.

8-243

, and amendments thereto, to the photo fee fund;

(e) credit all hazardous materials endorsement fees collected under K.S.A.

8-2,151

, and amendments thereto, to the hazmat fee fund; and

(f) credit the driver improvement clinic fees collected under K.S.A.

8-255

, and amendments thereto, as follows:

(1) Credit 50% of each such fee to the division of vehicles operating fund; and

(2) credit 50% of each such fee to the correctional services special revenue fund.

Moneys in the state safety fund and in the motorcycle safety fund shall be distributed to provide funds for driver training courses in the schools and community colleges in Kansas and for the administration of this act, as the legislature shall provide. In addition, moneys in the motorcycle safety fund shall be distributed to provide funds for courses in motorcycle safety in community colleges in Kansas. Moneys in the truck driver training fund shall be distributed to provide funds for courses in truck driver training in community colleges, area vocational schools and area vocational-technical schools in Kansas. Except as otherwise provided by K.S.A.

8-241

, and amendments thereto, the state treasurer shall credit the balance of all moneys received under this act, including all moneys received from commercial driver's license endorsements to the state highway fund.

KSA 8-268 — Penalties for violations

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.

KSA 8-268a — Invalidity of part

Invalidity of part.

If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act and the legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

KSA 8-269 — Uniformity of interpretation

Uniformity of interpretation.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

KSA 8-270 — Effect of noncompliance

Effect of noncompliance.

The operation of a vehicle in this state without complying with the provisions of this act shall not be considered as operating the same unlawfully or in violation of law so as to affect the validity of any contract or policy of liability insurance or indemnity against liability for personal injuries or damages to property, or fire, theft or collision insurance carried on such vehicle.

KSA 8-271 — Title of act

Title of act.

This act and the acts of which this act is amendatory shall be known and may be cited as the motor vehicle drivers' license act.

KSA 8-272 — State safety fund, motorcycle safety fund and truck driver training fund; entitlements; certification of amounts; distribution; proration of insufficient appropriations; motorcycle safety courses and instructors; institutions, truck driver training

State safety fund, motorcycle safety fund and truck driver training fund; entitlements; certification of amounts; distribution; proration of insufficient appropriations; motorcycle safety courses and instructors; institutions, truck driver training.

(a) Any school district conducting an approved course in driver training and any student attending a nonpublic school accredited by the state board of education conducting an approved course in driver training and any student 19 years of age or under attending a community college conducting an approved course in driver training shall be entitled to participate in the state safety fund created by K.S.A.

8-267

, and amendments thereto. In August of each year, the superintendent of each school district and the governing authority of each nonpublic school and community college shall report to the state board of education the number of students who have been in attendance for a complete driver training course conducted by such school district, nonpublic school or community college during the past school year. The state board of education shall certify to the director of accounts and reports the amount due each school district or community college and each student of a nonpublic school entitled to payment under this subsection. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district or community college and to each student of a nonpublic school entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts, nonpublic schools and community colleges. If the amount appropriated in any year from the state safety fund is insufficient to pay the full amount each school district or community college and each student of a nonpublic school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts, community colleges and all students of nonpublic schools in proportion to the amount each school district or community college and each student of a nonpublic school is entitled to receive. No moneys in the state safety fund shall be used for any purpose other than that specified in this subsection or for the support of driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(b) (1) Any school district conducting an approved course in motorcycle safety as a part of an approved course in driver training, any student attending a nonpublic school accredited by the state board of education conducting an approved course in motorcycle safety as a part of an approved course in driver training or any community college conducting an approved course in motorcycle safety shall be entitled to participate in the motorcycle safety fund created by K.S.A.

8-267

, and amendments thereto. The state board of education may establish, by rules and regulations, standards for the conduct, operation and approval of courses in motorcycle safety and for the qualifications of instructors for such courses conducted by a school district or nonpublic accredited school. Such standards shall not include the requirement that instructors be licensed by the state board of education. In August of each year, the superintendent of each school district or the governing authority of each nonpublic school shall report to the state board of education the number of students who have been in attendance for a complete course in motorcycle safety as a part of the driver training course conducted by such school district or nonpublic school during the past school year. The state board of education shall certify to the director of accounts and reports the amount due each school district and each student of a nonpublic school entitled to

payment under this subsection. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district and to each student of a nonpublic school entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts and nonpublic schools. If the amount appropriated in any year from the motorcycle safety fund shall be insufficient to pay the full amount each school district and each student of a nonpublic school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts and all students of nonpublic schools in proportion to the amount each school district and each student of a nonpublic school is entitled to receive. No moneys in the motorcycle safety fund shall be used for any purpose other than that specified in this subsection or for the support of motorcycle driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(2) Any community college conducting an approved course in motorcycle safety shall be entitled to participate in the motorcycle safety fund created by K.S.A.

8-267

, and amendments thereto. The department of revenue may establish, by rules and regulations or by public declaration of the director of vehicles, standards for the conduct, operation and approval of courses in motorcycle safety and for the qualifications of instructors for such courses conducted by a community college. In August of each year, the chief administrative officer of each community college shall report to the state board of regents and the department the number of students who have been in attendance for a complete course in motorcycle safety as a part of the driver training course conducted by such community college during the past school year. The state board of regents shall certify to the director of accounts and reports the amount due each community college entitled to payment under this subsection. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each community college entitled to payment under this subsection upon vouchers approved by the state board of regents and shall cause such warrants to be delivered to the respective community colleges. If the amount appropriated in any year from the motorcycle safety fund shall be insufficient to pay the full amount each community college is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all community colleges in proportion to the amount each community college is entitled to receive. No moneys in the motorcycle safety fund shall be used for any purpose other than that specified in this subsection or for the support of motorcycle driver improvement programs or department administration. The department, in consultation with the state board of regents, shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(c) (1) As used in this subsection, "institution" means a technical school affiliated with a public university in this state, a technical college or community college.

(2) Any institution conducting an approved course in truck driving shall be entitled to participate in the truck driver training fund created by K.S.A.

8-267

, and amendments thereto. The department may establish, by rules and regulations or by public declaration of the director of vehicles, standards for the conduct, operation and approval of courses in truck driver training and for the qualifications of instructors for such courses. Such standards shall not include the requirement that instructors be certificated by the state board of regents. Courses in truck driver training for an interstate commercial class license shall also comply with the Kansas uniform commercial drivers' license act. In August of each year, the chief administrative officer of each participating institution shall report to the state board of regents and the department the number of students who have been in attendance for a complete course in truck driver training conducted by such institution during the past school year. The state board of regents shall certify to the director of accounts and reports the amount due each institution entitled to payment under this subsection. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each institution entitled to payment under this subsection upon vouchers approved by the state board of regents and shall cause such warrants to be delivered to the respective institution. If the amount appropriated in any year from the truck driver training fund shall be insufficient to pay the full amount each institution is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all participating institutions in proportion to the amount each institution is entitled to receive. No moneys in the truck driver training fund shall be used for any purpose other than that specified in this subsection or for the support of truck driver training programs and department administration. The department, in consultation with the state board of regents, shall prescribe

all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

KSA 8-273 — Drivers' training schools; definitions

Drivers' training schools; definitions.

As used in this act*:

(a) "Motor vehicle" means every vehicle that is self-propelled upon or by which any person or property is or may be transported or drawn upon a public highway except devices used exclusively upon stationary rails or tracks.

(b) "Drivers' training schools" means any person, partnership or corporation giving driving instruction to 10 or more persons per calendar year for the purpose of meeting requirements for licensed driving of motor vehicles in Kansas.

(c) "Person" means every natural person, firm, copartnership, association, corporation or school.

(d) "Department" means the department of revenue acting directly or through its duly authorized officers and agents.

(e) "State board" means the state board of education.

(f) "Drivers' license examiners" means examiners appointed by the division of vehicles for the purpose of giving drivers' license examinations.

KSA 8-274 — Same; license to operate

Same; license to operate.

No person shall operate a driver training school or engage in the business of giving instruction for hire in the driving of motor vehicles or in the preparation of an applicant for examination given by driver license examiners for an operator's or chauffeur's license or permit, unless a license therefor has been secured from the department.

KSA 8-275 — Same; qualifications to operate school

Same; qualifications to operate school.

In order for a person to qualify to operate a driving school, such person shall meet the following requirements:

(a) Be of good moral character;

(b) maintain an established place of business to the public;

(c) maintain bodily injury and property damage liability insurance on motor vehicles while used in driving instruction, insuring the liability of the driving school, the driving instructors and any person taking instruction in at least the following amounts: $100,000 for bodily injury to or death of one person in any one accident and, subject to such limit for one person, $200,000 for bodily injury to or death of two or more persons in any one accident and the amount of $20,000 for damage to property of others in any one accident. Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed with the department of revenue and such certificate shall stipulate that the insurance shall not be canceled except upon 10 days' prior written notice to the department. Such insurance shall be written by a company authorized to do business in this state;

(d) provide a continuous surety company bond in the principal sum of $2,500 for the protection of the contractual rights of students in such form as will meet with the approval of the department and written by a company authorized to do business in this state. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of $2,500. The surety on any such bond may cancel such bond on giving 30 days' written notice thereof to the department and shall be relieved of liability for any breach of any condition of the bond that occurs after the effective date of cancellation;

(e) have the equipment necessary to the giving of proper instruction in the operation of motor vehicles as prescribed by the department; and

(f) pay to the department an application fee of $25.

KSA 8-276 — Drivers' training schools; qualifications for instructor of school

Drivers' training schools; qualifications for instructor of school.

(a) In order for a person to qualify as an instructor for a driving school, such person shall meet the following requirements:

(1) Present to the department evidence of:

(A) Credit in driver education and safety from an accredited college or university equivalent to credits in those subjects required of instructors in the schools accredited by the state board;

(B) having a valid credential issued by the state board to teach driver education; or

(C) having completed at least 30 hours of classroom and 24 hours of behind the wheel training under the direct supervision of an individual who is presently licensed as an instructor by the state board under subparagraph (A) or (B) and who has been continuously licensed and who has actively instructed students for a period of at least three years;

(2) have knowledge of the Kansas operation lifesaver highway/railroad grade crossing safety program;

(3) be physically able to operate safely a motor vehicle and to train others in the operation of motor vehicles;

(4) provide a certificate of health from a medical doctor stating that such person is physically and mentally able to safely operate a motor vehicle;

(5) hold a valid Kansas driver's license or driver's license issued by any other state; and

(6) pay to the department an application fee of $5.

(b) For a motorcycle instructor subject to the provisions of this section, such motorcycle instructor shall be required to:

(1) Have successfully completed all requirements of this section; and

(2) possess a valid class M driver's license or equivalent license allowing such individual to operate a motorcycle for another state.

KSA 8-277 — Same; issuance of certificate, when; expiration; renewal of licenses

Same; issuance of certificate, when; expiration; renewal of licenses.

(a) The department shall issue a license certificate to each applicant to conduct a driver training school or to each driver training instructor when the department is satisfied that such applicant has met the qualifications required under this act.

(b) All licenses issued to any driver training school or driver training instructor pursuant to the provisions of this act, shall expire as a matter of law at midnight on December 31 of the calendar year for which the license was issued, unless sooner canceled, suspended or revoked under the provisions of K.S.A.

8-279

, and amendments thereto.

(c) The license of each driver training school and each driver training instructor may be renewed subject to the same conditions as the original license, and upon payment of the same fee.

(d) All applications for renewal of a driver training school license or driver training instructor's license shall be on a form prescribed by the department, and shall be filed with the department not more than 60 days, nor fewer than 10 days preceding the expiration date of the license to be renewed.

KSA 8-278 — Same; rules and regulations

Same; rules and regulations.

(a) The department is authorized to prescribe by rules and regulations, standards for the eligibility, conduct and operation of driver training schools and instructors and to adopt other reasonable rules and regulations to carry out the provisions of this act.

(b) All rules and regulations of the state board of education pertaining to functions of the driver's training school license act in existence on July 1, 2022, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of revenue until revised, amended, revoked or nullified pursuant to law.

(c) All orders and directives of the state department of education pertaining to functions of the driver's training school license act on July 1, 2022, shall continue to be effective and shall be deemed to be orders and directives of the department until revised, amended or nullified by the state director of vehicles.

KSA 8-279 — Same; cancellation, suspension, revocation or refusal to issue license, when

Same; cancellation, suspension, revocation or refusal to issue license, when.

The department may cancel, suspend, revoke or refuse to renew any driver's training school or driver's training instructor license if any of the following occurs:

(a) The department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this act;

(b) the licensee fails to keep the records required herein;

(c) the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit;

(d) the licensee fails to comply with any provision of this act or any of the rules and regulations of the department made pursuant thereto;

(e) the licensee represents such licensee as an agent or employee of the department or license examiners or uses advertising designed to lead or which would reasonably have the effect of leading persons to believe that such licensee is in fact an employee or representative of the department or license examiners;

(f) the licensee or any employee or agent of the licensee solicits driver training or instruction in an office of any department of the state having to do with the administration of any law relating to motor vehicles; or

(g) the licensee has had their operator's or chauffeur's license canceled, suspended or revoked.

KSA 8-280 — Same; commercial driver education fund; disposition of moneys

Same; commercial driver education fund; disposition of moneys.

(a) There is hereby created in the state treasury the commercial driver education fund. The commercial driver education fund shall be administered by the department of revenue. All expenditures from the commercial driver education fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue.

(b) All moneys received under this act shall be remitted 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 commercial driver education fund.

KSA 8-281 — Same; penalty for violations

Same; penalty for violations.

Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500) or be sentenced to the county jail for not more than six (6) months or both such fine and imprisonment.

KSA 8-282 — Same; act inapplicable to certain schools

Same; act inapplicable to certain schools.

This act shall not apply to an accredited grade school, high school, junior college or college conducting a driver's training course; nor shall it apply to driver improvement schools operated by this state or a municipality thereof.

KSA 8-283 — Same; citation of act

Same; citation of act.

This act may be cited as the drivers' training school license act.

KSA 8-284 — Public policy of state

Public policy of state.

It is hereby declared to be the public policy of the state of Kansas:

(a) To provide maximum safety for all persons who travel or otherwise use the public highways of the state;

(b) To deny the privilege of operating motor vehicles on such highways to persons who by their conduct, attitude and record have demonstrated their indifference to the safety and welfare of others and their disrespect for the laws of this state, the orders of its courts and the statutorily required acts of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the peace and dignity of this state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual violators who have been convicted repeatedly of violations of traffic laws.

KSA 8-285 — "Habitual violator" defined; other definitions

"Habitual violator" defined; other definitions.

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 violator" 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 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 those statutes.

KSA 8-286 — Habitual violator; revocation of driving privileges; exceptions

Habitual violator; revocation of driving privileges; exceptions.

Whenever the files and records of the division shall disclose that the record of convictions of any person is such that the person is an habitual violator, as prescribed by K.S.A.

8-285

, and amendments thereto, the division promptly shall revoke the person's driving privileges for a period of three years, except as allowed under K.S.A.

8-235

(d)(3) and

8-2110

, and amendments thereto.

KSA 8-287 — Habitual violator; penalty

Habitual violator; penalty.

Except as allowed under subsection (d)(4) of K.S.A.

8-235

, and amendments thereto, 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.

KSA 8-288 — Same; restriction of driver's license; exception

Same; restriction of driver's license; exception.

Except as allowed under subsection (d)(4) of K.S.A.

8-235

, and amendments thereto, no license to operate a motor vehicle in Kansas shall be issued to a person for a period of three years from the date of the division's order revoking such person's driving privileges pursuant to K.S.A.

8-286

, and amendments thereto, and until the person's driving privileges have been restored.

KSA 8-291 — Violation of restrictions on driver's license or permit; misdemeanor; penalties

Violation of restrictions on driver's license or permit; misdemeanor; penalties.

(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

, K.S.A.

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.

KSA 8-292 — Court imposition of driving privilege restrictions; duration; procedure; violation; penalty

Court imposition of driving privilege restrictions; duration; procedure; violation; penalty.

(a) Except as otherwise provided by law, whenever a statute authorizes the court to place restrictions on a person's driving privileges or whenever a municipal ordinance which prohibits the acts prohibited by such a statute so provides, a district or municipal court may enter an order restricting the person's driving privileges to driving only under the following circumstances: (1) In going to or returning from the person's place of employment or schooling; (2) in the course of the person's employment; (3) during a medical emergency; (4) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go to attend an alcohol and drug safety action program as provided in K.S.A.

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, and amendments thereto; (5) at such times of the day as may be specified by the order; and (6) to such places as may be specified by the order.

(b) Restrictions imposed pursuant to this section shall be for a period of not less than 90 days nor more than one year, as specified by the court order.

(c) Upon entering an order restricting a person's driving privileges under this section, the court shall require that the person surrender to the court any driver's license in the person's possession. The court shall transmit any such license to the division of vehicles of the department of revenue, together with a copy of the order. Upon its receipt, the division of

vehicles shall issue without charge a driver's license which shall indicate on the face of the license that restrictions have been imposed on the person's driving privileges and that a certified copy of the order imposing the restrictions is required to be carried by the person for whom the license was issued any time the person is operating a motor vehicle on the highways of this state. If the person is a nonresident, the court shall transmit a copy of the order to the division. The division shall forward a copy of the order to the motor vehicle administrator of the person's state of residence. The judge shall furnish to any person whose driver's license is surrendered under this section a copy of the order, which for a period of 30 days only shall be recognized as a valid Kansas driver's license pending issuance of the restricted license as provided in this section.

(d) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(e) Violation of restrictions imposed under this section is a misdemeanor subject to punishment and suspension of driving privileges as provided by K.S.A.

8-291

, and amendments thereto.

KSA 8-293 — Driver's license; nonissuance of new or replacement license; exception

Driver's license; nonissuance of new or replacement license; exception.

Except as provided in paragraph (3) of subsection (d) of K.S.A.

8-235

, and amendments thereto, no licensee shall be issued a new or replacement driver's license if: (a) The license has been surrendered pursuant to K.S.A.

8-1001

, and amendments thereto; (b) the licensee has been issued a temporary license; or (c) a suspension, revocation or cancellation order has been stayed by a court or by the division of vehicles.

KSA 8-294 — Instruction permit for commercial class motor vehicles or class A or class B motor vehicles

Instruction permit for commercial class motor vehicles or class A or class B motor vehicles.

(a) Any person who is at least 18 years of age may apply to the division for an instruction permit to operate a commercial class A, B or C motor vehicle or a class A or class B motor vehicle, as prescribed in K.S.A.

8-234b

, and amendments thereto. The division, in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, may issue to the applicant an instruction permit which shall entitle the applicant while having such permit in such person's immediate possession to drive a commercial class A, B or C motor vehicle or a class A or class B motor vehicle upon the public highways for a period of three months subject to the following restrictions: (1) The person having the instruction permit may operate a commercial class A motor vehicle at any time, when accompanied by a holder of a valid commercial class A driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver;

(2) the person having the instruction permit may operate a commercial class B motor vehicle at any time, when accompanied by a holder of a valid commercial class A or class B driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver.

(3) the person having the instruction permit may operate a commercial class C motor vehicle at any time, when accompanied by a holder of a valid commercial class A, B or C driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver; or

(4) the person having the instruction permit may operate a class A or B motor vehicle at any time, when accompanied by a holder of a valid commercial class A, B or C or class A or B driver's license, who has had at least one year of driving

experience and who is occupying a seat beside the driver.

(b) The secretary of revenue may adopt rules and regulations for the implementation of the provisions of this section.

KSA 8-295 — Vision standards for drivers' licenses

Vision standards for drivers' licenses.

Each driver's license examiner shall use the following vision standards for driver's license applicants:

(a) Each applicant testing

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or better in at least one eye at the examination station shall meet the vision requirements. The driver's license examiner shall give each applicant failing to meet this test a vision form and refer the applicant to an ophthalmologist or optometrist of the applicant's choice.

(b) Each applicant who has received a vision report from an ophthalmologist or optometrist shall have

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or better vision in at least one eye, with or without standard corrective lens, as determined by an ophthalmologist or optometrist to be eligible to be issued a driver's license.

(c) The driver's license examiner shall require each individual with a reading of

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in the better eye, with or without standard corrective lens, to submit to a driver's test.

(d) An applicant failing to meet any of the above standards may be issued a driver's license if the applicant can demonstrate that the applicant can safely operate a vehicle and has had a good driving record for the previous three years. The division may impose reasonable restrictions on such license, as provided in K.S.A.

8-245

, and amendments thereto.

(e) An applicant failing to meet the standards in subsections (a) through (d) shall be afforded a hearing in the manner prescribed by K.S.A.

8-255

(c), and amendments thereto.

(f) No optometrist or ophthalmologist reporting to the division or to the medical advisory board in good faith any information that such person has relating to the vision of an applicant for a driver's license shall be liable for damages to any person subsequent to the issuance or the renewal of a driver's license to the applicant.

KSA 8-296 — Farm permit; requirements; procedure

Farm permit; requirements; procedure.

(a) Any person who is less than 17 years of age but is at least 14 years of age and who resides upon a farm in this state or is employed for compensation upon a farm in this state may apply to the division of vehicles for a farm permit authorizing such person, while possessing the permit, to operate any motor vehicle in class C, as designated in K.S.A.

8-234b

, and amendments thereto.

(b) (1) A farm permit shall entitle the licensee, who is at least 14 years of age, but less than 16 years of age, to operate the appropriate motor vehicles at any time:

(A) While going to or from or in connection with any farm job, employment or other farm-related work;

(B) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purpose of school attendance; or

(C) when the licensee is operating a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver.

(2) For a period of six months, a farm permit shall entitle the licensee who is at least 16 years of age to operate the appropriate motor vehicles at any time:

(A) From 5:00 a.m. to 9:00 p.m.;

(B) while going to or from or in connection with any farm job, employment or other farm-related work; or

(C) while going to or from authorized school activities;

(D) while going directly to or from any religious worship service held by a religious organization; or

(E) when the licensee is operating a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver.

After such six-month period, if the licensee has complied with the provisions of this section, such farm permit shall entitle the licensee to operate the appropriate motor vehicles at any time without the restrictions required by this section.

(c) A farm permit shall be issued only if:

(1) The applicant can prove that such applicant resides or works on a farm;

(2) the applicant has successfully completed the examination requirements in K.S.A.

8-235d

, and amendments thereto; and

(3) the applicant submits the signed affidavit of either a parent or guardian, stating that the applicant lives on a farm or, if the applicant does not live on a farm but works on a farm, the applicant submits the signed affidavit of the applicant's employer and parent or guardian, attesting to such employment.

(d) Any licensee issued a farm permit under this section:

(1) Who is less than 16 years of age shall not operate any motor vehicle with nonsibling minor passengers; or

(2) who is at least 16 years of age, for a period of six months after reaching 16 years of age, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

Any conviction for violating this subsection shall be construed as a moving traffic violation for the purpose of K.S.A.

8-255

, and amendments thereto.

(e) Any licensee issued a farm permit under this section shall not operate a wireless communication device while driving a motor vehicle, except that a licensee may operate a wireless communication device while driving a motor vehicle to report illegal activity or to summons medical or other emergency help.

(f) As used in this section, "farm" means any parcel of land larger than 20 acres which is used in agricultural operations.

(g) (1) A farm permit issued under this section is subject to suspension or revocation in the same manner as any other driver's license.

(2) A farm permit shall be suspended in accordance with K.S.A.

8-291

, and amendments thereto, for any violation of restrictions under this section.

(3) The division shall suspend the farm permit upon receiving satisfactory evidence that the licensee has been involved in two or more accidents chargeable to the licensee and such suspended license shall not be reinstated for one year.

(h) Any licensee issued a farm permit under this section shall provide prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The adult supervised driving required by this paragraph shall be conducted by an

adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this subsection shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(i) Any licensee issued a farm permit under this section who: (1) Is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1), until the person reaches 17 years of age; (2) is at least 16 years of age, but less than 17 years of age and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(2), until the person reaches 18 years of age; or (3) fails to provide the affidavit required under subsection (h), shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1), until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.

KSA 8-297 — Continuation of driving privileges for certain drivers' licenses

Continuation of driving privileges for certain drivers' licenses.

Notwithstanding any other provisions of this act, any person who held any valid restricted class C or class M driver's license, instruction permit, restricted instruction permit or farm permit on the effective date of this act may continue to operate motor vehicles subject to the conditions, limitations and restrictions contained in K.S.A.

8-237

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8-239

and

8-296

, and amendments thereto, as in effect on December 31, 2009.

KSA 8-298 — Voluntary surrender of driver's license

Voluntary surrender of driver's license.

(a) The division of vehicles shall accept any voluntary surrender of a driver's license by the licensee.

(b) A licensee may surrender such licensee's driver's license at any driver license examination station and such driver's license shall be forwarded to the division. Upon surrender of such driver's license, the division shall note on the person's driving record that such driver's license has been voluntarily surrendered.

(c) Nothing herein shall prohibit a person from applying or the division from granting a new driver's license upon application of such person, if the person is otherwise eligible to apply for a driver's license. No person who has voluntarily surrendered such person's driver's license shall be eligible to apply for a new license for a period of at least 90 days.

(d) The voluntary surrender of a driver's license under this section shall not affect the authority of the division or of a court to suspend, revoke, cancel or withdraw the person's driving privileges or the privilege to obtain a driver's license under any other statute or ordinance.

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

KSA 8-299 — Photo fee fund; expenditures

Photo fee fund; expenditures.

There is hereby created in the state treasury the photo fee fund. All moneys credited to the photo fee fund shall be used by the department of revenue only for the purpose of funding the administration and operation, including equipment, associated with the issuance of drivers' licenses, identification cards and licenses to carry concealed weapons. All expenditures from the photo fee fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

KSA 8-2,100 — Instruction permits; conditions, restrictions and requirements; under 17 years of age

Instruction permits; conditions, restrictions and requirements; under 17 years of age.

(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.

KSA 8-2,101 — Restricted license; conditions, restrictions and requirements

Restricted license; conditions, restrictions and requirements.

(a) (1) The division of vehicles may issue a restricted class C or M driver's license in accordance with the provisions of this section. A restricted class C license issued under this section shall entitle the licensee, while possessing the license, to operate any motor vehicle in class C, as designated in K.S.A.

8-234b

, and amendments thereto. A restricted class M license shall entitle the licensee, while possessing such license, to operate a motorcycle.

(2) The division may issue a restricted class C or M driver's license to any person who:

(A) Is at least 15 years of age;

(B) has successfully completed an approved course in driver training;

(C) has held an instructional permit issued under the provisions of K.S.A.

8-2,100

, and amendments thereto, for a period of at least one year and has completed at least 25 hours of adult supervised driving or has obtained an instructional permit from another state or the District of Columbia that has equivalent or greater requirements; and

(D) upon the written application of the person's parent or guardian, which shall be submitted to the division.

(3) Any licensee issued a restricted license under this subsection shall provide, prior to reaching 16 years of age, a signed affidavit of either a parent or guardian, stating that the applicant has completed the required 25 hours prior to being issued a restricted license and 25 hours of additional adult supervised driving. Of the 50 hours required by this subsection, at least 10 of those hours shall be at night. The adult supervised driving shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

(b) (1) A restricted license issued under subsection (a) shall entitle a licensee who is at least 15 years of age but less than 16 years of age, to operate the appropriate motor vehicles at any time:

(A) While going to or from or in connection with any job, employment or farm-related work;

(B) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purposes of school attendance;

(C) from 6 a.m. to 9 p.m. while going directly to or from any religious activity held by a religious organization;

(D) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

(E) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is either operating a motorcycle in the general proximity of the licensee or is riding as a passenger on the motorcycle being operated by the licensee.

(2) (A) For a period of six months, a restricted license issued under subsection (a) shall entitle a licensee who is at least 16 years of age to operate the appropriate motor vehicles at any time:

(i) From 5 a.m. to 9 p.m.;

(ii) while going to or from or in connection with any job, employment or farm-related work;

(iii) while going to or from authorized school activities;

(iv) while going directly to or from any religious activity held by a religious organization;

(v) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

(vi) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is either operating a motorcycle in the general proximity of the licensee or is riding as a passenger on the motorcycle being operated by the licensee.

(B) After such six-month period, if the licensee has complied with the provisions of this section, such restricted license shall entitle the licensee to operate the appropriate motor vehicles at any time without any of the restrictions required by this section.

(c) (1) The division may issue a restricted class C or M driver's license to any person who is under 17 years of age but at least 16 years of age, who:

(A) Has held an instructional permit issued under the provisions of K.S.A.

8-2,100

, and amendments thereto, for a period of at least one year; and

(B) has submitted a signed affidavit of either a parent or guardian, stating that the applicant has completed at least 50 hours of adult supervised driving with at least 10 of those hours being at night. The required adult supervised driving shall be conducted by an adult who is at least 21 years of age and is the holder of a valid commercial driver's license, class A, B or C driver's license.

(2) (A) For a period of six months, a restricted license issued under subsection (c)(1) shall entitle a licensee to operate the appropriate motor vehicles at any time:

(i) From 5 a.m. to 9 p.m.;

(ii) while going to or from or in connection with any job, employment or farm-related work;

(iii) while going to or from authorized school activities;

(iv) while going directly to or from any religious activity held by a religious organization;

(v) when the licensee is operating a passenger car, at any time when accompanied by an adult, who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or

(vi) when the licensee is operating a motorcycle, at any time when accompanied by an adult, who is the holder of a valid class M driver's license and who is either operating a motorcycle in the general proximity of the licensee or is riding as a passenger on the motorcycle being operated by the licensee.

(B) After such six-month period, if the licensee has complied with the provisions of this section, such restricted license shall entitle the licensee to operate the appropriate motor vehicles at any time without any of the restrictions required by this section.

(d) (1) Any licensee issued a restricted license under subsection (a) who is:

(A) Less than 16 years of age shall not operate any motor vehicle with nonsibling minor passengers; or

(B) at least 16 years of age, for a period of six months after reaching 16 years of age, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

(2) Any licensee issued a restricted license under subsection (c), for a period of six months after such restricted license is issued, shall not operate any motor vehicle with more than one passenger who is less than 18 years of age and who is not a member of the licensee's immediate family.

(3) Any conviction for violating this subsection shall be construed as a moving traffic violation for the purpose of K.S.A.

8-255

, and amendments thereto.

(e) Any licensee issued a restricted license under this section shall not operate a wireless communication device while driving a motor vehicle, except that a licensee may operate a wireless communication device while driving a motor vehicle to report illegal activity or to summons medical or other emergency help.

(f) (1) A restricted driver's license issued under this section is subject to suspension or revocation in the same manner as any other driver's license.

(2) A restricted driver's license shall be suspended in accordance with K.S.A.

8-291

, and amendments thereto, for any violation of restrictions under this section.

(3) The division shall suspend the restricted driver's license upon receiving satisfactory evidence that the licensee has been involved in two or more accidents chargeable to the licensee and such suspended license shall not be reinstated for one year.

(g) Evidence of failure of any licensee who was required to complete the 50 hours of adult supervised driving under this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(h) Any licensee issued a restricted license under:

(1) Subsection (a) who:

(A) Is under the age of 16 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license that is not restricted in accordance with the provisions of subsection (b)(1) until the person reaches 17 years of age;

(B) is under 17 years of age but at least 16 years of age and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license that is not restricted in accordance with the provisions of subsection (b)(2) until the person reaches 18 years of age; or

(C) fails to provide the affidavit required under subsection (a) shall not be eligible to receive a driver's license which is not restricted in accordance with the provisions of subsection (b)(1) until the person provides such affidavit to the division or the person reaches 17 years of age, whichever occurs first.

(2) Subsection (c) who is under the age of 17 years and is convicted of two or more moving traffic violations committed on separate occasions shall not be eligible to receive a driver's license which is not restricted in accordance with the

provisions of subsection (c) until the person reaches 18 years of age.

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

KSA 8-2,102 — Cody's law

Cody's law.

The provisions of K.S.A.

8-2,100

and

8-2,101

, and amendments thereto, shall be known as Cody's law.

KSA 8-2,125 — Uniform commercial driver's license act; citation of act; effective date

Uniform commercial driver's license act; citation of act; effective date.

K.S.A. 8-2,125 through

8-2,142

may be cited as the Kansas uniform commercial drivers' license act and shall govern commercial drivers' licenses on and after January 1, 1991.

KSA 8-2,126 — Same; purpose of act

Same; purpose of act.

(a) The purpose of this act is to implement the federal commercial motor vehicle safety act of 1986 (title XII of public law 99-570) and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

(1) Permitting commercial drivers to hold only one driver's license;

(2) disqualifying commercial drivers who have committed certain serious traffic violations or other specified offenses; and

(3) strengthening driver licensing and testing standards.

(b) This act is remedial law and shall be liberally construed to promote public health, safety and welfare. To the extent that this act conflicts with general driver licensing provisions, this act prevails. Where this act is silent, the general driver licensing provisions apply.

KSA 8-2,127 — Uniform commercial driver's license act; vehicles exempt from act

Uniform commercial driver's license act; vehicles exempt from act.

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 either in:

(A) Intrastate commerce; or

(B) interstate commerce 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 that 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 that 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 uniform code of military justice or the Kansas code of military justice;

(d) motor vehicles that 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;

(e) farm tractors operated by an implement dealer, or employee thereof, when moved or transported in accordance with K.S.A.

8-1918

, and amendments thereto; and

(f) motor grader vehicles operated by an employee of a municipality, as defined in K.S.A.

75-6102

, and amendments thereto, if such employee is operating the motor grader vehicle within the boundaries of such municipality.

KSA 8-2,128 — Same; definitions

Same; 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. Â§ 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. Â§ 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

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8-2,138

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8-2,142

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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. Â§ 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 a tank vehicle, as defined in 49 C.F.R. Â§ 383.5, as in effect on the date of this act or such later version as adopted by rules and regulations of the secretary pursuant to K.S.A.

8-2,140

, and amendments thereto;

(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.

KSA 8-2,129 — Same; one driver's license restriction

Same; 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.

KSA 8-2,130 — Same; 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

Same; 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.

KSA 8-2,131 — Same; requirements which must be complied with by employer of commercial driver

Same; 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.

KSA 8-2,132 — Same; driver of commercial vehicle must have a commercial class driver's license to operate vehicle; violations; penalty

Same; driver of commercial vehicle must have a commercial class driver's license to operate vehicle; violations; penalty.

(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.

KSA 8-2,133 — Issuance of commercial driver's license; knowledge and skills test; administration of skills test; waivers

Issuance of commercial driver's license; knowledge and skills test; administration of skills test; waivers.

(a) Except as provided in K.S.A.

8-2,146

, and amendments thereto, or as provided in K.S.A.

8-2,148

, and amendments thereto, no person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by 49 C.F.R. Â§ 383, subparts E, G and H and has satisfied all other requirements of the commercial motor vehicle safety act in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the secretary, except that the secretary may accept the results of a person's knowledge test conducted in another state if such test complies with minimum federal standards. The secretary shall accept results of a person's skills test given in accordance with the provisions of subsection (c).

(b) The secretary may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, if:

(1) The test is the same which would otherwise be administered by the state; and

(2) the third party has entered into an agreement with the state which complies with requirements of 49 C.F.R. Â§ 383.75.

(c) The secretary shall authorize any community college or technical college, upon such community college's or technical college's request, to administer the skills test required by subsection (a). The secretary shall grant priority status to requests by any community college or technical college with a truck driver training course in place as of July 1, 2014. The secretary shall authorize such testing that complies with the requirements of 49 C.F.R. part 383 in an agreement between the requesting community college or technical college and the state.

(d) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or canceled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(e) The director may authorize the skills test required by subsection (a) to be waived for an applicant that provides evidence of military commercial vehicle driving experience or that such applicant qualifies for a waiver under the military even exchange program. To qualify for such a waiver, the applicant must satisfy the criteria established by 49 C.F.R. Â§ 383.77.

KSA 8-2,134 — Same; applying for commercial license; replacement license, when; requiring state license, when

Same; applying for commercial license; replacement license, when; requiring state license, when.

(a) When applying for a commercial driver's license or instruction permit, the requirements of K.S.A.

8-240

, and amendments thereto, must be complied with.

(b) When the holder of a commercial driver's license changes such person's name, mailing address or residence, an application for a replacement license shall be made as provided in K.S.A.

8-246

, and amendments thereto.

(c) No person who has been a resident of this state for 30 days shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(d) Any person who knowingly falsifies information or certifications required under subsection (a) is subject to suspension, revocation or cancellation of such person's commercial driver's license for a period of at least 60 consecutive days.

KSA 8-2,135 — Same; commercial driver's license, contents; endorsements or restrictions; expiration; renewal

Same; commercial driver's license, contents; endorsements or restrictions; expiration; renewal.

(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"â■■authorizes the driver to drive a vehicle transporting hazardous materials;

(2) "L"â■■restricts the driver to vehicles not equipped with airbrakes;

(3) "T"â■■authorizes driving double and triple trailers;

(4) "P"â■■authorizes driving vehicles carrying passengers;

(5) "N"â■■authorizes driving tank vehicles;

(6) "X"â■■represents a combination of hazardous materials and tank vehicle endorsements;

(7) "S"â■■authorizes driving school buses;

(8) "E"â■■no manual transmission in CMV;

(9) "O"â■■no tractor-trailer;

(10) "M"â■■no class A passenger vehicle;

(11) "N"â■■no class A or B passenger vehicle;

(12) "Z"â■■no full air brake in CMV;

(13) "K"â■■for intrastate only; or

(14) "V"â■■for medical variance.

(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 on and after July 1, 2018, shall expire on the fifth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof shall expire on every fifth 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 fifth 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 K.S.A.

8-247

(e), and amendments thereto, and the application form required by K.S.A.

8-2,134

(b), 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.

KSA 8-2,136 — Same; prohibiting driving with alcohol in person's system; out-of-service order

Same; prohibiting driving with alcohol in person's system; out-of-service order.

(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.

KSA 8-2,137 — Same; tests for alcohol or drugs; consent implied

Same; tests for alcohol or drugs; consent implied.

(a) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to provisions of K.S.A.

8-1001

et seq., and amendments thereto, and K.S.A.

8-1567

, and amendments thereto, to take a test or tests of that person's blood, breath or urine for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(b) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or other drugs in such person's system.

KSA 8-2,138 — Same; notification of conviction of traffic control to licensing state

Same; notification of conviction of traffic control to licensing state.

(a) Within 30 days after the conviction of any nonresident holder of a commercial driver's license for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in any type of vehicle, the division shall notify the driver licensing authority in the licensing state of the conviction.

(b) Within 30 days after the conviction of any nonresident who is not a holder of a commercial driver's license, but who is licensed to drive by another state, for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the division shall notify the driver licensing authority in the licensing state of the conviction.

(c) Within 30 days of receiving notification from the licensing authority of another state of a conviction under subsection (a) or (b), the division shall record such conviction on the driver's record.

(d) On and after September 30, 2008, the notification required in subsections (a) and (b) and the recordation of convictions under subsection (c) shall be made within 10 days of the conviction.

KSA 8-2,139 — Same; division to provide information to certain persons; fee

Same; division to provide information to certain persons; fee.

Notwithstanding any other provision of law to the contrary, the division must furnish full information regarding the driving record of any person who is the holder of a commercial driver's license:

(a) To the driver license administrator of any other state, or province or territory of Canada, requesting that information;

(b) to any employer or prospective employer upon request and payment of a fee authorized pursuant to K.S.A.

74-2012

, and amendments thereto;

(c) to insurers upon request and payment of a fee authorized pursuant to K.S.A.

74-2012

, and amendments thereto.

KSA 8-2,140 — Same; rules and regulations

Same; rules and regulations.

The secretary may adopt any rules and regulations necessary to carry out the provisions of this act.

KSA 8-2,141 — Same; exemption from state license

Same; 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.

KSA 8-2,142 — Disqualification from driving commercial vehicle; suspension, revocation or cancellation of license; notification; restoration of commercial driving privileges; fingerprints; criminal history record check

Disqualification from driving commercial vehicle; suspension, revocation or cancellation of license; notification; restoration of commercial driving privileges; fingerprints; criminal history record check.

(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 K.S.A.

8-2,132

(b), 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 occurring on or after July 1, 2003.

(d) (1) Any person disqualified for life under subsection (c) who seeks to have commercial driving privileges restored after such person has been disqualified for at least 10 years shall apply in writing to the division.

(2) The division shall restore a person's commercial driving privileges if the division determines:

(A) None of the occurrences that led to the person's lifetime disqualification under subsection (c) included violations described in subsection (a)(1)(A) or (a)(1)(E);

(B) the person has had no occurrence of any offense, test refusal or test failure specified in subsection (a) during the 10-year period preceding the application;

(C) the person has had no alcohol or drug related convictions as defined in K.S.A.

8-2,128

, and amendments thereto, in Kansas or any other jurisdiction during the 10-year period preceding the application;

(D) the person has no pending alcohol or drug related criminal charges in Kansas or any other jurisdiction;

(E) the person has had no convictions for violations that occurred while operating a commercial motor vehicle in Kansas or any other jurisdiction during the 10-year period preceding the application;

(F) the person has successfully completed an alcohol or drug treatment program, or a comparable program, that meets or exceeds the minimum standards approved by the Kansas department for aging and disability services if any of the disqualifying offenses were drug or alcohol related;

(G) the person is no longer a threat to the public safety of this state. The division may request, and the person shall provide, any additional information or documentation which the division deems necessary to determine the person's fitness for relicensure;

(H) the person is otherwise eligible for licensure; and

(I) the person has not previously been restored to commercial motor vehicle privileges following a prior 10-year-minimum disqualification.

(3) For purposes of verifying a person's prior 10-year alcohol and drug history, the person shall provide a copy of the person's closed criminal history from any jurisdiction to the division.

(4) If the division finds the person is eligible for restoration to commercial driving status, such person shall complete the written and driving skills examinations as specified in K.S.A.

8-2,133

, and amendments thereto, before a commercial driver license is issued.

(5) If the person is found ineligible for restoration of commercial driving privileges, the division shall notify the person of such findings by certified mail and continue the denial of commercial driving privilege until such ineligibility has been disproven to the division's satisfaction.

(6) Any person who previously had such person's commercial motor vehicle privileges restored pursuant to this statute shall not be eligible to apply for restoration if such person receives another lifetime disqualification.

(7) Any person who is aggrieved by the decision of the division may appeal for review in accordance with the Kansas judicial review act, K.S.A.

77-601

et seq., and amendments thereto.

(8) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection prior to March 1, 2023.

(e) (1) 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.

(2) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons. The term "severe forms of trafficking in persons" means:

(A) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the 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 subjection to involuntary servitude, peonage, debt bondage or slavery.

(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) One hundred and eighty days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) two years 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. Â§ 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) for persons:

(A) Who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(B) who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) who are always required to stop, failing to stop before driving onto the crossing;

(D) failing to have sufficient space to drive completely through the crossing without stopping;

(E) failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) 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) The division may require a person applying for a commercial driver's license to be fingerprinted and submit to a state and national criminal history record check in accordance withK.S.A. 2025 Supp.

22-4714

, and amendments thereto.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) If a person is disqualified for life under on subsection (c), and at least one of the disqualifying incidents occurred prior to July 1, 2003, the person may apply to the secretary of revenue for review of the incidents and modification of the disqualification. The secretary shall adopt rules and regulations establishing guidelines, including conditions, to administer this subsection prior to March 1, 2023.

KSA 8-2,142a — Drug and alcohol clearinghouse program; review for commercial drivers' licenses; disqualifications for noncompliance or violations; removal of disqualification

Drug and alcohol clearinghouse program; review for commercial drivers' licenses; disqualifications for noncompliance or violations; removal of disqualification.

(a) The director is authorized to adopt any rules and regulations necessary for the participation in and implementation of the federal motor carrier safety administration's drug and alcohol clearinghouse program under 49 C.F.R. Â§ 382, as in effect on July 1, 2024.

(b) Prior to issuing or renewing a commercial driver's license or instruction permit, the director shall query the federal motor carrier safety administration's drug and alcohol clearinghouse. The director shall review the commercial driver's information when notified by the clearinghouse of a status change to the commercial driver.

(c) The director shall disqualify a driver's commercial driving privileges within 60 days of receiving notice from the federal motor carrier safety administration's drug and alcohol clearinghouse that a driver is found to be in violation of or noncompliance with the clearinghouse requirements.

(d) A disqualification of commercial driving privileges pursuant to this section shall be removed upon notification from the federal motor carrier safety administration's drug and alcohol clearinghouse that the driver is no longer in violation of or noncompliance with the clearinghouse requirements.

(e) A disqualification of commercial driving privileges pursuant to this section shall be removed, as expeditiously as possible, following notification from the federal motor carrier safety administration's drug and alcohol clearinghouse that the driver was erroneously identified as in violation of or noncompliance with the clearinghouse requirements.

(f) This section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,143 — Commercial driver's license; surrender of license issued by another state; hazardous materials endorsement

Commercial driver's license; surrender of license issued by another state; hazardous materials endorsement.

When any person applies for a commercial driver's license, and has a commercial driver's license issued by another state, the person shall surrender the license issued by the prior state of domicile and complete the application form required by subsection (b) of K.S.A.

8-2,134

, and amendments thereto, including all required information and certifications. If the applicant previously held and desires to retain a hazardous materials endorsement, and it has been more than two years since the applicant passed the written test for the endorsement, the applicant shall be required to take and pass the written test administered by this state for the hazardous materials endorsement.

KSA 8-2,144 — Driving a commercial motor vehicle under the influence; penalties

Driving a commercial motor vehicle under the influence; penalties.

(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 K.S.A.

8-1013

(f)(1), and amendments thereto, is 0.04 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 0.04 or more; or

(3) committing a violation of K.S.A.

8-1567

(a), and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder or is otherwise comparable.

(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;

(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 following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 120 hours of confinement. The hours of confinement shall include at least 48 hours of imprisonment and otherwise may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 120 hours of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum sentence is met. If the person is placed into a work release program or placed under a house arrest program for more than the minimum of 120 hours of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum of 120 hours of confinement is completed, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence; and

(C) on a third or subsequent conviction, a severity level 6, nonperson felony. The following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 30 days of confinement. After at least 48 consecutive hours of imprisonment, the remainder of the period of confinement may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 30 days of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program for the first 240 hours of confinement, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence.

(2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), 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 18 years of age or older 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 18 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 K.S.A.

8-1567

(a)(4) or (a)(5), and amendments thereto, as incorporated in this section, 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) (1) 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.

(2) The court may, in its discretion, waive any portion of a fine imposed pursuant to this section, except the $250 required to be remitted to the state treasurer pursuant to subsection (q), upon a showing that the person successfully completed court-ordered education or treatment.

(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 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. This subsection shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

(m) The alternatives set out in subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or more of such alternatives 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) Convictions for a violation of K.S.A.

8-1567

, and amendments thereto, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:

(A) This section;

(B) operating a vessel under the influence of alcohol or drugs, K.S.A.

32-1131

, and amendments thereto;

(C) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A.

21-3442

, prior to its repeal, or K.S.A.

21-5405

(a)(3) or (a)(5), and amendments thereto;

(D) aggravated battery as described in K.S.A.

21-5413

(b)(3) or (b)(4), and amendments thereto; and

(E) aggravated vehicular homicide, K.S.A.

21-3405a

, prior to its repeal, or vehicular battery, K.S.A.

21-3405b

, prior to its repeal, if the crime was committed while committing a violation of K.S.A.

8-1567

, and amendments thereto;

(3) "conviction" includes:

(A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (n)(2); and

(B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (n)(1) or (n)(2);

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) multiple convictions of any crime described in subsection (n)(1) or (n)(2) arising from the same arrest shall only be counted as one conviction.

(o) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) the elements of the out-of-jurisdiction offense; and

(3) whether the out-of-jurisdiction offense prohibits similar conduct to the conduct prohibited by the closest approximate Kansas offense.

(p) 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" includes 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.

(q) 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 each 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.

KSA 8-2,145 — Tests for alcohol or drugs; notices; certification by officer; hearing; disqualification of driver

Tests for alcohol or drugs; notices; certification by officer; hearing; disqualification of driver.

(a) Prior to requesting a test or tests pursuant to K.S.A.

8-2,137

, and amendments thereto, in addition to any notices provided pursuant to K.S.A.

8-1001

, and amendments thereto, the following notice shall be provided orally and in writing: Whenever a law enforcement officer has reasonable grounds to believe a person has been driving a commercial motor vehicle while having alcohol or other drugs in such person's system and the person refuses to submit to and complete a test or tests requested by a law enforcement officer or submits to and completes a test requested by a law enforcement officer which determines that the person's alcohol concentration is .04 or greater, the person will be disqualified from driving a commercial motor vehicle for at least one year, pursuant to Kansas law.

(b) It shall not be a defense that the person did not understand the notices required by this section.

(c) Upon completion of the notices set out in K.S.A.

8-1001

, and amendments thereto, and the notices in subsection (a), the law enforcement officer shall proceed to request a test or tests. In addition to the completion of any certification required under K.S.A.

8-1002

, and amendments thereto, a law enforcement officer's certification shall be prepared and signed by one or more officers to certify:

(1) There existed reasonable grounds to believe 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 had been placed under arrest, was in custody or had been involved in a motor vehicle accident or collision;

(3) a law enforcement officer had presented the person with the notices required by this section; and

(4) the person refused to submit to and complete a test or the test result for alcohol content of blood or breath was .04 or greater.

(d) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the division authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B misdemeanor.

(e) Upon completing a certification under subsection (c), the officer shall serve upon the person notice of disqualification of the privilege to drive a commercial motor vehicle pursuant to K.S.A.

8-2,142

, and amendments thereto, together with a copy of the certification. In cases where a .04 or greater test result is established by a subsequent analysis of a breath or blood sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test. If the determination of a test refusal or .04 or greater test result is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles.

(f) The notice shall contain the following information:

(1) The person's name, driver's license number and current address pursuant to K.S.A.

8-248

, and amendments thereto;

(2) the reason and statutory grounds for the disqualification;

(3) the date notice is being served and the effective date of the disqualification, which shall be the 20

th

day after the date of service;

(4) the right of the person to request an administrative hearing; and

(5) the procedure the person must follow to request an administrative hearing.

The notice of disqualification shall also inform the person that all correspondence will be mailed to the person at the address contained in the notice of disqualification unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A.

8-248

, and amendments thereto, if the address furnished is different from that on file with the division.

(g) If the person mails a written request which is postmarked within 10 calendar days after service of the notice, if by personal service, or 13 calendar days after service, if by mail, the division shall schedule a hearing in the county where the alleged violation occurred, or in a county adjacent thereto. The licensee may request that subpoenas be issued in accordance with the notice provided pursuant to subsection (d). Any request made by the licensee to subpoena witnesses must be made in writing at the time the hearing is requested and must include the name and current address of such witness and, except for the certifying law enforcement officer or officers, a statement of how the testimony of such witness is relevant. Upon receiving a timely request for a hearing, the division shall mail to the person notice of the time, date and place of hearing in accordance with subsection (i) and extend the person's temporary driving privileges until the date set for the hearing by the division, unless otherwise disqualified, suspended, revoked or canceled.

(h) The law enforcement officer shall forward the certification required under subsection (c) to the director within five days of the date of certification. Upon receipt of the certification, the division shall review the certification to determine that it meets the requirements of subsection (c). Upon so determining, the director shall proceed to disqualify the driver from driving a commercial motor vehicle in accordance with the notice of disqualification previously served.

(i) All notices of disqualification under this section and all notices of a hearing held under this section shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing.

(j) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(k) The rules regarding evidence and procedure at hearings held under K.S.A.

8-1020

, and amendments thereto, shall be applicable to hearings held under this section. At the hearing on a disqualification of commercial driving privileges, the issues shall be limited to those set out in the certification.

(l) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

KSA 8-2,146 — Seasonal commercial driver's license; conditions and limitations; definitions; rules and regulations

Seasonal commercial driver's license; conditions and limitations; definitions; rules and regulations.

(a) The division may issue to an applicant who is a resident of this state and who is at least 18 years of age a seasonal commercial driver's license for the operation of commercial class B and commercial class C motor vehicles. Any person applying for or who is issued a seasonal commercial driver's license shall be subject to the provisions of K.S.A.

8-2,125

through

8-2,145

, and amendments thereto, except that an applicant shall not be required to pass a knowledge or skills test as required by subsection (a) of K.S.A.

8-2,133

, and amendments thereto.

(b) Seasonal commercial drivers' licenses issued pursuant to subsection (a) shall allow the operation of commercial motor vehicles owned by the following specific farm-related service industries:

(1) Farm retail outlets and suppliers;

(2) agri-chemical businesses;

(3) custom harvesters; and

(4) livestock feeders.

(c) An applicant who has not held a driver's license for at least one year shall not be eligible for a seasonal commercial driver's license. An applicant who has between one and two years' driving experience shall comply with the provisions of subparagraphs (A) through (G) of paragraph (1) of subsection (b) of K.S.A.

8-2,133

, and amendments thereto, for the applicant's entire driving history. An applicant with more than two years' driving experience shall comply with the provisions of subparagraphs (A) through (G) of paragraph (1) of subsection (b) of K.S.A.

8-2,133

, and amendments thereto. The requirements contained in subparagraphs (A) through (G) of paragraph (1) of subsection (b) of K.S.A.

8-2,133

, and amendments thereto, shall be confirmed prior to any renewal or revalidation of a seasonal commercial driver's license.

(d) Any person issued a seasonal commercial driver's license, shall not operate any vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded, except for diesel fuel in quantities of 1,000 gallons or less; liquid fertilizers in vehicles or implements of husbandry with total capacities of 3,000 gallons or less; and solid fertilizers that are not transported with any organic substance.

(e) A seasonal commercial driver's license issued pursuant to subsection (a) shall be valid for a consecutive 180-day period from the date of issuance of such license. A person shall be issued only one seasonal commercial driver's license for any twelve-month period.

(f) Any person issued a seasonal commercial driver's license pursuant to subsection (a), shall not operate a commercial motor vehicle beyond 150 miles from the place of business or from the farm being served.

(g) As used in this section:

(1) "Farm retail outlets and suppliers" means any retail outlet and supplier that transports either agricultural products, farm machinery, farm supplies, or both, to or from a farm;

(2) "agri-chemical businesses" means any business that transports agricultural chemicals to or from a farm.

(h) A person who has been issued a seasonal commercial driver's license and who is convicted of violating the provisions of this section, the division, upon receiving a report of conviction, shall revoke such person's seasonal commercial license for the remainder of the period specified in subsection (e).

(i) The secretary may adopt rules and regulations necessary to carry out the provisions of this section.

(j) The provisions of this section shall be a part of, and supplemental to, the Kansas uniform commercial drivers' license act.

KSA 8-2,147 — Commercial drivers' licenses; farm custom harvesting operations; age

Commercial drivers' licenses; farm custom harvesting operations; age.

(a) The division may issue a commercial driver's license to an applicant who is a resident of this state and who is at least 16 years of age for the operation of commercial class B and commercial class C motor vehicles for a farm custom harvesting operation. Any person applying for or who is issued a commercial driver's license under this section shall be subject to the provisions of K.S.A.

8-2,125

through

8-2,145

, and amendments thereto.

(b) For the purpose of this section, "farm custom harvesting operations" means a person, firm, partnership, association or corporation engaged in farm custom harvesting operations if the motor vehicle is used to:

(1) Transport farm machinery, supplies, or both, to or from a farm, for custom harvesting operations on a farm; or

(2) transport custom harvested crops only from a harvested field to initial storage or to initial market locations.

(c) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,148 — Nonresident commercial driver's license; requirements

Nonresident commercial driver's license; requirements.

(a) The division may issue a nonresident commercial driver's license to an applicant who is at least 18 years of age and employed by a Kansas employer but is a resident of a foreign country for the operation of any commercial class of vehicles if such person has passed a knowledge and skills test pursuant to K.S.A.

8-2,133

, and amendments thereto. Any person who is applying for a nonresident commercial driver's license shall be subject to the provisions of K.S.A.

8-2,125

through

8-2,145

, and amendments thereto;

(b) A nonresident commercial driver's license issued pursuant to subsection (a) shall contain on the face of the license the statement "nonresident commercial driver's license" or "nonresident CDL";

(c) Any such license issued pursuant to subsection (a) shall be valid only for the period the nonresident is authorized to be employed in the United States. The fee for a nonresident commercial driver's license will be the same as for a resident commercial driver's license;

(d) If the nonresident applicant is the holder of a nonresident commercial driver's license issued by another state, such license shall be surrendered to the state of Kansas at the time a Kansas nonresident commercial driver's license is issued;

(e) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,149 — Commercial driver's licenses; school bus endorsement; waiver of driving skills test; requirements

Commercial driver's licenses; school bus endorsement; waiver of driving skills test; requirements.

(a) Until September 30, 2005, the driving skills test required under 49 C.F.R. Â§ 383.123 may be waived for an applicant for a school bus endorsement, if such applicant is currently licensed, has experience driving a school bus, has a good driving record and meets the conditions contained in subsection (b).

(b) An applicant must certify and the division must verify that, during the two-year period immediately prior to applying for the school bus endorsement, the applicant:

(1) Held a valid commercial driver's license with a passenger vehicle endorsement to operate a school bus representative of the group the application* will be driving;

(2) has not had such applicant's driver's license or commercial driver's license suspended, revoked or canceled or been disqualified from operating a commercial motor vehicle;

(3) has not been convicted of any of the disqualifying offenses in subsection (a) or (e) of K.S.A.

8-2,142

, and amendments thereto;

(4) has not had more than one conviction of any of the serious traffic violations defined in K.S.A.

8-2,128

, and amendments thereto, while operating any type motor vehicle;

(5) has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident;

(6) has not been convicted of any motor vehicle traffic violation that resulted in an accident; and

(7) has been regularly employed as a school bus driver, has operated a school bus representative of the group the applicant seeks to drive and provides evidence of such employment.

(c) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,150 — Commercial driver's licenses; diversion agreements or masking of imposition of judgement not allowed

Commercial driver's licenses; diversion agreements or masking of imposition of judgement not allowed.

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

(b) For purposes of subsection (a), a person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial driver's license even if the person surrenders the commercial driver's license after the arrest or citation.

(c) (1) A prosecuting attorney as defined in K.S.A.

22-2202

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

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

(d) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,151 — Commercial driver's licenses; hazardous materials endorsement; requirements; hazmat fee fund

Commercial driver's licenses; hazardous materials endorsement; requirements; hazmat fee fund.

(a) Beginning July 1, 2004, or upon final determination by the transportation security administration of the date for implementation of the requirements of 49 C.F.R. Â§ 1572, whichever is later, the division shall not issue, renew, upgrade or transfer a hazardous materials endorsement for a commercial driver's license to any person authorizing that person to operate a commercial motor vehicle transporting a hazardous material in commerce unless the individual complies with the requirements of 49 C.F.R. Â§ 1572.

(b) At least 60 days before the expiration date of a commercial driver's license or hazardous materials endorsement, the division shall notify the holder of a hazardous materials endorsement that the person must pass a transportation security administration security screening process, 49 C.F.R. Â§ 1572, as part of any application for renewal of the hazardous materials endorsement. The notice must advise the person that, in order to expedite the security screening process, the person should file a renewal application as soon as possible, but not later than 30 days before the date of expiration of the endorsement. Any person who does not successfully complete the security screening process, shall not be issued a hazardous materials endorsement.

(c) An individual must submit fingerprints, in a form and manner specified by the division, when such individual applies to obtain, renew or transfer a hazardous materials endorsement for a commercial driver's license. A fee not to exceed $100 shall be charged to such individual for collecting the fingerprints and generating the individual's criminal history.

(d) There is hereby created in the state treasury the hazmat fee fund. All moneys credited to the hazmat fee fund shall be used by the department of revenue only for the purpose of funding the collecting of fingerprints and the generating of the criminal history of individuals applying for the hazardous materials endorsement for a commercial driver's license. All expenditures from the hazmat fee fund shall be made in accordance with appropriation acts, upon warrants of the director

of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

(e) The division shall revoke a person's hazardous materials endorsement if the person does not meet the standards for security threat assessment under 49 C.F.R. Â§ 1572.

(f) For the purpose of this section "revoke" means the process by which the division cancels, suspends, withdraws, annuls or disqualifies a hazardous material endorsement.

(g) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

KSA 8-2,152 — Commercial driver's licenses; civil penalties

Commercial driver's licenses; civil penalties.

(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.

KSA 8-2,153 — Commercial driver's licenses; violation of act; penalty

Commercial driver's licenses; violation of act; penalty.

(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.

KSA 8-2,154 — Commercial driver's license drive test fee fund; use of moneys

Commercial driver's license drive test fee fund; use of moneys.

There is hereby created in the state treasury the commercial driver's license drive test fee fund. All moneys credited to the commercial driver's license drive test fee fund shall be used by the department of revenue only for the purposes of funding the administration and operation of the commercial driver's license drive test, including software maintenance and enhancement, equipment maintenance and purchase, acquisition and maintenance of one or more test tracks or courses for conducting a driving test, training and marketing associated with the operations for the division of vehicles regarding the issuance of commercial driver's licenses. All expenditures from the commercial driver's license drive test fee fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

KSA 8-2,155 — Commercial driver's license drive test fees; disposition and use of moneys

Commercial driver's license drive test fees; disposition and use of moneys.

The division of vehicles shall remit the commercial driver's license drive test fees received by the division under K.S.A.

8-240

(a)(1), and amendments thereto, 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 credit such fees to the commercial driver's license drive test fee fund. Moneys credited to the commercial driver's license drive test fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund or other special revenue fund appropriations to the Kansas department of revenue.

KSA 8-2,156 — Hazardous materials endorsement; exception

Hazardous materials endorsement; exception.

Any person driving under a commercial class A license shall not be required to obtain a hazardous materials endorsement pursuant to 49 C.F.R. Â§ 383 if the person is:

(a) Acting within the scope of the license holder's employment as an employee of a custom harvester operation; and

(b) is operating a service vehicle that is: (1) Transporting diesel in a quantity of 3,785 liters, 1,000 gallons or less; and (2) clearly marked with a "flammable" or "combustible" placard, as appropriate.

KSA 8-2,157 — Commercial driver's licenses; training in human trafficking identification and prevention required; approval by attorney general; rules and regulations

Commercial driver's licenses; training in human trafficking identification and prevention required; approval by attorney general; rules and regulations.

On and after July 1, 2018, an applicant for issuance or renewal of a commercial driver's license, prior to such issuance or renewal, shall complete training approved by the attorney general in human trafficking identification and prevention and provide satisfactory proof of such completion to the division of vehicles of the department of revenue prior to such issuance or renewal. Not later than January 1, 2019, the attorney general shall, in consultation with the director of vehicles, promulgate rules and regulations to implement the provisions of this section.

KSA 8-2,158 — Driver's license, instruction permit or non-driver's identification card emergency contact information; confidentiality; procedure

Driver's license, instruction permit or non-driver's identification card emergency contact information; confidentiality; procedure.

(a) Not later than July 1, 2022, the division of vehicles shall maintain in its files a record of the name, address and telephone number of each individual that the holder of a valid driver's license, instruction permit or non-driver's identification card, as provided in K.S.A.

8-1324

, and amendments thereto, authorizes to be contacted in the event that the holder is injured or dies in a vehicular accident or another emergency situation.

(b) (1) A record maintained by the division under subsection (a) shall be confidential and shall not be subject to the provisions of the Kansas open records act, K.S.A.

45-215

et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2026, unless the legislature reviews and reenacts this provision pursuant to K.S.A.

45-229

, and amendments thereto, prior to July 1, 2026.

(2) Upon request, such record may be disclosed only:

(A) To a law enforcement officer, as defined by K.S.A.

74-5602

, and amendments thereto, in this or another state; and

(B) for the purpose, as applicable, of making contact with a named individual to report the injury to or death of the holder of the driver's license, instruction permit or non-driver's identification card.

(c) An application for an original, renewal or duplicate driver's license, instruction permit or non-driver's identification card shall:

(1) Be designed to allow, but not require, the applicant to provide the name, address and telephone number of not more than two individuals to be contacted if the applicant is injured or dies in a circumstance described by subsection (a); and

(2) include a statement that describes the confidential nature of the information and states that, by providing the division with the information, the applicant consents to the limited disclosure and use of the information.

(d) The division shall establish and maintain on the division's website forms and procedures that the holder of a driver's license, instruction permit or non-driver's identification card may use to request that the division:

(1) Add specific emergency contact information described in subsection (a) to the appropriate file maintained by the division; or

(2) amend or delete emergency contact information the holder previously provided to the division.

(e) The forms and procedures established and maintained under subsection (d) shall:

(1) Comply with the requirements of subsection (c); and

(2) allow the holder of a driver's license, instruction permit or non-driver's identification card, or an authorized agent of such holder, to add, amend or delete information described by subsection (d) by either:

(A) Submitting an electronic form on the division's website; or

(B) delivering or mailing a paper form to the division.

(f) Subsection (b) shall not prohibit the division from disclosing information to the holder of a driver's license, instruction permit or non-driver's identification card, or such holder's authorized agent, or as otherwise provided in K.S.A.

74-2012

, and amendments thereto.

KSA 8-301 — Private use forbidden

Private use forbidden.

No person or employee of the state or county or any governmental subdivision shall operate or drive or cause to be operated or driven any state, county or other publicly owned automobile, automobile bus, motor bus, or other motor vehicle for private use or for private business or for pleasure.

KSA 8-303 — Enforcement of act

Enforcement of act.

It is hereby made the duty of every sheriff, deputy sheriff, and every and all other law-enforcement officers of any county, city or township in this state to enforce the provisions of this act.

KSA 8-304 — Marking of vehicles of political subdivisions; vehicle defined

Marking of vehicles of political subdivisions; vehicle defined.

As used in this act, "vehicle" means a passenger motor vehicle having a seating capacity of less than eight (8) persons and which is the property of a political subdivision of the state of Kansas.

KSA 8-305 — Same; how marked; exceptions

Same; how marked; exceptions.

All motor vehicles owned or leased by any political subdivision of the state of Kansas shall bear the name of the political subdivision owning or leasing such vehicle plainly printed on both sides thereof. This act shall not apply to the following:

(a) Municipal fire apparatus, police patrols and ambulances;

(b) passenger vehicles used by plain clothes police officers, county or district attorney investigators or community corrections personnel working in the employ of any political subdivision; and

(c) motor vehicles owned or leased by any municipal university.

KSA 8-306 — Same; operation or control of unmarked vehicle; removal of officer or employee from office

Same; operation or control of unmarked vehicle; removal of officer or employee from office.

Any officer or employee of any political subdivision who operates or has under control any vehicle not lettered or numbered as required by this act or who violates any of the other provisions of this act shall be deemed guilty of malfeasance in office and shall be subject to removal from office or employment.

KSA 8-401 — Service of process against nonresidents or their representatives; definitions

Service of process against nonresidents or their representatives; definitions.

(a) As used in this act, each of the following words and terms, unless the context clearly requires otherwise, shall have the meaning respectively ascribed to it in this section:

(1) "Nonresident" or "nonresident person" shall mean: (A) A person who is a nonresident of this state; (B) a person who is a resident of this state and who departs from this state subsequent to the accident or collision from which the action or proceeding against such person or a representative of such person arose and remains absent from this state for thirty (30) days continuously, whether such absence is intended to be temporary or permanent; (C) a person who at the time of the accident or collision from which the action or proceeding arose was a resident of this state but who has subsequently thereto become a nonresident of this state;

(2) "representative" shall have the meaning respectively ascribed to it in subsection (1) of K.S.A.

59-102

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(b) The acceptance by a nonresident person of the rights and privileges conferred by existing laws to operate motor vehicles on the public highways of the state of Kansas, or the operation by a nonresident person, or an authorized chauffeur of such nonresident, or agent, of a motor vehicle on the said highways, other than under said laws, shall be deemed equivalent to an appointment by such nonresident of the secretary of state of the state of Kansas, or the secretary's successor in office, to be such nonresident's true and lawful agent, upon whom may be served all lawful process in any action or proceeding against said nonresident or a representative of said nonresident growing out of any accident or collision in which said motor vehicle may be involved, while same is operated in the state of Kansas by said nonresident, or by an authorized chauffeur of said nonresident or agent; and said acceptance or operation of said vehicle shall be a signification of agreement that any such process which is so served on the secretary of state shall be of the same legal force and validity as if served upon said nonresident or a representative of said nonresident personally within the state.

KSA 8-402 — Procedure in procuring service pursuant to K.S.A. 8-401; form of notice of service; record of all process served kept by secretary of state

Procedure in procuring service pursuant to K.S.A.

8-401

; form of notice of service; record of all process served kept by secretary of state.

Service of process under K.S.A.

8-401

, and amendments thereto, shall be made as follows:

(a) (1) The plaintiff shall file a verified petition in the district court in the county where the cause of action arose or the plaintiff resides, showing a cause of action against the defendant of the class contemplated in K.S.A.

8-401

, and amendments thereto, and shall further show in the petition, or by affidavit, to the satisfaction of the court, the following: (A) That the defendant is one of the persons contemplated in K.S.A.

8-401

, and amendments thereto; (B) the residence of the defendant; (C) a description of the car or motor vehicle claimed to have been operated by the the defendant or an agent of the defendant, as near as can reasonably be ascertained by the plaintiff; and (D) the time, place and nature of the accident or injury.

(2) Upon such showing being made, the court shall make an order directing a summons to be issued and directing that service of process be made on the defendant as provided in K.S.A.

8-401

, and amendments thereto, by delivering a copy of the summons, petition and order in accordance with subsection (b). The court shall, upon affidavit submitted upon behalf of the defendant, grant such additional time to answer, or continuances, as shall be reasonably necessary to allow the defendant full opportunity to plead and prepare for trial.

(b) (1) The plaintiff may serve the defendant by providing the secretary of state with a copy of the summons, petition and order and the last known address, residence or place of abode for each defendant and paying the secretary of state a fee in the amount provided in K.S.A.

60-304

(f), and amendments thereto. The secretary of state shall immediately mail to each defendant by return receipt delivery, addressed to the defendant at the defendant's last known address, residence or place of abode, a notice of service and a copy of the summons, petition and order provided by the plaintiff.

(2) The plaintiff may serve the defendant by causing a notice of service and a copy of the summons, petition and order to be personally served on the defendant in the foreign state by an adult person not a party to the suit or an officer duly qualified to serve legal process in the state or jurisdiction where the defendant is found, by delivering such documents to the defendant or by offering to make such delivery in the case of a defendant who refuses to accept the delivery. The server shall, on or before the return day of the process or within such further time as the court may allow, file an affidavit or a declaration pursuant to K.S.A.

53-601

, and amendments thereto, or any other competent proof, stating the time, manner and place of service. The plaintiff shall notify the secretary of state in writing that the plaintiff is personally serving the defendant and shall provide the secretary of state with a copy of the notice of service, summons, petition and order provided to the defendant.

(3) Compliance with this subsection constitutes sufficient service on the defendant.

(c) The notice of service required by subsection (b) shall be signed, dated and in substantially the following form: "To (insert the name of each defendant and such defendant's last known address, residence or place of abode), you will take notice that original process in this suit against you, a copy of which is hereto attached, was duly served upon you at Topeka, Shawnee County, Kansas, on (insert date) by serving the required documents on the secretary of state of the state of Kansas."

(d) The secretary of state shall keep a record of all process served upon the office under this section, and such record shall show the day of service of every such process.

KSA 8-403 — Consent to personal service of process by acceptance of title or registration certificate by resident of state; additional method for serving process

Consent to personal service of process by acceptance of title or registration certificate by resident of state; additional method for serving process.

The acceptance by a resident of this state of a certificate of title or ownership or a certificate of registration or any renewal thereof, issued under the motor vehicle laws of this state, shall constitute the consent by the person that personal service of lawful process may be made upon the person at any place where he or she may be found, whether or not the person is then a resident of this state, with the same force and effect as though served within this state, in any action or proceeding brought in the courts of this state against such person arising in this state out of the ownership or operation of the vehicle. This section provides, and shall be construed as providing for an additional method for the serving of process in those cases to which it is applicable; and it shall not be construed as repealing or superseding any other existing law relating to the serving of process.

KSA 8-404 — Consent to personal service of process by acceptance of operator's or chauffeur's license by resident of state; additional method for serving process

Consent to personal service of process by acceptance of operator's or chauffeur's license by resident of state; additional method for serving process.

The acceptance or retention by a resident of this state of an operator's or chauffeur's license issued pursuant to the operators' and chauffeurs' license act of this state, shall constitute the consent of the person that personal service of process may be made upon the person at any place where he or she may be found and whether or not the person is then a resident of this state, with the same force and effect as if served within this state, in any action or proceeding brought in the courts of this state against such person arising in this state out of his or her driving a motor vehicle upon a highway in this state. This section provides, and shall be construed as providing for an additional method for the serving of process in those cases to which it is applicable; and it shall not be construed as repealing or superseding any other existing law relating to the serving of process.

KSA 8-405 — Invalidity of part

Invalidity of part.

If any section or part of a section of this act shall be held unconstitutional by any court, it shall be conclusively presumed that the legislature would have passed this act without such invalid section or part of a section, and the remaining provisions shall be given full force and effect, as if the part held unconstitutional had not been included herein.

KSA 8-601 — Definition of words and phrases

Definition of words and phrases.

The following words and phrases when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this section:

Person.

The term "person" shall mean any individual or individuals, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors.

Manufacturer.

The term "manufacturer" shall mean any person, firm, corporation, partnership or association engaged either directly or indirectly in the manufacture or wholesale distribution of motor vehicles and other specific commodities.

Dealer.

The term "dealer" shall mean any person, firm, association or corporation or other organization of any kind, character or nature regularly engaged or intending to engage in the business of selling motor vehicles and other specific commodities at retail within this state.

Financing.

The term "financing" shall include the buying, selling, assigning or dealing in conditional sales contracts, chattel mortgages or leases arising out of the retail sale of motor vehicles and other specific commodities.

Motor vehicle.

The term "motor vehicle" shall mean 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.

Commodities.

The term "commodities" means manufactured articles offered for sale to the general public.

Specific commodities.

The term "specific commodities" means commodities identified and agreed upon at the time a contract to sell, or a sale, is made.

KSA 8-602 — Free competition

Free competition.

It hereby is declared to be the policy of this state that free and unrestricted competition shall prevail in the business of financing the purchase or sale of motor vehicles and other specific commodities.

KSA 8-603 — Certain financing agreements declared void

Certain financing agreements declared void.

It shall be unlawful for any manufacturer to sell or enter into a contract to sell any motor vehicle or vehicles or other specific commodities to any dealer on the condition or under an agreement, either express or implied, that such dealer shall finance the purchase or sale of any such motor vehicle or vehicles or other specific commodities only with or through a designated person, and any such condition, agreement or understanding hereby is declared to be void and against the public policy of this state.

KSA 8-604 — Same; prima facie evidence of sale prohibited under K.S.A. 8-603

Same; prima facie evidence of sale prohibited under K.S.A. 8-603.

Any threat, expressed or implied, made directly or indirectly to any dealer by any manufacturer, or by any person who is engaged in the business of financing the purchase or sale of motor vehicles or other specific commodities and is affiliated with or controlled by any manufacturer, that such manufacturer will cease to sell, or will terminate or refuse to enter into a contract to sell motor vehicles or such other specific commodities to such dealer unless such dealer finances the purchase or sale of any such motor vehicle or vehicles or such other specific commodities only with or through a designated person, shall be presumed to be made at the direction of and with the authority of such manufacturer and shall be prima facie evidence of the fact that such manufacturer has sold or intends to sell such motor vehicle or vehicles or other specific commodities on the condition or under the agreement prohibited in K.S.A.

8-603

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KSA 8-605 — Duty of attorney general or county attorney

Duty of attorney general or county attorney.

For a violation of any of the provisions of this act by any corporation or association mentioned herein, it shall be the duty of the attorney general or the county attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

KSA 8-606 — Violations by foreign corporations and associations; injunction; revocation of license

Violations by foreign corporations and associations; injunction; revocation of license.

Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in this state, violating any of the provisions of this act, is hereby denied the right and prohibited from doing any business in this state, and it shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state shall be authorized to revoke the license of any such corporation or association heretofore authorized by the secretary to do business in this state, after final judgment.

KSA 8-607 — Penalty for violating K.S.A. 8-601 through 8-610

Penalty for violating K.S.A. 8-601 through 8-610.

Any person who shall violate any of the provisions of this act, and any employee, agent or officer of any such person who shall participate, in any manner, in making, enforcing or performing, or in aiding or abetting, in the performance of any such contract, condition, agreement or understanding, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $5,000 or by imprisonment in the custody of the secretary of corrections for not less than one year nor more than five years, or by both such fine and imprisonment.

KSA 8-608 — Damage actions

Damage actions.

In addition to the penalties herein provided, any person who is injured in business or property by any other person or corporation or association or partnership, by reason of any thing forbidden or declared to be unlawful by this act, may sue therefor in any court, having jurisdiction thereof in the county where the defendant resides or is found, or any agent

resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages sustained, and the costs of suit. Whenever it shall appear to the court before which any proceedings under this act are pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

KSA 8-609 — Contracts and agreements in violation deemed void

Contracts and agreements in violation deemed void.

Any contract or agreement in violation of the provisions of this act shall be absolutely void and shall not be enforceable either in law or equity.

KSA 8-610 — Invalidity of part

Invalidity of part.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

KSA 8-1001 — Tests for alcohol or drugs; request by officer, grounds; administration of tests, when; procedures; immunity from liability; duty to provide driver notice; refusal to comply or test result exceeding limit, license suspension; admissibility and availability of test result; remedial nature of law

Tests for alcohol or drugs; request by officer, grounds; administration of tests, when; procedures; immunity from liability; duty to provide driver notice; refusal to comply or test result exceeding limit, license suspension; admissibility and availability of test result; remedial nature of law.

(a) Any person who operates or attempts to operate a vehicle within this state may be requested, subject to the provisions of this article, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing shall include all quantitative and qualitative tests for alcohol and drugs. The test must be administered at the direction of a law enforcement officer, and the law enforcement officer shall determine which type of test is to be conducted or requested.

(b) (1) One or more tests may be required of a person when, at the time of the request, a law enforcement officer has probable cause to believe the person has committed a violation of K.S.A.

8-1567

(a), and amendments thereto, or to believe the person was 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, or to believe the person is under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution or city ordinance; or (B) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury or death.

(2) The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the investigation or arrest.

(c) When requesting a test or tests of breath or other bodily substance other than blood or urine, under this section, the person shall be given oral and written notice that:

(1) There is no right to consult with an attorney regarding whether to submit to testing, but, after the completion of the testing, the person may request and has the right to consult with an attorney and may secure additional testing;

(2) if the person refuses to submit to and complete the test or tests, the person's driving privileges will be suspended for a period of one year;

(3) if the person fails a test, the person's driving privileges will be suspended for a period of either 30 days or one year;

(4) refusal to submit to testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(5) the results of the testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(d) When requesting a test or tests of blood or urine, under this section, the person shall be given oral and written notice that:

(1) If the person refuses to submit to and complete the test or tests, the person's driving privileges will be suspended for a period of one year;

(2) if the person fails a test, the person's driving privileges will be suspended for a period of either 30 days or one year;

(3) the results of the testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(4) after the completion of the testing, the person may request and has the right to consult with an attorney and may secure additional testing.

(e) Nothing in this section shall be construed to limit the right of a law enforcement officer to conduct any search of a person's breath or other bodily substance, other than blood or urine, incident to a lawful arrest pursuant to the constitution of the United States, with or without providing the person the advisories authorized in subsection (c), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.

(f) Nothing in this section shall be construed to limit the right of a law enforcement officer to conduct or obtain a blood or urine test of a person pursuant to a warrant under K.S.A.

22-2502

, and amendments thereto, the constitution of the United States or a judicially recognized exception to the search warrant requirement, with or without providing the person the advisories authorized in subsection (d), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.

(g) A law enforcement officer may direct a medical professional, as described in subsection (h), to draw one or more samples of blood from a person to determine the blood's alcohol or drug concentration:

(1) If the person has given consent, with or without the advisories in subsection (d), and meets the requirements of subsection (b);

(2) if law enforcement has obtained a search warrant authorizing the collection of blood from the person; or

(3) if the person refuses or is unable to consent to submit to and complete a test, and another judicially recognized exception to the warrant requirement applies.

(h) If a law enforcement officer is authorized to collect one or more tests of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; (3) any qualified medical technician, including, but not limited to, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A.

65-6112

, and amendments thereto, authorized by medical protocol; or (4) a phlebotomist.

(i) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample of blood as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person that is the subject of the test or tests to provide any additional consent or sign any waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document, if provided by law enforcement.

(j) If a person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(k) If a law enforcement officer is authorized to collect one or more tests of urine, the collection of the urine sample shall be supervised by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) a law enforcement officer of the same sex as the person being tested. The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in subsections (g) and (i) shall apply to the collection of a urine sample.

(l) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(m) If a law enforcement officer has probable cause to believe that the person has 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, the person shall also be provided the oral and written notice pursuant to K.S.A.

8-2,145

, and amendments thereto. Any failure to give the notices required by K.S.A.

8-2,145

, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has probable cause to believe that the person has been operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A.

8-1567a

, and amendments thereto. Any failure to give the notices required by K.S.A.

8-1567a

, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.

(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(o) If a law enforcement officer had probable cause to believe the person had been driving a commercial motor vehicle, as defined in K.S.A.

8-2,128

, and amendments thereto, and the test results show a blood or breath alcohol concentration of 0.04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A.

8-2,142

, and amendments thereto. If a law enforcement officer had probable cause to believe the person had been driving any motor vehicle, the person fails a test, as defined in K.S.A.

8-1013

(h), and amendments thereto, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A.

8-2,142

, and amendments thereto.

(p) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(q) It shall not be a defense that the person did not understand the written or oral notice authorized by this section.

(r) No test results shall be suppressed because of irregularities not affecting the substantial rights of the accused in the consent or notice authorized pursuant to this act. Failure to provide any or all of the notices set forth in subsection (c) or (d) shall not be an issue or defense in any action other than an administrative action regarding the subject's driving privileges.

(s) 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 other judicially recognized exception to the warrant requirement.

(t) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person when available.

(u) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

KSA 8-1002 — Test refusal or failure; suspension of license; notice; procedure

Test refusal or failure; suspension of license; notice; procedure.

(a) Whenever a test is requested pursuant to this act and results in either a test failure or test refusal, a law enforcement officer's certification shall be prepared. If the person had been driving a commercial motor vehicle, as defined in K.S.A.

8-2,128

, and amendments thereto, a separate certification pursuant to K.S.A.

8-2,145

, and amendments thereto, shall be prepared in addition to any certification required by this section. The certification required by this section shall be signed by one or more officers to certify:

(1) With regard to a test refusal, that: (A) There existed reasonable grounds to believe the person was operating or attempting to operate 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, or is under 21 years of age 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 (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) With regard to a test failure, that: (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, or is under 21 years of age 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 (D) the result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath.

(3) With regard to failure of a breath test, in addition to those matters required to be certified under subsection (a)(2), 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.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B nonperson misdemeanor.

(c) When the officer directing administration of the testing determines that a person has refused a test and the criteria of subsection (a)(1) have been met or determines that a person has failed a test and the criteria of subsection (a)(2) have been met, the officer shall serve upon the person notice of suspension of driving privileges pursuant to K.S.A.

8-1014

, and amendments thereto. If the determination is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles. In cases where a test failure is established by a subsequent analysis of a breath, blood or urine sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test.

(d) In addition to the information required by subsection (a), the law enforcement officer's certification and notice of suspension shall contain the following information: (1) The person's name, driver's license number and current address; (2) the reason and statutory grounds for the suspension; (3) the date notice is being served and a statement that the effective date of the suspension shall be the 30

th

day after the date of service; (4) the right of the person to request an administrative hearing; and (5) the procedure the person must follow to request an administrative hearing. The law enforcement officer's certification and notice of suspension shall also inform the person that: (1) Constitutional issues cannot be decided at the administrative hearing, but may be preserved and raised in a petition for review of the hearing as provided in K.S.A.

8-1020

(o) and (p), and amendments thereto; and (2) all correspondence will be mailed to the person at the address contained in the law enforcement officer's certification and notice of suspension unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A.

8-248

, and amendments thereto, if the address furnished is different from that on file with the division.

(e) If a person refuses a test or if a person is still in custody when it is determined that the person has failed a test, the officer shall take any license in the possession of the person and, if the license is not expired, suspended, revoked or canceled, shall issue a temporary license effective until the 30

th

day after the date of service set out in the law enforcement officer's certification and notice of suspension. If the test failure is established by a subsequent analysis of a breath or blood sample, the temporary license shall be served together with the copy of the law enforcement officer's certification and notice of suspension. A temporary license issued pursuant to this subsection shall bear the same restrictions and limitations as the license for which it was exchanged. Within seven days after the date of service of a copy of the law enforcement officer's certification and notice of suspension the officer's certification and notice of suspension, along with any licenses taken, shall be forwarded to the division.

(f) Upon receipt of the law enforcement officer's certification, the division shall review the certification to determine that it meets the requirements of subsection (a). Upon so determining, the division shall proceed to suspend the person's driving privileges in accordance with the notice of suspension previously served. If the requirements of subsection (a) are not met, the division shall dismiss the administrative proceeding and return any license surrendered by the person.

(g) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

(h) The provisions of K.S.A.

60-206

, and amendments thereto, regarding the computation of time shall be applicable in determining the effective date of suspension set out in subsection (d).

KSA 8-1004 — Same; additional test by own physician; effect of denial

Same; additional test by own physician; effect of denial.

Without limiting or affecting the provisions of K.S.A.

8-1001

, and amendments thereto, the person tested shall have a reasonable opportunity to have an additional test by a physician of the person's own choosing. In case the officer refuses to permit such additional testing, the testing administered pursuant to K.S.A.

8-1001

, and amendments thereto, shall not be competent in evidence.

KSA 8-1005 — Evidence; test results admissible in prosecutions; weight to be given evidence

Evidence; test results admissible in prosecutions; weight to be given evidence.

Except as provided by K.S.A.

8-1012

, and amendments thereto, in any criminal prosecution for violation of the laws of this state relating to operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or the commission of vehicular homicide or manslaughter while under the influence of alcohol or drugs, or both, or in any prosecution for a violation of a city ordinance relating to the operation or attempted operation of a vehicle 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:

(a) 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.

(b) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol to a degree that renders the person incapable of driving safely.

(c) 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 incapable of safely driving a vehicle, that fact may be considered to determine if the defendant was under the influence of drugs, or both alcohol and drugs, to a degree that renders the defendant incapable of driving safely.

KSA 8-1006 — Same; submission of other evidence; preservation of samples not required

Same; submission of other evidence; preservation of samples not required.

(a) The provisions of K.S.A.

8-1005

, and amendments thereto, 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.

(b) Nothing in this act shall require any samples of blood, breath or urine to be preserved for or furnished to the person for independent testing.

KSA 8-1007 — Same; act supplemental; invalidity of part

Same; act supplemental; invalidity of part.

This act shall be construed as supplemental to existing legislation; and if any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

KSA 8-1008 — Alcohol and drug evaluations; when required; providers; reports; standardized substance use evaluations

Alcohol and drug evaluations; when required; providers; reports; standardized substance use evaluations.

(a) As used in this section, "provider" means: (1) A professional licensed by the behavioral sciences regulatory board to diagnose and treat mental or substance use disorders at the independent level who is compliant with the requirements set forth by the secretary for aging and disability services as described in subsection (f); or (2) a professional licensed by the behavioral sciences regulatory board who is working in an alcohol and drug treatment facility licensed by the secretary for aging and disability services as meeting the requirements described in subsection (f).

(b) A provider shall provide:

(1) Alcohol and drug evaluations, prior to sentencing, of any person who is convicted of a violation of K.S.A.

8-2,144

or

8-1567

, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes; and

(2) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging 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 the acts prohibited by that statute.

(c) A provider shall be capable of providing, within the judicial district: (1) The evaluations required under subsection (b); (2) the alcohol and drug evaluation report required under subsection (d) or (e); (3) the follow-up duties specified under subsection (d) or (e) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. The secretary for aging and disability services shall provide each judicial district with an electronic list of providers, and, except as provided further, such list shall be used when selecting a provider to be used as described in subsections (d) and (e). The secretary for aging and disability services shall also make all such lists publicly available on the official website of the Kansas department for aging and disability services. Any provider performing services in any judicial district under this section prior to July 1, 2011, may continue to perform those services until July 1, 2013.

(d) (1) Except as provided further, prior to sentencing, an alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A.

8-2,144

or

8-1567

, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes. The alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. Except as provided further, the court shall order that the cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service. If the court finds that such person is indigent, the provider shall agree to accept payment as ordered by the court and the court shall order that the cost of any alcohol and drug evaluation be paid to the provider by such person as part of the judgment. The cost of any such evaluation shall be not less than $150.

(2) The provisions of this subsection shall not apply to any person convicted pursuant to K.S.A.

8-2,144

(b)(1)(C) or K.S.A.

8-1567

(b)(1)(B), (b)(1)(C) or (b)(1)(D), and amendments thereto.

(e) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging 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 the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service, and shall be not less than $150.

(f) On and after July 1, 2013, all alcohol and drug evaluations conducted pursuant to this section shall utilize a standardized substance use evaluation approved by the secretary for aging and disability services and be submitted in a format approved by the secretary for aging and disability services. On or before July 1, 2013, the secretary for aging and disability services shall promulgate rules and regulations to implement this section.

KSA 8-1009 — Determination by prosecuting attorney of whether diversion agreement to be allowed

Determination by prosecuting attorney of whether diversion agreement to be allowed.

(a) Upon the filing of a first complaint, indictment or information alleging a person has violated K.S.A.

8-1567

, and amendments thereto, or a county resolution which prohibits the acts prohibited by that statute, and prior to conviction thereof, the district attorney or county attorney shall determine whether the defendant shall be allowed to enter into a diversion agreement in accordance with this act.

(b) Upon the filing of a first complaint, citation or notice to appear alleging a person has violated a city ordinance which prohibits the acts prohibited by K.S.A.

8-1567

, and amendments thereto, and prior to conviction thereof, the city attorney shall determine whether the defendant shall be allowed to enter into a diversion agreement in accordance with this act*.

KSA 8-1010 — Severability

Severability.

If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

KSA 8-1011 — Immunity from liability for damage to vehicle operated by or in control of person arrested or in custody

Immunity from liability for damage to vehicle operated by or in control of person arrested or in custody.

A law enforcement officer, and the state or any political subdivision of the state that employs a law enforcement officer, arresting or taking custody of a person for any offense involving the operation of or attempt to operate a vehicle while under the influence of alcohol or drugs, or both, shall have immunity from any civil or criminal liability for the care and custody of the vehicle that was being operated by or was in the physical control of the person arrested or in custody if the law enforcement officer acts in good faith and exercises due care.

KSA 8-1012 — Preliminary screening test of breath or oral fluid; request by officer, reasonable suspicion; use of results of test; additional tests; approved devices

Preliminary screening test of breath or oral fluid; request by officer, reasonable suspicion; use of results of test; additional tests; approved devices.

(a) 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 oral fluid, 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.

(b) 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.

(c) 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 oral fluid shall be conducted in accordance with rules and regulations, if any, approved pursuant to K.S.A.

75-712h

, and amendments thereto.

KSA 8-1013 — Definitions

Definitions.

As used in K.S.A.

8-1001

through

8-1018

, and amendments thereto:

(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, prior to their repeal, 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, conviction of a violation of aggravated battery as described in K.S.A.

21-5413

(b)(3) or (b)(4), and amendments thereto, or conviction of a violation of involuntary manslaughter as described in K.S.A.

21-5405

(a)(3) or (a)(5), 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 date 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 0.08 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.

KSA 8-1014 — Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction; increased penalties for blood or breath alcohol concentration of 0.15 or greater; ignition interlock device

Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction; increased penalties for blood or breath alcohol concentration of 0.15 or greater; ignition interlock device.

(a) Except as provided by subsection (e) and K.S.A.

8-2,142

, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A.

8-1002

, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(3) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device;

(4) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for five years to driving only a motor vehicle equipped with an ignition interlock device; and

(5) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(b) (1) Except as provided by subsections (b)(2) and (e) and K.S.A.

8-2,142

, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for 30 days and at the end of the suspension, restrict the person's driving privileges as provided by K.S.A.

8-1015

(b), and amendments thereto;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(2) Except as provided by subsection (e) and K.S.A.

8-2,142

, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is 0.15 or greater, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for 10 years to driving only a motor vehicle equipped with an ignition interlock device.

(3) Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device for 10 years under this section, such person may petition any district court for relief from such restriction after five years of such restriction have been served. The court shall consider, but not be limited to, whether: (A) Such

person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court; and (B) such person proves installation, maintenance and use of an ignition interlock device approved by the highway patrol throughout the five-year period. If the court finds that the person's driving privileges should be restored, then the court shall electronically report such order to the division. The division, upon receiving such order, shall restore such person's driving privileges, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(c) Except as provided by subsection (e) and K.S.A.

8-2,142

, and amendments thereto, if a person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, penalties shall be imposed pursuant to subsection (b).

(d) Whenever the division is notified by a provider, as defined in K.S.A.

8-1008

, and amendments thereto, or a court that the person has failed to follow any recommendation made by the provider or otherwise ordered by a court for a conviction of a violation of K.S.A.

8-1567

, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such recommendation.

(e) (1) Except as provided in K.S.A.

8-2,142

, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a) or (b), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a) or (b), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act*.

(2) If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) for a test failure and such action is stayed pursuant to K.S.A.

8-259

, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A.

8-1020

, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) for an alcohol or drug-related conviction.

KSA 8-1015 — Same; authorized restrictions of driving privileges; ignition interlock device; completion of ignition interlock device program

Same; authorized restrictions of driving privileges; ignition interlock device; completion of ignition interlock device program.

(a) (1) Whenever a person's driving privileges have been suspended as provided in K.S.A.

8-1014

, and amendments thereto, such person may apply to the division for such person's driving privileges to be restricted for the suspension period to driving only a motor vehicle equipped with an ignition interlock device.

(2) The division shall assess an application fee of $100 for a person to apply to modify the suspension to restricted ignition interlock status.

(3) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A.

8-1017

, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in K.S.A.

8-1014

(a) or (b), and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to K.S.A.

8-1014

(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device.

(2) When a person has completed the suspension pursuant to K.S.A.

8-1014

(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously:

(A) Been convicted of a violation of K.S.A.

8-1599

, and amendments thereto;

(B) been convicted of a violation of K.S.A.

41-727

, and amendments thereto;

(C) been convicted of any violations listed in K.S.A.

8-285

(a), and amendments thereto;

(D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period; or

(E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

(c) Except as provided in subsection (b), when a person has completed the suspension pursuant to K.S.A.

8-1014

(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to K.S.A.

8-1014

(a) or (b), and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(d) (1) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the highway patrol and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated.

(2) Every person who has an ignition interlock device installed as required by law shall be required to complete the ignition interlock device program pursuant to this section and rules and regulations adopted by the secretary of revenue. A person may only complete the ignition interlock device program if the person has not more than two standard violations

and no serious violation in the 90 consecutive days prior to application for reinstatement and the application occurs upon or after expiration of the applicable ignition interlock period required by law. The approved service provider shall provide proof of completion to the division before the person's driving privileges are fully reinstated.

(3) As used in this subsection:

(A) "Standard violation" means any of the following, as reported by the approved service provider:

(i) The driver has blown a BrAC fail when attempting an initial engine start-up breath test;

(ii) the driver has blown a BrAC fail when attempting a required rolling retest;

(iii) the driver fails to execute a valid rolling retest;

(iv) the driver fails to submit to a requested rolling retest by turning the vehicle off to avoid submitting to the rolling retest; or

(v) the driver has blown a high BrAC during an initial engine start-up breath test;

(B) "serious violation" means any of the following, as reported by the approved service provider:

(i) Tampering with the ignition interlock device;

(ii) circumventing the ignition interlock device; or

(iii) the driver has blown a high BrAC during a rolling retest;

(C) "BrAC" means the breath alcohol concentration expressed as weight divided by volume, based upon grams of alcohol per 210 liters of breath;

(D) "BrAC fail" means the ignition interlock device registers a BrAC value equal to or greater than the alcohol setpoint, as defined in rules and regulations adopted by the secretary of revenue, when the intended driver conducts an initial test or retest;

(E) "high BrAC" means a BrAC fail result that registers an alcohol setpoint of 0.08 or greater; and

(F) "rolling retest" means a breath test that is required after the initial engine start-up breath test and while the engine is running.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1).

(f) Upon expiration of the applicable ignition interlock period required by law and completion of the ignition interlock device program as described in subsection (d), the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to K.S.A.

8-1014

KSA 8-1016 — Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction; ignition interlock devices; approval by highway patrol; immunity from civil and criminal liability; rules and regulations; payment of fees by device manufacturers, IID fee program fund; reduced ignition interlock device program costs, eligibility and procedures

Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction; ignition interlock devices; approval by highway patrol; immunity from civil and criminal liability; rules and regulations; payment of fees by device manufacturers, IID fee program fund; reduced ignition interlock device program costs, eligibility and procedures.

(a) The superintendent of the highway patrol may adopt rules and regulations for:

(1) The approval by the highway patrol of models and classes of ignition interlock devices suitable for use by persons whose driving privileges have been restricted to driving a vehicle equipped with such a device;

(2) the calibration and maintenance of such devices, which shall be the responsibility of the manufacturer;

(3) ensuring that each manufacturer provides a reasonable statewide service network where such devices may be obtained, repaired, replaced or serviced and such service network can be accessed 24 hours per day through a toll-free phone service;

(4) the requirements for proper use and maintenance of a certified ignition interlock device by a person during any time period the person's license is restricted by the division to only operating a motor vehicle with an ignition interlock device installed; and

(5) the reporting requirements for the manufacturer to the division and the highway patrol relating to a person's proper use and maintenance of a certified ignition interlock device.

(b) In adopting rules and regulations for approval of ignition interlock devices under subsection (a), the superintendent of the highway patrol shall require that the manufacturer or the manufacturer's representatives calibrate and maintain the devices at intervals not to exceed 60 days. Calibration and maintenance shall include, but not be limited to: Physical inspection of the device, the vehicle and wiring of the device to the vehicle for signs of tampering; calibration of the device and downloading of all data contained within the device's memory; and reporting of any violation or noncompliance to the division and the highway patrol.

(c) (1) If the highway patrol approves an ignition interlock device in accordance with rules and regulations adopted under subsection (a), the highway patrol shall give written notice of the approval to the manufacturer of the device. Such notice shall be admissible in any civil or criminal proceeding in this state.

(2) The manufacturer of an ignition interlock device shall reimburse the highway patrol for any cost incurred in approving or disapproving such device under this section.

(3) (A) The manufacturer of an ignition interlock device shall pay the following fees to the highway patrol for the administration, oversight and monitoring of the ignition interlock program:

(i) A one-time fee of $10 for each ignition interlock device installed by the manufacturer in this state on and after July 1, 2025, counted and remitted on a monthly basis; and

(ii) except as provided in paragraph (3)(B), a fee of $5 per month for each ignition interlock device in use and maintained by the manufacturer in this state, counted and remitted on a monthly basis.

(B) No fee described in paragraph (3)(A)(ii) shall be assessed or remitted if the ignition interlock device is installed for and used by a person who the division determines is eligible for reduced ignition interlock device program costs pursuant to subsection (f).

(4) There is hereby established in the state treasury the IID fee program fund. Such fund shall be administered by the superintendent of the highway patrol. All expenditures from the IID fee program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol or the superintendent of the highway patrol's designee. All moneys received by the superintendent of the highway patrol pursuant to this subsection shall be remitted 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 IID fee program fund. All moneys credited to the IID fee program fund shall be used only for the purpose of funding the administration, oversight and monitoring of the ignition interlock program.

(d) Neither the state nor any agency, officer or employee thereof shall be liable in any civil or criminal proceeding arising out of the use of an ignition interlock device approved under this section.

(e) All rules and regulations of the secretary of revenue adopted pursuant to this section, prior to its amendment by this act, that are described in subsection (a) and are in effect on June 30, 2022, shall be deemed to be the rules and regulations of the superintendent of the highway patrol and shall continue to be effective until amended, revoked or nullified pursuant to law.

(f) (1) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may request reduced ignition interlock device program costs by submitting a request to the division in a form and manner prescribed by the division. The division shall review each request submitted pursuant to this subsection to determine whether the person is eligible for reduced ignition interlock device program costs. A person shall be eligible for reduced

ignition interlock device program costs if the:

(A) Person's annual household income is less than or equal to 150% of the federal poverty level;

(B) person is enrolled in the food assistance, child care subsidy or cash assistance program pursuant to K.S.A.

39-709

, and amendments thereto; or

(C) person is currently eligible for the low income energy assistance program as determined by the department for children and families.

(2) If the division determines that the person is eligible for reduced ignition interlock device program costs, the person shall be responsible for paying 50% of the program costs. The manufacturer providing the person's device shall adjust the manufacturer's charge for services accordingly.

(3) The secretary of revenue shall adopt rules and regulations establishing the requirements and guidelines for receiving reduced ignition interlock device program costs pursuant to this subsection.

(g) As used in this section, "federal poverty level" means the most recent poverty income guidelines published in the calendar year by the United States department of health and human services.

KSA 8-1017 — Circumvention of ignition interlock device; penalty

Circumvention of ignition interlock device; penalty.

(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.

KSA 8-1019 — Victim impact statement and restitution requirements

Victim impact statement and restitution requirements.

(a) As used in this section, "alcohol or drug-related offense" means: (1) A violation of K.S.A.

8-1567

, and amendments thereto, or any ordinance of a city or resolution of a county prohibiting the acts prohibited by that statute; or (2) any other offense arising out of the operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both.

(b) Prior to the sentencing of a person convicted of an alcohol or drug-related offense which resulted in serious bodily injury to a person or the death of a person, the court shall cause reasonable attempts to be made to notify the victim or the victim's family, who shall be given an opportunity to make a victim impact statement as to the impact of the offense on the victim's life or the lives of the victim's family members.

(c) Any court sentencing a person convicted of an alcohol or drug-related offense which resulted in personal injury to a person, the death of a person or injury to a person's property may require, in addition to any other penalty provided by law, that the convicted person pay restitution as a condition of probation or parole.

KSA 8-1020 — Administrative hearing; requirements; procedure

Administrative hearing; requirements; procedure.

(a) Any licensee served with an officer's certification and notice of suspension pursuant to K.S.A.

8-1002

, and amendments thereto, may request an administrative hearing. Such request may be made either by:

(1) Mailing a written request which is postmarked 14 days after service of notice; or

(2) transmitting a written request by electronic facsimile which is received by the division within 14 days after service of notice.

(b) If the licensee makes a timely request for an administrative hearing and makes a timely payment of the required hearing fee, any temporary license issued pursuant to K.S.A.

8-1002

, and amendments thereto, shall remain in effect until the 30

th

day after the effective date of the decision made by the division.

(c) If the licensee fails to make a timely request for an administrative hearing together with the required hearing fee, the licensee's driving privileges shall be suspended or suspended and then restricted in accordance with the notice of suspension served pursuant to K.S.A.

8-1002

, and amendments thereto.

(d) (1) Upon receipt of a timely request for a hearing together with the required hearing fee, the division shall forthwith set the matter for hearing before a representative of the director and provide notice of the extension of temporary driving privileges. The hearing shall be held by telephone conference call unless the hearing request includes a request that the hearing be held in person before a representative of the director. The officer's certification and notice of suspension shall inform the licensee of the availability of a hearing before a representative of the director. Except for a hearing conducted by telephone conference call, the hearing shall be conducted in the county where the arrest occurred or a county adjacent thereto.

(2) The division shall charge a fee of $50 for a hearing, to be paid within the time period for making a timely request for a hearing, whether held by telephone or in person, to be applied by the division for administrative costs to conduct the hearing. The division shall remit all hearing 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. The hearing fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such hearing. 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.

(e) Except as provided in subsection (f), prehearing discovery shall be limited to the following documents, which shall be provided to the licensee or the licensee's attorney no later than seven days prior to the date of hearing:

(1) The officer's certification and notice of suspension;

(2) in the case of a breath or blood test failure, copies of documents indicating the result of any evidentiary breath or blood test administered at the request of a law enforcement officer;

(3) in the case of a breath test failure, a copy of the affidavit showing certification of the officer and the instrument; and

(4) in the case of a breath test failure, a copy of the Kansas department of health and environment testing protocol checklist.

(f) At or prior to the time the notice of hearing is sent, the division shall issue an order allowing the licensee or the licensee's attorney to review any law enforcement report and video or audio tape record made of the events upon which the administrative action is based. Such review shall take place at a reasonable time designated by the law enforcement agency and shall be made at the location where the law enforcement report or video or audio tape is kept. The licensee may obtain a copy of any such law enforcement report or video or audio tape upon request and upon payment of a reasonable fee to the law enforcement agency, not to exceed $25 per tape or $.25 per page of the law enforcement report.

(g) Witnesses at the hearing shall be limited to the licensee, to any law enforcement officer who signed the certification form and to one other witness who was present at the time of the issuance of the certification and called by the licensee. The presence of the certifying officer or officers shall not be required, unless requested by the licensee at the time of making the request for the hearing. The examination of a law enforcement officer shall be restricted to the factual circumstances relied upon in the officer's certification.

(h) (1) If the officer certifies that the person refused the test, the scope of the hearing shall be limited to whether:

(A) A law enforcement officer had reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or 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 or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(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

(D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) If the officer certifies that the person failed a breath test, the scope of the hearing shall be limited to whether:

(A) 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 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 or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(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;

(D) the testing equipment used was certified by the Kansas department of health and environment;

(E) the person who operated the testing equipment was certified by the Kansas department of health and environment;

(F) the testing procedures used substantially complied with the procedures set out by the Kansas department of health and environment;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's breath; and

(H) the person was operating or attempting to operate a vehicle.

(3) If the officer certifies that the person failed a blood test, the scope of the hearing shall be limited to whether:

(A) 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 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 or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(B) the person was in custody or arrested or was involved in a vehicle accident or collision resulting in property damage, personal injury or death;

(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;

(D) the testing equipment used was reliable;

(E) the person who operated the testing equipment was qualified;

(F) the testing procedures used were reliable;

(G) the test result determined that the person had an alcohol concentration of .08 or greater in such person's blood; and

(H) the person was operating or attempting to operate a vehicle.

(i) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, an affidavit of the custodian of records at the Kansas department of health and environment stating that the breath testing device was certified and the operator of such device was certified on the date of the test shall be admissible into evidence in the same manner and with the same force and effect as if the certifying officer or employee of the Kansas department of health and environment had testified in person. A certified operator of a breath testing device shall be competent to testify regarding the proper procedures to be used in conducting the test.

(j) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, in which the report of blood test results have been prepared by the Kansas bureau of investigation or other forensic laboratory of a state or local law enforcement agency are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

(k) At the hearing, the licensee has the burden of proof by a preponderance of the evidence to show that the facts set out in the officer's certification are false or insufficient and that the order suspending or suspending and restricting the licensee's driving privileges should be dismissed.

(l) Evidence at the hearing shall be limited to the following:

(1) The documents set out in subsection (e);

(2) the testimony of the licensee;

(3) the testimony of any certifying officer;

(4) the testimony of any witness present at the time of the issuance of the certification and called by the licensee;

(5) any affidavits submitted from other witnesses;

(6) any documents submitted by the licensee to show the existence of a medical condition, as described in K.S.A.

8-1001

, and amendments thereto; and

(7) any video or audio tape record of the events upon which the administrative action is based.

(m) After the hearing, the representative of the director shall enter an order affirming the order of suspension or suspension and restriction of driving privileges or for good cause appearing therefor, dismiss the administrative action. If the representative of the director enters an order affirming the order of suspension or suspension and restriction of driving privileges, the suspension or suspension and restriction shall begin on the 30

th

day after the effective date of the order of suspension or suspension and restriction. If the person whose privileges are suspended is a nonresident licensee, the license of the person shall be forwarded to the appropriate licensing authority in the person's state of residence if the result at the hearing is adverse to such person or if no timely request for a hearing is received.

(n) The representative of the director may issue an order at the close of the hearing or may take the matter under advisement and issue a hearing order at a later date. If the order is made at the close of the hearing, the licensee or the licensee's attorney shall be served with a copy of the order by the representative of the director. If the matter is taken under advisement or if the hearing was by telephone conference call, the licensee and any attorney who appeared at the administrative hearing upon behalf of the licensee each shall be served with a copy of the hearing order by mail. Any law enforcement officer who appeared at the hearing also may be mailed a copy of the hearing order. The effective date of the hearing order shall be the date upon which the hearing order is served, whether served in person or by mail.

(o) The licensee may file a petition for review of the hearing order pursuant to K.S.A.

8-259

, and amendments thereto. Upon filing a petition for review, the licensee shall serve the secretary of revenue with a copy of the petition and summons. Upon receipt of a copy of the petition for review by the secretary, the temporary license issued pursuant to subsection (b) shall be extended until the decision on the petition for review is final.

(p) Such review shall be in accordance with this section and the Kansas judicial review act. To the extent that this section and any other provision of law conflicts, this section shall prevail. The petition for review shall be filed within 14 days after the effective date of the order. Venue of the action for review is the county where the person was arrested or the accident occurred, or, if the hearing was not conducted by telephone conference call, the county where the administrative proceeding was held. The action for review shall be by trial de novo to the court and the evidentiary restrictions of subsection (l) shall not apply to the trial de novo. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension or suspension and restriction under the provisions of this act. Notwithstanding K.S.A.

77-617

, and amendments thereto, the court: (1) May also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, even if such issue was not raised before the agency; and (2) shall also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, if such issue is raised by the petitioner in the petition for review, even if such issue was not raised before the agency. If the court finds that the grounds for action by the agency have been met, the court shall affirm.

(q) Upon review, the licensee shall have the burden to show that the decision of the agency should be set aside.

(r) Notwithstanding the requirement to issue a temporary license in K.S.A.

8-1002

, and amendments thereto, and the requirements to extend the temporary license in this section, any such temporary driving privileges are subject to restriction, suspension, revocation or cancellation as provided in K.S.A.

8-1014

, and amendments thereto, or for other cause.

(s) Upon motion by a party, or on the court's own motion, the court may enter an order restricting the driving privileges allowed by the temporary license provided for in K.S.A.

8-1002

, and amendments thereto, and in this section. The temporary license also shall be subject to restriction, suspension, revocation or cancellation, as set out in K.S.A.

8-1014

, and amendments thereto, or for other cause.

(t) The facts found by the hearing officer or by the district court upon a petition for review shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension or suspension and restriction to be imposed under this section.

(u) All notices affirming or canceling a suspension under this section, all notices of a hearing held under this section and all issuances of temporary driving privileges pursuant to this section shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing, except that this provision shall not apply to any licensee where such application would result in a manifest

injustice.

(v) The provisions of K.S.A.

60-206

, and amendments thereto, regarding the computation of time shall be applicable in determining the time for requesting an administrative hearing as set out in subsection (a) and to the time for filing a petition for review pursuant to subsection (o) and K.S.A.

8-259

, and amendments thereto.

KSA 8-1021 — Impoundment of motor vehicle for K.S.A. 8-1567 violation; failure to pay fees or take repossession; disposition of vehicle

Impoundment of motor vehicle for K.S.A. 8-1567 violation; failure to pay fees or take repossession; disposition of vehicle.

If the owner of a motor vehicle which has been impounded pursuant to K.S.A.

8-1567

or K.S.A.

8-1022

, and amendments thereto, refuses to pay any towing, impoundment, storage or other fees relating to the impoundment or immobilization of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle. If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A.

8-1102

, and amendments thereto. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A.

8-1103

through

8-1108

, and amendments thereto.

KSA 8-1022 — Permitting driving in violation of K.S.A. 8-1014; penalties

Permitting driving in violation of K.S.A. 8-1014; penalties.

(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.

KSA 8-1023 — Testing not considered medical care; information to be provided law enforcement officer; costs, assessment; privileges not applicable

Testing not considered medical care; information to be provided law enforcement officer; costs, assessment; privileges not applicable.

(a) The testing and method of testing consented to under K.S.A.

8-1001

, and amendments thereto, shall not be considered to have been conducted for any medical care or treatment purpose. The results of such test, the person's name whose bodily substance is drawn or tested, the location of the test or procedure, the names of all health care providers and personnel who participated in the procedure or test, and the date and time of the test or procedure are required by law to be provided to the requesting law enforcement officer or the law enforcement officer's designee after the requesting law enforcement officer has complied with K.S.A.

8-1001

, and amendments thereto.

(b) All costs of conducting any procedure or test requested by a law enforcement agency and authorized by K.S.A.

8-1001

, and amendments thereto, including the costs of the evidence collection kits shall be charged to and paid by the county where the alleged offense was committed. Such county may be reimbursed such costs upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A.

28-172a

, and amendments thereto.

(c) The cost assessed under K.S.A.

8-1001

, and amendments thereto, shall be the then current medicaid rate for any such procedure or test, or both.

(d) Notwithstanding any other law to the contrary, the collection and delivery of the sample and required information to the law enforcement officer pursuant to K.S.A.

8-1001

, and amendments thereto, shall not be subject to the physician-patient privilege or any other law that prohibits the transfer, release or disclosure of the sample or of the required information.

KSA 8-1024 — Immunity from liability for persons and entities involved in testing

Immunity from liability for persons and entities involved in testing.

No medical care facility, clinical laboratory, medical clinic, other medical institution, person licensed to practice medicine or surgery, person acting under the direction of any such licensed person, licensed physician assistant, registered nurse, licensed practical nurse, medical technician, paramedic, advanced emergency medical technician, phlebotomist, health care provider or person who participates in good faith in the obtaining, withdrawal, collection or testing of blood, breath, urine or other bodily substance at the direction of a law enforcement officer pursuant to K.S.A.

8-1001

, and amendments thereto, or as otherwise authorized by law, shall incur any civil, administrative or criminal liability as a result of such participation, regardless of whether or not the patient resisted or objected to the administration of the procedure or test.

KSA 8-1026 — Ignition interlock device restriction; reinstatement of driver's license without completion; ignition interlock device program, when; procedures and eligibility

Ignition interlock device restriction; reinstatement of driver's license without completion; ignition interlock device program, when; procedures and eligibility.

(a) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed and who meets the requirements of subsection (b) may request reinstatement of such person's driver's license by submitting a request to the division in a form and manner prescribed by the division.

(b) The division shall approve the request for reinstatement of the person's driver's license if the division determines all the following conditions are met:

(1) The person's ignition interlock device restriction period has been extended at least five years, not including any period of incarceration, beyond the initial ignition interlock device restriction period required by law due to the person's failure to provide the division with proof of completion of the ignition interlock device program as required by K.S.A.

8-1015

, and amendments thereto;

(2) during the person's ignition interlock device restriction period and any extension thereof, the person has not had an alcohol or drug-related conviction or occurrence, as those terms are defined by K.S.A.

8-1013

, and amendments thereto, or a conviction of a violation of K.S.A.

8-1017

, and amendments thereto, or of a law of another state, or of a political subdivision thereof, that prohibits the acts prohibited by K.S.A.

8-1017

, and amendments thereto;

(3) during the person's ignition interlock device restriction period and any extension thereof, the person has not had any of the following:

(A) Conviction of a violation of K.S.A.

8-1599

, and amendments thereto;

(B) conviction of a violation of K.S.A.

41-727

, and amendments thereto;

(C) conviction of any violation listed in K.S.A.

8-285

(a), and amendments thereto;

(D) conviction of two or more moving traffic violations committed on separate occasions; or

(E) revocation, suspension, cancellation or withdrawal of the person's driving privileges due to another action by the division or a court; and

(4) at the time of submitting the request to the division, the person does not have any pending charges or proceedings involving any violation listed in subsection (b)(2) or (3).

KSA 8-1101 — Abandoning and leaving on highways; definitions

Abandoning and leaving on highways; definitions.

As used in this act:

(a) "Public agency" means and includes the department of transportation, the Kansas turnpike authority, a county, city and township.

(b) "Motor vehicle" means every vehicle or tractor trailer combination that is self-propelled by which any person or property is or may be transported or drawn upon a highway except vehicles used exclusively upon stationary rails or tracks.

(c) "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 the purposes of vehicular travel.

(d) "Law enforcement officer" means and includes the Kansas highway patrol, police and sheriffs who are vested with the power and authority of peace, police and law enforcement, or those authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(e) "Person" means the same as defined in K.S.A.

8-1447

, and amendments thereto.

KSA 8-1102 — Motor vehicle abandoned on public highway or property open to use by public; public agency may impound; disposition; motor vehicle abandoned on private property; criminal trespass; impounding and disposition of vehicle; notice; required certificate of compliance to a purchaser; recovery from impoundment, requirements

Motor vehicle abandoned on public highway or property open to use by public; public agency may impound; disposition; motor vehicle abandoned on private property; criminal trespass; impounding and disposition of vehicle; notice; required certificate of compliance to a purchaser; recovery from impoundment, requirements.

(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 that has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner:

(A) 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 where 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 15 calendar days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection.

(B) 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. Such 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.

(C) 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. A public agency shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle authorized by this section.

(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 that 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, that 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 that 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 that 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.

KSA 8-1103 — Towed motor vehicles, lien created thereon; procedure; personal property; required certificate of compliance to a purchaser; providing notice of fee; city ordinance or county resolution authorizing the towing of vehicle from private property; limitations on towing vehicles to locations outside of Kansas

Towed motor vehicles, lien created thereon; procedure; personal property; required certificate of compliance to a purchaser; providing notice of fee; city ordinance or county resolution authorizing the towing of vehicle from private property; limitations on towing vehicles to locations outside of Kansas.

(a) (1) Whenever any person providing wrecker or towing service, as defined by K.S.A.

66-1329

, and amendments thereto, while lawfully in possession of a vehicle, at the direction of a law enforcement officer, the owner or, if a city ordinance or county resolution authorizes the towing of vehicles by a wrecker or towing service, a self-service storage facility operator as provided by K.S.A.

58-817

, and amendments thereto, or as otherwise provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act.

(2) If the name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien. Any vehicle remaining in the possession of a person providing wrecker or towing service for a period of 30 days after such wrecker or towing service was provided may be sold to pay the reasonable or agreed charges for such recovery, transportation, protection, storage or safekeeping of such vehicle and personal property therein, the costs of such sale, the costs of notice to the owner of the vehicle and publication after giving the notices required by this act, unless a court order has been issued to hold such vehicle for the purpose of a criminal investigation or for use as evidence at a trial.

(3) If a court orders any vehicle to be held for the purpose of a criminal investigation or for use as evidence at a trial, then such order shall be in writing, and the court shall assess as costs the reasonable or agreed charges for the protection, storage or safekeeping accrued while the vehicle was held pursuant to such written order.

(4) Any personal property within the vehicle need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid, or satisfactory arrangements for payment have been made, except as provided under subsection (c) or for personal medical supplies which shall be released to the owner thereof upon request. The person in possession of such vehicle and personal property shall be responsible only for the reasonable care of such property. Any personal property within the vehicle not returned to the owner shall be sold at the auction authorized by this act.

(5) A person providing wrecker or towing service shall provide a certification of compliance to a purchaser pursuant to K.S.A. 2025 Supp.

8-1109

, and amendments thereto, upon the sale and transfer of a vehicle authorized by this section.

(b) At the time of providing wrecker or towing service, any person providing such wrecker or towing service shall give written notice to the driver, if available, of the vehicle being towed that a fee will be charged for storage of such vehicle. Failure to give such written notice shall invalidate any lien established for such storage fee.

(c) A city ordinance or county resolution authorizing the towing of vehicles from private property shall specify in such ordinance or resolution:

(1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees;

(2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and

(3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.

(d) A person providing towing services shall not tow a vehicle to a location outside of Kansas without the consent of either:

(1) The driver or owner of the motor vehicle;

(2) a motor club of which the driver or owner of the motor vehicle is a member; or

(3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

KSA 8-1104 — Sale of vehicles and personal property; verification; notice

Sale of vehicles and personal property; verification; notice.

(a) Before any such vehicle and personal property is sold, the person intending to sell such vehicle 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 person took possession of the vehicle. Every person intending to sell any vehicle pursuant to this section that cannot be verified by the division of vehicles shall obtain an interstate search of registered owners and lienholders unless:

(1) The vehicle is 15 years of age or older; or

(2) the vehicle is determined by the division of vehicles to be a nonrepairable vehicle pursuant to K.S.A.

8-135c

, and amendments thereto.

(b) Notice of sale, as provided in this act, shall be mailed by certified mail to any such registered owner and any such lienholders within 15 calendar days after receipt of verification of the last owner and any lienholders, if any. The person intending to sell such vehicle and personal property pursuant to this act shall cause a notice of the time and place of sale, containing a description of the vehicle and personal property, to be published in a newspaper published in the county or city where such sale is advertised to take place, and if there is no newspaper published in such county, then the notice shall be published in some newspaper of general circulation in such county. Notices given under this section shall state that if the amount due, together with storage, publication, notice and sale costs, is not paid within 15 days from the date of mailing, the vehicle and personal property will be sold at public auction. Notice of an auction shall be published at least seven days prior to the scheduled auction.

KSA 8-1105 — Sale, public auction

Sale, public auction.

All sales under this act shall be at public auction, for cash.

KSA 8-1108 — Stopping of storage fees; when

Stopping of storage fees; when.

Failure to give any notice required under the provisions of this act shall stop the imposition of storage fees, until the notice provisions are complied with in accordance with the provisions of this act.

KSA 8-1109 — Sale of vehicles by public agency or wrecker or towing service provider; required certificate of compliance to a purchaser

Sale of vehicles by public agency or wrecker or towing service provider; required certificate of compliance to a purchaser.

(a) A public agency or person providing wrecker or towing service shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle pursuant to K.S.A.

8-1102

and

8-1103

, and amendments thereto. A certification of compliance shall allow such purchaser to apply for and receive a certificate of title from the division of vehicles that is free and clear of all liens, security interests and encumbrances.

(b) A certification of compliance shall be completed on a form and in a manner approved by the secretary of revenue, or the secretary's designee. Such certification of compliance shall certify that the requirements of K.S.A.

8-1102

through

8-1104

, and amendments thereto, have been met by the public agency or person providing wrecker or towing service. The certification of compliance form shall be subject to a fee of $20. All certification of compliance fees collected by the division of vehicles, a contractor or a county treasurer pursuant to this subsection shall be retained by the entity who processed the certification of compliance form.

(c) Certification of compliance fees prescribed by subsection (b) may be applied to the purchaser as part of the sale of a vehicle pursuant to K.S.A.

8-1102

and

8-1103

, and amendments thereto. Certification of compliance fees may be applied to the owner of the vehicle if such owner claims the vehicle from a public agency or person providing wrecker or towing service prior to the vehicle being sold at public auction.

(d) A certification of compliance provided for in this section shall also certify that vehicle identification number inspection requirements have been met for any sales of vehicles that are registered or titled in a jurisdiction outside of Kansas in accordance with K.S.A.

8-116a

, and amendments thereto.

(e) The provisions of this section shall take effect on and after January 1, 2024.

KSA 8-1212 — Driver license compact

Driver license compact.

The driver license compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

DRIVER LICENSE COMPACT

Article I. â■■

Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuation or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

Article II. â■■

Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

Article III. â■■

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

Article IV. â■■

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

Article V. â■■

Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

Article VI. â■■

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

Article VII. â■■

Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

Article VIII. â■■

Entry Into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

Article IX. â■■

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provisions of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

KSA 8-1213 — Same; "licensing authority" and "head of the licensing authority" defined

Same; "licensing authority" and "head of the licensing authority" defined.

As used in the compact, the term "licensing authority" with reference to this state, shall mean the division of vehicles of the department of revenue. The division of vehicles shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of articles III, IV and V of the compact. As used in the compact the term "head of the licensing authority" with reference to this state, shall mean the director of vehicles.

KSA 8-1214 — Same; expenses of compact administrator

Same; expenses of compact administrator.

The compact administrator provided for in article VII of the compact shall not be entitled to any additional compensation on account of service as such administrator, but shall be entitled to expenses incurred in connection with duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his or her office or employment.

KSA 8-1215 — Same; "executive head" defined

Same; "executive head" defined.

As used in the compact, with reference to this state, the term "executive head" shall mean the governor.

KSA 8-1216 — Same; reports to division of vehicles

Same; reports to division of vehicles.

Any court or other agency of this state, or a subdivision thereof, which has jurisdiction to take any action suspending, revoking or otherwise limiting a license to drive, shall report any such action and the adjudication upon which it is based to the division of vehicles within ten (10) days of such action on forms furnished by or approved by the director of vehicles.

KSA 8-1217 — Same; application of K.S.A. 8-254 and article IV of compact

Same; application of K.S.A. 8-254 and article IV of compact.

The conduct or offenses described in paragraphs (1), (2), (3) and (4) of subsection (a) of article IV of the compact with reference to this state, shall mean the conduct or offenses respectively described in paragraphs numbered 1, 2, 3 and 5 of K.S.A.

8-254

. The offenses described in paragraphs 4 and 5 of K.S.A.

8-254

shall be included, but not by way of limitation, within the convictions mentioned in subsection (b) of article IV of the compact.

KSA 8-1218 — Same; licenses required; surrender of certain licenses

Same; licenses required; surrender of certain licenses.

This state shall require a Kansas resident to secure a driver's license from the division of vehicles or its agents and to surrender any outstanding license to drive, issued by another state: Provided, however, That the out-of-state driver's license may be retained as provided in subsection (a) of K.S.A.

8-235

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KSA 8-1219 — Nonresident Violator Compact

Nonresident Violator Compact.

The Nonresident Violator Compact, called "the compact," is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT

Article I

Findings, Declaration of Policy and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than the motorist's home jurisdiction:

(i) must post collateral or bond to secure appearance for trial at a later date; or

(ii) if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) is taken directly to court for trial to be held.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after the motorist has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue travelling after receiving the traffic citation, could return to such motorist's home jurisdiction and disregard such motorist's duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in the motorist's home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue travelling after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2), is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Article II

Definitions

(a) In the nonresident violator compact, the following words have the meaning indicated, unless the context requires otherwise.

(b) (1) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance" means the act of answering a citation, summons or subpoena through appearance at court, a tribunal, and/or payment of fines and costs.

(4) "Court" means a court of law or traffic tribunal.

(5) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(7) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, provinces of Canada, or other countries.

(9) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that such motorist will comply with the terms of that traffic citation.

(11) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the citation" means those options expressly stated upon the citation.

Article III

Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that such motorist will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it should take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the compact manual.

(e) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Article IV

Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

Article V

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

Article VI

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction the administrator represents. A compact administrator may provide for the discharge of such administrator's duties and the performance of functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairperson and vice chairperson.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize and dispose of the same.

(f) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

Article VII

Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) (1) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairperson of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(ii) Agreement to comply with the terms and provisions of the compact.

(iii) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than 60 days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(c) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Article VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

Article IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairperson within 120 days after receipt of the proposed amendment shall constitute endorsement.

Article X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party jurisdiction or of the United States or the applicability thereof to any government agency, person, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Article XI

Title

This compact shall be known as the Nonresident Violator Compact of 1977.

KSA 8-1220 — Same; compact administrator; amendments to compact

Same; compact administrator; amendments to compact.

(a) The governor shall appoint the secretary of revenue or the director of vehicles to be the compact administrator for the nonresident violator compact for the state of Kansas. The compact administrator shall serve at the pleasure of the governor.

(b) Kansas endorsement of amendments to the compact shall be made by the compact administrator with the approval of the governor.

(c) This act shall be subject to section 30 of article 2 of the Kansas constitution.

KSA 8-1221 — Same; resolution of ratification

Same; resolution of ratification.

The resolution of ratification provided for by paragraph (b) of article VII shall be adopted by the Kansas compact administrator appointed under this act. The effective date of entry for Kansas shall be not sooner than January 1, 1983.

KSA 8-1222 — Same; application of compact; rules and regulations

Same; application of compact; rules and regulations.

(a) The provisions of this act shall apply to any court which has any jurisdiction to take any action suspending, revoking or otherwise limiting a driver's license. The provisions of this act shall apply to all law enforcement officers who are authorized to enforce laws of this state relating to vehicular traffic or to enforce ordinances or regulations of any local authority as defined in K.S.A.

8-1432

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(b) The secretary of revenue may adopt rules and regulations for the administration of this act.

KSA 8-1324 — Nondriver's identification card; application for; proof of age, identity and lawful presence; anatomical gift; veterans; persons needing assistance with cognition; fees; electronic online renewal

Nondriver's identification card; application for; proof of age, identity and lawful presence; anatomical gift; veterans; persons needing assistance with cognition; fees; electronic online renewal.

(a) Any resident who does not hold a current valid Kansas driver's license may make application to the division of vehicles and be issued one identification card.

(b) (1) Each application for an identification card shall include a question asking if the applicant is willing to give such applicant's authorization to be listed as an organ, eye and tissue donor in the Kansas donor registry in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto. The gift would become effective upon the death of the donor.

(2) For the purpose of obtaining an identification card, an applicant shall submit, with the application, proof of age, proof of identity and proof of lawful presence. An applicant shall submit with the application a photo identity document, except that a non-photo identity document is acceptable if it includes both the applicant's full legal name and date of birth, and documentation showing the applicant's name, the applicant's address of principal residence and the applicant's social security account number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A.

74-2014

, and amendments thereto. If the applicant does not have a social security number, the applicant shall provide proof of lawful presence and Kansas residency. The division shall assign a distinguishing number to the identification card. Before issuing an identification card to a person, the division shall make reasonable efforts to verify with the issuing agency the issuance, validity and completeness of each document required to be presented by the applicant to prove age, identity and lawful presence.

(c) The division shall not issue an identification card to any person who fails to provide proof that the person is lawfully present in the United States. If an applicant provides evidence of lawful presence as set out in K.S.A.

8-240

(b)(2)(E) through (2)(I), and amendments thereto, or is an alien lawfully admitted for temporary residence under K.S.A.

8-240

(b)(2)(B), and amendments thereto, the division may only issue a temporary identification card to the person under the following conditions:

(1) A temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year;

(2) a temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date upon which it expires;

(3) no temporary identification card issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by K.S.A.

8-1325

, and amendments thereto; and

(4) a temporary identification card issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and conditions set forth in this subsection for the issuance of the original temporary identification card.

(d) The division shall not issue an identification card to any person who holds a current valid Kansas driver's license unless such driver's license has been physically surrendered pursuant to the provisions of K.S.A.

8-1002

(e), and amendments thereto.

(e) The division shall refuse to issue an identification card to a person holding a driver's license or identification card issued by another state without confirmation that the person is terminating or has terminated the license or identification card.

(f) The parent or guardian of an applicant under 16 years of age shall sign the application for an identification card submitted by such applicant.

(g) (1) The division shall require payment of a fee of $14 at the time application for an identification card is made, except that persons who are 65 or more years of age or who are handicapped, as defined in K.S.A.

8-1,124

, and amendments thereto, shall be required to pay a fee of only $10. In addition to the fees prescribed by this subsection, the division shall require payment of the photo fee established pursuant to K.S.A.

8-243

, and amendments thereto, for the cost of the photograph to be placed on the identification card.

(2) The division shall not require or accept payment of application or photo fees under this subsection for any person 17 years of age or older for purposes of meeting the voter identification requirements of K.S.A.

25-2908

, and amendments thereto. Such person shall:

(A) Swear under oath that such person desires an identification card in order to vote in an election in Kansas and that such person does not possess any of the forms of identification acceptable under K.S.A.

25-2908

, and amendments thereto. The affidavit shall specifically list the acceptable forms of identification under K.S.A.

25-2908

, and amendments thereto; and

(B) produce evidence that such person is registered to vote in Kansas.

(3) The secretary of revenue shall adopt rules and regulations in order to implement the provisions of paragraph (2).

(h) All Kansas identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes.

(i) For the purposes of K.S.A. 8-1324 through

8-1328

, and amendments thereto, a person shall be deemed to be a resident of the state if the person:

(1) Owns, leases or rents a place of domicile in this state;

(2) engages in a trade, business or profession in this state;

(3) is registered to vote in this state;

(4) enrolls the person's child in a school in this state; or

(5) registers the person's motor vehicle in this state.

(j) The division shall require that any person applying for an identification card submit to a mandatory facial image capture. The captured facial image shall be displayed on the front of the applicant's identification card by either:

(1) A digital color image or photograph; or

(2) a laser-engraved photograph of the licensee.

(k) (1) Any person who is a veteran may request that the division issue to such person a nondriver identification card that shall include the designation "VETERAN" displayed on the front of the nondriver identification card at a location to be determined by the secretary of revenue. In order to receive a nondriver identification card described in this subsection, the veteran shall provide a copy of the veteran's DD form 214, NGB form 22 or equivalent discharge document showing character of service as honorable or general under honorable conditions.

(2) As used in this subsection, "veteran" means a person who served in the active military, naval, air or space service, including those groups and individuals listed under 38 C.F.R. Â§ 3.7, and who was discharged or released therefrom under an honorable discharge or a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(l) The director of vehicles may issue a temporary identification card to an applicant who cannot provide valid documentary evidence as defined by subsection (c), if the applicant provides compelling evidence proving current lawful presence. Any temporary identification card issued pursuant to this subparagraph shall be valid for one year.

(m) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act an identification card. Such identification card shall bear a distinguishing number assigned to the cardholder, the full legal name, date of birth, address of principal residence, a brief description of the cardholder, either:

(1) A digital color image or photograph; or

(2) a laser-engraved photograph of the cardholder, and a facsimile of the signature of the cardholder. An identification card that does not contain the address of principal residence of the cardholder as required may be issued to persons who are program participants pursuant to K.S.A.

75-455

, and amendments thereto.

(n) An identification card issued to any person who indicated on the application that the person wished to make an anatomical gift in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto, shall have the word "Donor" placed on the front of the applicant's identification card.

(o) (1) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a nondriver identification card, that shall note such impairment on the nondriver identification card at a location to be determined by the secretary of revenue.

(2) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A.

65-1131

, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

(p) The secretary of revenue shall permit an electronic online renewal of an identification card if the electronic online renewal applicant previously provided documentation of identity, lawful presence and residence to the division for electronic scanning. For purposes of this subsection, the division may rely on the division's most recent, existing color digital image and signature image of the applicant for the nondriver's identification card if the division has such images on file. The determination on whether an electronic online renewal application or equivalent of a nondriver's identification card is permitted shall be made by the director of vehicles or the director's designee. The division shall not renew a nondriver's identification card through an electronic online or equivalent process if the identification card has been previously renewed through an electronic online application in the immediately preceding card's expiration period. No renewal under this subsection shall be granted to any person who is a registered offender pursuant to K.S.A.

22-4901

et seq., and amendments thereto.

KSA 8-1325 — Same; expiration; renewal; fee; anatomical gift; organ donor registry

Same; expiration; renewal; fee; anatomical gift; organ donor registry.

(a) Every identification card shall expire, unless earlier canceled or subsection (c) of K.S.A.

8-1324

, and amendments thereto, applies, on the sixth birthday of the applicant following the date of original issue, except as otherwise provided by K.S.A.

8-1329

, and amendments thereto. Renewal of any identification card shall be made for a term of six years and shall expire in a like manner as the originally issued identification card, unless surrendered earlier or subsection (c) of K.S.A.

8-1324

, and amendments thereto, applies. For any person who has been issued an identification card, the division shall mail a notice of expiration or renewal at least 30 days prior to the expiration of such person's identification card at the address shown on such identification card. The division shall include with such notice, written information required under subsection (b). Any application for renewal received later than 90 days after expiration of the identification card shall be considered to be an application for an original identification card. The division shall require payment of a fee of $14 for each identification card renewal, except that persons who are 65 or more years of age or who are persons with a disability, as defined in K.S.A.

8-1,124

, and amendments thereto, shall be required to pay a fee of $10. Any identification card holder, whose identification card has expired after March 12, 2020, and before March 31, 2021, shall have until June 30, 2021, to renew such identification card.

(b) The division shall reference the website of the agency in a person's notice of expiration or renewal under subsection (a). The division shall provide the following information on the website of the agency:

(1) Information explaining the person's right to make an anatomical gift in accordance with K.S.A.

8-1328

, and amendments thereto, and the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto;

(2) information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

(3) information giving the applicant the opportunity to be placed on the organ donation registry described in paragraph (2);

(4) inform the applicant that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

(5) the division may fulfill the requirements of paragraph (4) by one or more of the following methods:

(A) Providing such information on the website of the agency; or

(B) providing printed material to an applicant who personally applies for an identification card; and

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry described, the division shall within 10 days forward the applicant's name, gender, date of birth and address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

KSA 8-1325a — Same; registered offender; expiration; renewal; distinguishable

Same; registered offender; expiration; renewal; distinguishable.

(a) Notwithstanding the provisions of K.S.A.

8-1325

and

8-1329

, and amendments thereto, an identification card issued to an offender, as defined in K.S.A.

22-4902

, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A.

22-4901

et seq., and amendments thereto, shall expire on the first birthday of the applicant following the date of original issue. Renewal of any identification card issued under this section shall be made for a term of one year and shall expire in a like manner as the originally issued identification card, unless surrendered earlier.

(b) Identification cards issued under this section shall be readily distinguishable indicating that such person is a registered offender.

(c) Identification cards issued under this section shall comply with all other provisions of K.S.A.

8-1324

through

8-1333

, and amendments thereto.

KSA 8-1326 — Same; duplicate identification cards

Same; duplicate identification cards.

(a) If an identification card issued pursuant to this act is lost or destroyed, or if a new name is acquired, the person to whom the card was issued may obtain a duplicate card upon:

(1) Furnishing satisfactory proof of the loss, destruction or name change to the division, including an affidavit stating the circumstances of the loss, destruction or name change;

(2) payment of a fee of $4; and

(3) furnishing proof of the person's identity as provided in subsection (b). The drivers' license examiner also shall compare the applicant with the division's existing information and facial database.

(b) For the purposes of obtaining a duplicate identification card, proof of a person's identity shall include at least two of the following documents, one of which shall bear the person's signature:

(1) Military identification card;

(2) military dependent identification card;

(3) military discharge papers;

(4) military DD214;

(5) an original or certified copy of a state-issued birth certificate;

(6) marriage license;

(7) medicare identification card;

(8) certified copy of court order specifying a change of name of the person;

(9) commercially produced school yearbook with photograph of the person, and the book is less than five years old;

(10) a United States passport;

(11) alien registration documents generated by the United States;

(12) expired or current driver's license or identification card issued by the Kansas division of vehicles or an expired or current driver's license or identification card of another state issued by similar authority, and for any document in this item 12 the document must bear a photograph of the person;

(13) student identification card bearing the photograph and date of birth of the person; or

(14) a copy of any federal or state income tax return bearing the signature of the person.

The division may waive the furnishing of one of the documents required by this subsection in the case of a person who is 65 or more years of age. When additional clarification is needed to adequately describe any of the above items, the division shall specify such clarification in making the requirement for such item.

(c) Any person who loses an identification card and who, after obtaining a duplicate, finds the original card shall immediately surrender the original card to the division.

KSA 8-1327 — Same; unlawful use of identification cards; other unlawful acts relating thereto

Same; unlawful use of identification cards; other unlawful acts relating thereto.

(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 subsections (a)(1) or (a)(9) is a class B nonperson misdemeanor. Violation of subsections (a)(2), (a)(3), (a)(4), (a)(6), (a)(7) or (a)(8) is a class A nonperson misdemeanor. Violation of subsection (a)(5) 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 and to any municipal identification card as defined by K.S.A.

12-16,139

, and amendments thereto.

KSA 8-1328 — Same; card to resemble driver's license; information on card; anatomical gift

Same; card to resemble driver's license; information on card; anatomical gift.

(a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued in accordance with K.S.A.

8-243

, and amendments thereto, and shall adequately describe the registrant. The identification card shall be sealed in transparent plastic or similar substance.

(b) All Kansas identification cards issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body in accordance with the revised uniform anatomical gift act, K.S.A.

65-3220

through

65-3244

, and amendments thereto, except as otherwise provided by this subsection. The statement to be effective shall be signed by the applicant in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the identification card during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 2007, shall remain effective until invalidated. The word "Donor" shall be placed on the front of an applicant's identification card, indicating that the statement for making an anatomical gift under this subsection has been executed by such applicant.

KSA 8-1329 — Same; cards issued to persons under 18 or 21 distinguishable

Same; cards issued to persons under 18 or 21 distinguishable.

(a) An identification card issued to any person under 21 years of age shall expire on such person's twenty-first birthday and shall bear on the face of the card an overprint of the words "UNDER 21" placed diagonally across the card, and a statement to the effect that the card expires on the twenty-first birthday of the person to whom it is issued.

(b) In addition to subsection (a), all identification cards issued on and after July 1, 1997, to persons under the age of 18 years shall also be readily distinguishable from cards issued to persons age 18 years or older.

(c) In addition to the provisions of subsections (a) and (b), on and after July 1, 2004, the secretary of revenue shall implement a vertical format to make identification cards issued to persons under the age of 21 more readily distinguishable.

(d) Renewal of such card shall be in accordance with the provisions of K.S.A.

8-1325

, and amendments thereto.

KSA 8-1330 — Same; division not responsible for accuracy of information on card

Same; division not responsible for accuracy of information on card.

The division shall not be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in identification cards provided for in this act.

KSA 8-1331 — Same; change of address

Same; change of address.

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.

KSA 8-1332 — Identification cards; cancellation of cards; defined

Identification cards; cancellation of cards; defined.

(a) When used in reference to an identification card, "cancellation" means that an identification card is terminated without prejudice and must be surrendered. Cancellation of a card may be made when such card has been issued through error, because the person is not entitled to a card or when voluntarily surrendered to the division.

(b) The division is hereby authorized to cancel any identification card upon determining that the cardholder was not entitled to the issuance of such card or that the cardholder failed to give the required or correct information in such person's application or committed any fraud in making such application. The division shall have authority to cancel any identification card if the division determines the cardholder is not lawfully present in the United States.

(c) Upon cancellation of an identification card or loss of lawful presence in the United States the cardholder must surrender the identification card to the division.

KSA 8-1333 — Same; disposition of moneys; state highway fund

Same; disposition of moneys; state highway fund.

All moneys received pursuant to K.S.A.

8-1324

to

8-1332

, inclusive, and amendments thereto, shall be remitted by the director of the division of vehicles 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 state highway fund.

KSA 8-1342 — Civil penalty for overloading certain vehicles

Civil penalty for overloading certain vehicles.

(a) No person shall, in return for any direct pecuniary benefit, while under no duress, willfully and knowingly cause any vehicle or combination of vehicles to be loaded with a gross weight exceeding the limitation for the maximum gross weight of such a vehicle or combination specified in article 19 of chapter 8 of Kansas Statutes Annotated, if at the time and place of such loading there is available a stationary scale, the accuracy of which is certified in accordance with law, together with a duly designated attendant of such scale. The provisions of this section shall not be deemed to create any civil negligence liability per se for any person who overloads a vehicle or combination of vehicles.

(b) The commission of any act in violation of subsection (a) shall render the violator liable to the state for the payment of a civil penalty, recoverable in an individual action brought by the attorney general or county attorney or district attorney, in a sum set by the court of not more than $500 for each violation.

(c) Civil penalties sued for and recovered by the attorney general shall be paid into the state treasury and credited to the general fund of the state. Civil penalties and contempt penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings are instigated.

KSA 8-1343 — Child passenger safety act

Child passenger safety act.

This act may be cited as the child passenger safety act.

KSA 8-1343a — Same; "passenger car" defined

Same; "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.

KSA 8-1344 — Child passenger safety; restraining systems for children under the age of four; use of booster seats, when; use of seat belts by children, when; exceptions

Child passenger safety; restraining systems for children under the age of four; use of booster seats, when; use of seat belts by children, when; exceptions.

(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, or an autocycle as defined in K.S.A.

8-1497

, 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).

KSA 8-1345 — Same; unlawful acts; penalties; fine waived, when; notification of waiver; defense to action

Same; unlawful acts; penalties; fine waived, when; notification of waiver; defense to action.

(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, or autocycle as defined in K.S.A.

8-1497

, and amendments thereto, 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 K.S.A.

8-1344

(a)(1) or (2), 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 K.S.A.

8-1344

(a)(1) or (2), 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 K.S.A.

8-1344

(a)(2), and amendments thereto.

KSA 8-1346 — Same; nonuse not negligence per se

Same; nonuse not negligence per se.

Failure to employ a child passenger restraint system shall not constitute negligence per se.

KSA 8-1347 — Same; program of public education

Same; program of public education.

The secretary of transportation shall develop a program of public education to promote the use of child passenger safety restraining systems and safety belts for children. As part of this program, the Kansas department of transportation shall make available to law enforcement officers for dissemination, information concerning child passenger safety.

KSA 8-1348 — Driving motor vehicle upon or across real or personal property of another, intentionally damaging same, unlawful; civil liability; suspension of registration

Driving motor vehicle upon or across real or personal property of another, intentionally damaging same, unlawful; civil liability; suspension of registration.

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.

KSA 8-1349 — Funeral processions; definitions

Funeral processions; definitions.

As used in K.S.A. 8-1349 through

8-1352

, and amendments thereto:

(a) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the cemetery, church, chapel or other location where the funeral service is to be held, in the daylights hours, including a funeral lead vehicle or a funeral escort.

(b) "Funeral lead vehicle" means any authorized law enforcement or nonlaw enforcement motor vehicle properly equipped pursuant to K.S.A.

8-1723

, and amendments thereto, or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

(c) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies and groups designated to escort military funeral processions.

KSA 8-1350 — Same; right-of-way at intersections; funeral escort rights and duties; exceptions

Same; right-of-way at intersections; funeral escort rights and duties; exceptions.

(a) Notwithstanding any provision of state law, city ordinance or county resolution relating to traffic control devices or right-of-way provisions, pedestrians and operators of all vehicles, except as provided in subsection (b), funeral escorts may reasonably direct vehicle and pedestrian traffic to allow funeral processions to pass through intersections and disregard traffic control devices. When the funeral lead vehicle is directed by a funeral escort to lawfully enter an intersection, the remaining vehicles in the funeral procession may follow such funeral lead vehicle through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state law, city ordinance or county resolution.

(b) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:

(1) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching authorized emergency vehicle, as defined in K.S.A.

8-1404

, and amendments thereto, using an audible signal meeting the requirements of K.S.A.

8-1738

, and amendments thereto, or a visual signal meeting the requirements of K.S.A.

8-1720

, and amendments thereto;

(2) operators of vehicles in a funeral procession shall yield the right-of-way when directed by a police officer;

(3) operators of vehicles in a funeral procession shall exercise due care when participating in a funeral procession and avoid colliding with any other vehicle or pedestrian in accordance with K.S.A.

8-1535

, and amendments thereto; and

(4) an operator of a vehicle in a funeral procession shall not have the right-of-way at an intersection, if the vehicle is more than 300 feet behind the immediately preceding vehicle in the funeral procession.

KSA 8-1351 — Same; vehicle rights and duties

Same; vehicle rights and duties.

(a) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(b) In accordance with K.S.A.

8-1523

, and amendments thereto, any state law, city ordinance or county resolution stating that motor vehicles shall be operated to allow sufficient space, enabling any other vehicle to enter and occupy such space without danger, shall not be applicable to funeral processions.

(c) Each vehicle that is a part of a funeral procession shall have such vehicle's headlights, either high beam or low beam, and tail lights lighted and may also use flashing hazard lights if the vehicle is so equipped.

KSA 8-1352 — Same; notice to city or county; additional city or county requirements not in conflict authorized

Same; notice to city or county; additional city or county requirements not in conflict authorized.

Nothing in K.S.A.

8-1349

through

8-1351

, and amendments thereto, shall be construed to prohibit any city or county from requiring:

(a) A law enforcement or nonlaw enforcement funeral lead vehicle or funeral escort for a funeral procession. A city or county and may require prior notice of a planned funeral procession be given to the city police department or the county sheriff; or

(b) compliance with any other city ordinance or county resolution not in conflict with the provisions of K.S.A.

8-1349

through

8-1351

, and amendments thereto.

KSA 8-1401 — Definitions applicable to uniform act regulating traffic on highways

Definitions applicable to uniform act regulating traffic on highways.

As used in this act, the words and phrases defined in the sections of article 14 of chapter 8 of the Kansas Statutes Annotated, and amendatory thereof or supplemental thereto, shall have the meanings respectively ascribed to them therein.

KSA 8-1402 — "Alley" defined

"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.

KSA 8-1402a — "All-terrain vehicle" defined

"All-terrain vehicle" defined.

"All-terrain vehicle" means any motorized nonhighway vehicle, other than an electric-assisted bicycle, that is 55 inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 1,500 pounds or less and traveling on three or more nonhighway tires.

KSA 8-1403 — "Arterial street" defined

"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.

KSA 8-1404 — "Authorized emergency vehicle" defined; exemptions

"Authorized emergency vehicle" defined; exemptions.

"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.

KSA 8-1405 — "Bicycle" defined

"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.

KSA 8-1406 — "Bus" defined

"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.

KSA 8-1407 — "Business district" defined

"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.

KSA 8-1408 — "Cancellation of a driver's license" defined

"Cancellation of a driver's license" defined.

"Cancellation of a driver's license" means the annulment or termination by formal action of the division of a person's driver's license because of some error or defect in the license or because the licensee is not entitled to such license, but the cancellation of a license is without prejudice, except for a cancellation because of a violation of K.S.A.

8-260

, and amendments thereto, and application for a new license may be made at any time after such cancellation.

KSA 8-1409 — "Commission," "secretary" and "department" defined

"Commission," "secretary" and "department" defined.

(a) "Commission" means the secretary of transportation.

(b) "Secretary" means the secretary of transportation.

(c) "Department" means the department of transportation.

KSA 8-1410 — "Controlled-access highway" defined

"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.

KSA 8-1411 — "Crosswalk" defined

"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.

KSA 8-1412 — "Director" defined

"Director" defined.

"Director" means the director of vehicles.

KSA 8-1413 — "Division" defined

"Division" defined.

"Division" means the division of vehicles of the department of revenue.

KSA 8-1414 — "Divided highway" defined

"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.

KSA 8-1414a — "Drawbar" defined

"Drawbar" defined.

"Drawbar" means a bar across the rear of a motor vehicle, or a device securely attached to the motor vehicle, which maintains a fixed position and to which a towbar may be coupled.

KSA 8-1415 — "Driveaway-towaway operations" defined

"Driveaway-towaway operations" defined.

"Driveaway-towaway operations" means any operation in which any motor vehicle, trailer or semitrailer, singly or in combination, new or used, constitutes the commodity being transported, when one set or more of wheels of any such vehicle are on the roadway during the course of transportation, whether or not any such vehicle furnishes the motive power.

KSA 8-1416 — "Driver" defined

"Driver" defined.

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

KSA 8-1417 — "Driver's license" defined

"Driver's license" defined.

"Driver's license" means any license to operate a motor vehicle issued under the laws of this state.

KSA 8-1418 — "Essential parts" defined

"Essential parts" defined.

"Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

KSA 8-1419 — "Explosives" defined

"Explosives" defined.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the

compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

KSA 8-1420 — "Farm tractor" defined

"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.

KSA 8-1421 — "Flammable liquid" defined

"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.

KSA 8-1422 — "Foreign vehicle" defined

"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.

KSA 8-1423 — "Gross weight" defined

"Gross weight" defined.

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

KSA 8-1424 — "Highway" defined

"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.

KSA 8-1425 — "House trailer" defined

"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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KSA 8-1426 — "Identifying numbers" defined

"Identifying numbers" defined.

"Identifying numbers" means the numbers, and letters, if any, on a vehicle designated by the division for the purpose of identifying the vehicle.

KSA 8-1427 — "Implement of husbandry" defined

"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.

KSA 8-1428 — "Intersection" defined

"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.

KSA 8-1428a — "Interstate system" defined

"Interstate system" defined.

"Interstate system" means the national system of interstate and defense highways.

KSA 8-1429 — "Laned roadway" defined

"Laned roadway" defined.

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

KSA 8-1430 — "License" and "license to operate a motor vehicle" defined

"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.

KSA 8-1431 — "Lienholder" defined

"Lienholder" defined.

"Lienholder" means a person holding a security interest in a vehicle.

KSA 8-1432 — "Local authorities" defined

"Local authorities" defined.

"Local authorities" means the Kansas turnpike authority and every city, county and other local board or body having authority to adopt ordinances or regulations relating to vehicular traffic under the constitution and laws of this state.

KSA 8-1433 — "Mail" defined

"Mail" defined.

"Mail" means to deposit in the United States mail properly addressed and with postage prepaid.

KSA 8-1434 — "Manufacturer" defined

"Manufacturer" defined.

"Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered in this state.

KSA 8-1435 — "Metal tire" defined

"Metal tire" defined.

"Metal tire" means every tire, the surface of which in contact with the highway, is wholly or partly of metal or other hard non-resilient material.

KSA 8-1436 — "Motor home" defined

"Motor home" defined.

"Motor home" means every motor vehicle designed to provide temporary living quarters for recreational, camping or travel use.

KSA 8-1437 — "Motor vehicle" defined

"Motor vehicle" defined.

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

KSA 8-1438 — "Motorcycle" defined

"Motorcycle" defined.

"Motorcycle" means every motor vehicle, including autocycles, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding an electric-assisted bicycle or a tractor.

KSA 8-1439 — "Motor-driven cycle" defined

"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.

KSA 8-1439a — "Motorized bicycle" defined

"Motorized bicycle" defined.

"Motorized bicycle" means every device, other than an electric-assisted bicycle, having two tandem wheels or three wheels that may be propelled by either human power or helper motor, or by both, and that has:

(a) A motor that 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.

KSA 8-1439c — "Motorized wheelchair" defined

"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.

KSA 8-1440 — "Nonresident" defined

"Nonresident" defined.

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

KSA 8-1441 — "Nonresident's operating privilege" defined

"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.

KSA 8-1442 — "Official traffic-control devices" defined

"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.

KSA 8-1443 — "Owner" defined

"Owner" defined.

"Owner" means a person, other than a lienholder, having the property in or title to a vehicle; and such term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

KSA 8-1444 — "Park" and "parking" defined

"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.

KSA 8-1445 — "Passenger car" defined

"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.

KSA 8-1446 — "Pedestrian" defined

"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.

KSA 8-1447 — "Person" defined

"Person" defined.

"Person" means every natural person, firm, association, partnership or corporation.

KSA 8-1448 — "Pneumatic tire" defined

"Pneumatic tire" defined.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

KSA 8-1449 — "Pole trailer" defined

"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.

KSA 8-1450 — "Police officer" defined

"Police officer" defined.

"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.

KSA 8-1451 — "Private road or driveway" defined

"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.

KSA 8-1452 — "Railroad" defined

"Railroad" defined.

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

KSA 8-1453 — "Railroad sign or signal" defined

"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.

KSA 8-1454 — "Railroad train" defined

"Railroad train" defined.

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

KSA 8-1455 — "Registration" defined

"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.

KSA 8-1456 — "Residence district" defined

"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.

KSA 8-1457 — "Revocation of driver's license" defined

"Revocation of driver's license" defined.

"Revocation of driver's license" means the termination by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the division after the expiration of the applicable period of time prescribed in K.S.A.

8-256

, and any amendments thereto.

KSA 8-1458 — "Right-of-way" defined

"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.

KSA 8-1458a — "Road construction zone" defined

"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.

KSA 8-1459 — "Roadway" defined

"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.

KSA 8-1459a — "Safety hitch" defined

"Safety hitch" defined.

"Safety hitch" means a chain, cable, or other material of sufficient weight which will prevent the towed vehicle from breaking loose in the event the towbar or drawbar fails or becomes disconnected.

KSA 8-1460 — "Safety zone" defined

"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.

KSA 8-1461 — "School bus" defined

"School bus" defined.

"School bus" means every motor vehicle defined and designated as a school bus in subsection (g) (1) of K.S.A.

72-6486

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KSA 8-1462 — "Security agreement" defined

"Security agreement" defined.

"Security agreement" means a written agreement which reserves or creates a security interest.

KSA 8-1463 — "Security interest" defined

"Security interest" defined.

"Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

KSA 8-1464 — "Semitrailer" defined

"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.

KSA 8-1465 — "Sidewalk" defined

"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.

KSA 8-1466 — "Solid rubber tire" defined

"Solid rubber tire" defined.

"Solid rubber tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

KSA 8-1467 — "Special mobile equipment" defined

"Special mobile equipment" defined.

"Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

KSA 8-1468 — "Specially constructed vehicle" defined

"Specially constructed vehicle" defined.

"Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

KSA 8-1469 — "Stand" and "standing" defined

"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.

KSA 8-1470 — "State" defined

"State" defined.

"State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

KSA 8-1471 — "Stop" when required, defined

"Stop" when required, defined.

"Stop" when required means complete cessation from movement.

KSA 8-1472 — "Stop" and "stopping," when prohibited, defined

"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.

KSA 8-1473 — "Street" defined

"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.

KSA 8-1474 — "Suspension of a driver's license" defined

"Suspension of a driver's license" defined.

"Suspension of a driver's license" means the temporary withdrawal by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways.

KSA 8-1475 — "Through highway" defined

"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.

KSA 8-1475a — "Tow bar" defined

"Tow bar" defined.

"Tow bar" means a rigid piece of material which is structurally adequate to hold any weight vehicle towed and which is properly and securely mounted to the towed vehicle without excessive slack but with sufficient play to allow for universal action of the connection and which is equipped with a suitable locking device to prevent accidental separation of the towing vehicle and the towed vehicle.

KSA 8-1476 — "Trackless trolley coach" defined

"Trackless trolley coach" defined.

"Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

KSA 8-1477 — "Traffic" defined

"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.

KSA 8-1478 — "Traffic-control signal" defined

"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.

KSA 8-1479 — "Trailer" defined

"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.

KSA 8-1480 — "Transporter" defined

"Transporter" defined.

"Transporter" means every person engaged in the business of delivering vehicles, of a type required to be registered in this state, from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer.

KSA 8-1481 — "Truck" defined

"Truck" defined.

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

KSA 8-1482 — "Truck-camper" defined

"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.

KSA 8-1483 — "Truck tractor" defined

"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.

KSA 8-1484 — "Urban district" defined

"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.

KSA 8-1485 — "Vehicle" defined

"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.

KSA 8-1486 — Certain sections part of uniform act

Certain sections part of uniform act.

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, and amendments thereto, shall be a part of and supplemental to the uniform act regulating traffic on highways.

KSA 8-1487 — "National network of highways" defined

"National network of highways" defined.

"National network of highways" means the interstate system, other United States designated highways and all state highways.

KSA 8-1488 — "Low-speed vehicle" defined

"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. Â§ 571.500.

KSA 8-1489 — "Electric-assisted bicycle" defined; classes of electric-assisted bicycles

"Electric-assisted bicycle" defined; classes of electric-assisted bicycles.

"Electric-assisted bicycle" means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor of less than 750 watts that meets the requirements of one of the following three classes:

(a) "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(b) "class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(c) "class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

KSA 8-1490 — "Travel trailer" defined

"Travel trailer" defined.

"Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

KSA 8-1491 — "Electric personal assistive mobility device" defined

"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.

KSA 8-1492 — "School crossing guard" defined

"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.

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, 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.

KSA 8-1493 — "Work-site utility vehicle" defined

"Work-site utility vehicle" defined.

"Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway 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.

KSA 8-1494 — "Micro utility truck" defined

"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.

KSA 8-1495 — "Golf cart" defined

"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.

KSA 8-1496 — "Lightweight roadable vehicle" defined

"Lightweight roadable vehicle" defined.

"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.

KSA 8-1497 — "Autocycle" defined

"Autocycle" defined.

"Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

KSA 8-1498 — "Electric-assisted scooter" defined

"Electric-assisted scooter" defined.

"Electric-assisted scooter" means every self-propelled vehicle, other than an electric-assisted bicycle, that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

KSA 8-1499 — "Military surplus vehicle" defined

"Military surplus vehicle" defined.

"Military surplus vehicle" means a vehicle with three axles or fewer that meets the legal size and weight limits set forth in K.S.A.

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, and amendments thereto, is less than 35 years old and was manufactured for use in either: (a) The United States military forces; or (b) any country that was a member of the North Atlantic Treaty Organization at the time the vehicle was manufactured. Such vehicle shall have been subsequently authorized for sale to civilians, except that a "military surplus vehicle" does not include a tracked vehicle.

KSA 8-1501 — Application of sections in article 15

Application of sections in article 15.

The provisions of this article 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.

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through

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and the provisions of article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall apply upon highways and elsewhere throughout the state.

KSA 8-1503 — Required obedience to lawful order of police officer or fireman; misdemeanor

Required obedience to lawful order of police officer or fireman; misdemeanor.

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.

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

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

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, except those provisions of this article which by their very nature can have no application.

KSA 8-1505 — Application of traffic laws to highway construction or maintenance operations

Application of traffic laws to highway construction or maintenance operations.

Unless specifically made applicable, the provisions of this article except those contained in K.S.A.

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, 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.

KSA 8-1506 — Authorized emergency vehicles; rights, duties and liability of drivers thereof

Authorized emergency vehicles; rights, duties and liability of drivers thereof.

(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;

(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.

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and visual signals meeting the requirements of K.S.A.

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, 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.

KSA 8-1507 — Official traffic-control devices; required obedience; placement; presumptions

Official traffic-control devices; required obedience; placement; presumptions.

(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.

KSA 8-1508 — Traffic-control signal legend

Traffic-control signal legend.

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.

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, 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.

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, 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 paragraphs (2), (3) and (4) shall be governed by the applicable provisions of K.S.A.

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, 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.

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, 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.

KSA 8-1509 — Pedestrian control signals

Pedestrian control signals.

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.

KSA 8-1510 — Flashing traffic signals

Flashing traffic signals.

(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.

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KSA 8-1511 — Lane-direction-control signals

Lane-direction-control signals.

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.

KSA 8-1512 — Placement, maintenance or display of unauthorized signs, signals, markings or devices

Placement, maintenance or display of unauthorized signs, signals, markings or devices.

(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.

KSA 8-1513 — Interference with official traffic-control devices or railroad signs or signals; misdemeanor

Interference with official traffic-control devices or railroad signs or signals; misdemeanor.

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.

KSA 8-1514 — Driving on right side of roadway required; exceptions

Driving on right side of roadway required; exceptions.

(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.

KSA 8-1515 — Overtaking and passing; vehicles proceeding in opposite directions

Overtaking and passing; vehicles proceeding in opposite directions.

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 (Â½) of the main-traveled portion of the roadway as nearly as possible.

KSA 8-1516 — Same; vehicles and bicycles proceeding in same direction

Same; vehicles and bicycles proceeding in same direction.

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.

KSA 8-1517 — Same; when passing on the right permitted; transit bus authorized on right shoulder

Same; when passing on the right permitted; transit bus authorized on right shoulder.

(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.

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, 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.

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, and amendments thereto.

KSA 8-1518 — Same; limitations on passing on the left

Same; limitations on passing on the left.

Except as otherwise provided in this article, 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.

KSA 8-1519 — Driving on left side of roadway prohibited; exceptions

Driving on left side of roadway prohibited; exceptions.

(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.

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, and amendments thereto, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

KSA 8-1520 — No-passing zones; designation by secretary of transportation or local authorities; duties of drivers

No-passing zones; designation by secretary of transportation or local authorities; duties of drivers.

(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.

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, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

KSA 8-1520a — Unlawful passing of stopped emergency vehicle or authorized vehicle engaged in highway construction

Unlawful passing of stopped emergency vehicle or authorized vehicle engaged in highway construction.

(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.

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, and amendments thereto, or subsection (d) of K.S.A.

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, 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.

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, 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.

KSA 8-1521 — One-way highways, roadways or traffic lanes; designation by secretary of transportation or local authorities; duties of drivers; rotary traffic islands

One-way highways, roadways or traffic lanes; designation by secretary of transportation or local authorities; duties of drivers; rotary traffic islands.

(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.

KSA 8-1522 — Driving on roadways laned for traffic; driving in right lane required; exceptions

Driving on roadways laned for traffic; driving in right lane required; exceptions.

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).

KSA 8-1523 — Following another vehicle too closely

Following another vehicle too closely.

(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.

KSA 8-1524 — Driving limitations on divided highways and controlled-access highways; certain turns prohibited; parking prohibited, when

Driving limitations on divided highways and controlled-access highways; certain turns prohibited; parking prohibited, when.

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.

KSA 8-1525 — Regulation and restrictions on use of controlled-access highways and facilities; misdemeanor

Regulation and restrictions on use of controlled-access highways and facilities; misdemeanor.

(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.

KSA 8-1526 — Right-of-way; approaching or entering intersection

Right-of-way; approaching or entering intersection.

(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.

KSA 8-1527 — Same; turning left

Same; turning left.

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.

KSA 8-1528 — Stop signs and yield signs; duties of drivers

Stop signs and yield signs; duties of drivers.

(a) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in K.S.A.

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, 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.

KSA 8-1529 — Vehicle entering or crossing roadway

Vehicle entering or crossing roadway.

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.

KSA 8-1530 — Duty of driver upon approach of authorized emergency vehicle

Duty of driver upon approach of authorized emergency vehicle.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of K.S.A.

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(d), and amendments thereto, and visual signals meeting the requirements of K.S.A.

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, 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.

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or

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(d), 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) 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.

KSA 8-1531 — Highway construction or maintenance operations; duty of driver

Highway construction or maintenance operations; duty of driver.

(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.

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, 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.

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, 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.

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, 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.

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

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.

KSA 8-1532 — Pedestrians; obedience to official traffic-control devices required

Pedestrians; obedience to official traffic-control devices required.

(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.

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and

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(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter*.

KSA 8-1533 — Same; right-of-way at crosswalks; interference with vehicular traffic; duties of drivers

Same; right-of-way at crosswalks; interference with vehicular traffic; duties of drivers.

(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.

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(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.

KSA 8-1534 — Same; crossing roadway at location other than crosswalk

Same; crossing roadway at location other than crosswalk.

(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.

KSA 8-1535 — Same; drivers to exercise due care

Same; drivers to exercise due care.

Notwithstanding other provisions of this article 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.

KSA 8-1536 — Same; movement in crosswalk

Same; movement in crosswalk.

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

KSA 8-1537 — Same; use of roadways

Same; use of roadways.

(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, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

KSA 8-1538 — Soliciting rides, business or contributions; exception

Soliciting rides, business or contributions; exception.

(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.

KSA 8-1539 — Driving through safety zone prohibited

Driving through safety zone prohibited.

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

KSA 8-1540 — Pedestrians' right-of-way on sidewalks

Pedestrians' right-of-way on sidewalks.

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

KSA 8-1541 — Pedestrians must yield right-of-way to authorized emergency vehicle

Pedestrians must yield right-of-way to authorized emergency vehicle.

(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.

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and visual signals meeting the requirements of K.S.A.

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, 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.

KSA 8-1542 — Blind pedestrian's right-of-way

Blind pedestrian's right-of-way.

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.

KSA 8-1543 — Pedestrians under influence of alcohol or drugs; misdemeanor

Pedestrians under influence of alcohol or drugs; misdemeanor.

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.

KSA 8-1544 — Obedience of pedestrian to bridge and railroad signals required

Obedience of pedestrian to bridge and railroad signals required.

(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.

KSA 8-1545 — Required position and method of turning vehicles

Required position and method of turning vehicles.

(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.

KSA 8-1546 — Limitations on "U" turns

Limitations on "U" turns.

(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.

KSA 8-1547 — Starting parked vehicle

Starting parked vehicle.

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

KSA 8-1548 — Turning movements and required signals

Turning movements and required signals.

(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.

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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.

KSA 8-1549 — Methods of giving notice of intention to turn

Methods of giving notice of intention to turn.

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.

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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.

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. 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.

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, or by such electric turn signals.

KSA 8-1550 — Same; hand and arm signals

Same; hand and arm signals.

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.

KSA 8-1551 — Obedience to signal indicating approach of train or other on-track equipment

Obedience to signal indicating approach of train or other on-track equipment.

(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 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until such driver 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 or other on-track equipment;

(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 or other on-track equipment;

(3) a railroad train or other on-track equipment approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train or other on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard; or

(4) an approaching railroad train or other on-track equipment 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.

KSA 8-1552 — Designation of dangerous railroad grade crossings; vehicles required to stop, when

Designation of dangerous railroad grade crossings; vehicles required to stop, when.

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.

KSA 8-1553 — Certain vehicles required to stop at railroad grade crossings; exceptions

Certain vehicles required to stop at railroad grade crossings; exceptions.

(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.

KSA 8-1554 — Moving heavy equipment at railroad grade crossings; notice to railroad's station agent

Moving heavy equipment at railroad grade crossings; notice to railroad's station agent.

(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 (Â½) 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.

KSA 8-1555 — Vehicle emerging from alley, building, private road or driveway

Vehicle emerging from alley, building, private road or driveway.

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.

KSA 8-1556 — Overtaking and passing school bus; actuation of visual signals by driver of bus, when; required school bus markings

Overtaking and passing school bus; actuation of visual signals by driver of bus, when; required school bus markings.

(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.

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, 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.

KSA 8-1556a — Passing church and day care program buses; use of signals

Passing church and day care program buses; use of signals.

(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.

KSA 8-1557 — Basic rule governing speed of vehicles

Basic rule governing speed of vehicles.

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.

KSA 8-1558 — Maximum speed limits

Maximum speed limits.

(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.

KSA 8-1559 — Alteration of maximum speed limits; establishing speed limits in road construction zones; powers of secretary of transportation

Alteration of maximum speed limits; establishing speed limits in road construction zones; powers of secretary of transportation.

(a) The secretary of transportation may determine and declare:

(1) Based on an engineering and traffic investigation that an existing speed limit is greater or less than what is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway system, or upon any city street which is a state highway connecting link; or

(2) based on information or circumstances known to the secretary, without an engineering or traffic investigation, that a speed less than the maximum otherwise allowed is warranted. If the secretary determines to designate a speed limit under authority of this paragraph the secretary shall prepare a statement and notice of alteration of maximum speed limit. The statement shall be in writing, shall specify the designated maximum speed limit, the route or routes affected, or any segment thereof, the factors upon which the decision is based and the date on which the speed limit shall be effective. The notice shall specify the route or routes affected, or segments thereof, the designated maximum speed limit and the effective date. The notice required under this paragraph shall be sent to the Kansas highway patrol and the sheriff of any county in which the affected route or routes are located prior to the effective date of the new maximum speed limit.

(b) Any maximum speed limit declared under subsection (a) may be effective at all times or at designated times; and differing speed limits may be established for different times of day, different types of vehicles, varying weather conditions, or other factors bearing on safe speeds. In addition to any other requirement imposed on the secretary of transportation, no alteration in the speed limits under subsection (a) shall be effective until posted upon appropriate fixed or variable signs.

(c) The secretary of transportation may establish the speed limit within a road construction zone, as defined in K.S.A.

8-1458a

, and amendments thereto, upon any highway under the jurisdiction of the secretary, and the speed limit shall be effective when appropriate signs giving notice thereof are erected.

(d) The secretary of transportation shall not establish any maximum speed limit in excess of the maximum speed limits established by K.S.A.

8-1558

, and amendments thereto, except that the secretary may establish a speed limit which exceeds the limit established under K.S.A.

8-1558

(a)(4), and amendments thereto, by five miles per hour on any such highway located outside of an urban district. Prior to increasing any speed limit authorized pursuant to this subsection, the secretary shall consider the effects of K.S.A.

8-1560c

and

8-1560d

before establishing a higher speed limit.

(e) The secretary of transportation shall not alter any speed limit established under K.S.A.

8-1560

(a)(4), and amendments thereto, without first obtaining approval from the local authority.

KSA 8-1560 — Alteration of maximum speed limits; powers of local authorities, limitations and restrictions; establishing speed limits in road construction zones

Alteration of maximum speed limits; powers of local authorities, limitations and restrictions; establishing speed limits in road construction zones.

(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe

maximum limit thereon which:

(1) Decreases the limit at intersections;

(2) increases the limit within an urban district but not to exceed the maximum speed of 65 miles per hour;

(3) decreases the limit outside an urban district, but not to less than 20 miles per hour, except as authorized by K.S.A.

8-1560a

, and amendments thereto;

(4) decreases the limit within an urban district in a school zone to not less than 20 miles per hour, except that any such decreased limit shall apply only during the hours in which students are normally en route to or from school, such zones and hours to be determined by ordinance or resolution of such local authority; or

(5) decreases the limit within any residence district, but not to less than 20 miles per hour.

(b) Except as provided in subsection (h), local authorities in their respective jurisdictions may determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this act for an urban district or other location in which the arterial street is situated, except that in no event shall any local authority establish any such maximum limit in excess of 65 miles per hour.

(c) Except as otherwise provided in paragraph (4) of subsection (a), any altered limit established as authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(d) Any alteration of maximum limits on city connecting links shall not be effective until such alteration has been approved by the secretary of transportation.

(e) If local authorities in their respective jurisdictions have established a speed limit within any residence district which is less than 30 miles per hour, prior to the effective date of this act, such speed limit shall be deemed valid and shall not require an engineering and traffic investigation.

(f) Local authorities in their respective jurisdictions may establish the speed limit within a road construction zone, as defined in K.S.A.

8-1458a

, and amendments thereto, upon any highway under the jurisdiction of such local authorities.

(g) The provisions of K.S.A.

8-1560b

, and amendments thereto, shall apply to the limitations on speed limits provided by subsection (a) of this section.

(h) Local authorities who have jurisdiction over county or township highways may determine based on an engineering and traffic investigation or without an engineering and traffic investigation the proper maximum speed for such county or township highways and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this act, except that in no event shall any local authority establish any such maximum limit in excess of 65 miles per hour.

KSA 8-1560a — Wabaunsee county improvement district speed limits; how fixed; local authority status

Wabaunsee county improvement district speed limits; how fixed; local authority status.

(a) Whenever the governing body of any improvement district which is located adjacent to any park or recreation area within Wabaunsee county determines that the maximum speed prescribed by law is greater than is reasonable and safe under the conditions found to exist upon any highway or part of a highway located within such improvement district, the governing body, by resolution, may determine and declare a reasonable and safe maximum limit thereon. Such resolution shall be published once each week for two consecutive weeks in the official county newspaper and a copy thereof filed with the board of county commissioners of the county. Speed limits fixed pursuant to this section shall become effective only after appropriate signs giving notice thereof are erected upon the highway or part thereof affected.

(b) The authority of any improvement district to fix speed limits upon any highway or part thereof under the provisions of this section shall cease and terminate on the date which the county in which the district is located determines and

declares and places in effect a county speed limit upon the same highway or part thereof.

(c) Violations of any speed limit fixed pursuant to this section shall be prosecuted in the district court of Wabaunsee county.

(d) For purposes of this section, the governing body of an improvement district specified in subsection (a), shall be deemed a "local authority" for purposes of K.S.A.

8-1432

and

8-1560

, and amendments thereto.

KSA 8-1560b — Maximum and minimum speed limits fixed by Kansas turnpike authority

Maximum and minimum speed limits fixed by Kansas turnpike authority.

Notwithstanding the provisions of K.S.A.

8-1558

, and amendments thereto, the Kansas turnpike authority, as defined in K.S.A.

68-2001

, and amendments thereto, by resolution, may fix maximum and minimum speed limits for vehicles upon a highway or any part thereof under the authority's jurisdiction, which speed limits shall be effective when appropriate signs giving notice thereof are erected upon such highway or any part thereof.

KSA 8-1560c — Certain violations of maximum speed limits not construed as moving traffic violations

Certain violations of maximum speed limits not construed as moving traffic violations.

(a) Any conviction or forfeiture of bail or bond for violating a maximum posted or authorized speed limit of 30 miles per hour or more but not exceeding 54 miles per hour on any highway, by not more than six miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A.

8-255

, and amendments thereto.

(b) Any conviction or forfeiture of bail or bond for violating the maximum posted or authorized speed limit of 55 miles per hour or more but not exceeding 75 miles per hour on any highway, by not more than 10 miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A.

8-255

, and amendments thereto.

KSA 8-1560d — Certain violations of maximum speed limits not public record; not to be considered for liability insurance

Certain violations of maximum speed limits not public record; not to be considered for liability insurance.

Convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, or a maximum posted speed limit of 30 miles per hour or more but not exceeding 54 miles per hour, by not more than six miles per hour in excess of such maximum speed limit, shall not be reported by the division and 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)(c)(7) of K.S.A.

40-277

, and amendments thereto.

KSA 8-1560e — Rural school zone speed limits

Rural school zone speed limits.

(a) The secretary of transportation shall work in conjunction with the board of education of any school district having a school located adjacent to a rural school zone to determine the appropriate maximum speed limit in and the appropriate signage for any such rural school zone.

(b) As used in this section, "rural school zone" means that portion of highway located outside of any city which provides entrances and exits to any school located adjacent to such highway.

KSA 8-1561 — Minimum speed regulation

Minimum speed regulation.

(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.

KSA 8-1562 — Special speed limitation on motor-driven cycles

Special speed limitation on motor-driven cycles.

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.

KSA 8-1563 — Special speed limitations applicable to certain vehicles and portions of highways; powers of secretary and local authorities; violations, evidence of safe speed

Special speed limitations applicable to certain vehicles and portions of highways; powers of secretary and local authorities; violations, evidence of safe speed.

(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, 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.

KSA 8-1564 — Violations of speed limits; requirements for complaint, summons and notice to appear; effect of maximum speed limits in civil action

Violations of speed limits; requirements for complaint, summons and notice to appear; effect of maximum speed limits in civil action.

(a) In every charge of violation of any speed regulation in this article, except charges of violations of K.S.A.

8-1557

, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

(b) The provisions of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

KSA 8-1565 — Racing on highways; misdemeanor

Racing on highways; misdemeanor.

(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.

KSA 8-1566 — Reckless driving, penalties

Reckless driving, penalties.

(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.

KSA 8-1567 — Driving under the influence; penalties; disposition of moneys from fines and penalties

Driving under the influence; penalties; disposition of moneys from fines and penalties.

(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 K.S.A.

8-1013

(f)(1), and amendments thereto, is 0.08 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 0.08 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; or

(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.

(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;

(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 following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 120 hours of confinement. The hours of confinement shall include at least 48 hours of imprisonment and otherwise may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto;

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 120 hours of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum sentence is met. If the person is placed into a work release program or placed under a house arrest program for more than the minimum of 120 hours of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program until the minimum of 120 hours of confinement is completed, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence;

(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 following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 30 days of confinement. After at least 48 consecutive hours of imprisonment, the remainder of the period of confinement may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 30 days of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program for the first 240 hours of confinement, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence;

(D) on a third conviction, a severity level 6, nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 30 days of confinement. After at least 48 consecutive hours of imprisonment, the remainder of the period of confinement may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 30 days of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time

served in such program for the first 240 hours of confinement, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence; and

(E) on a fourth or subsequent conviction, a severity level 6, nonperson felony. The following conditions shall apply to such sentence:

(i) As a condition of any probation granted under this subsection, the person shall serve at least 30 days of confinement. After at least 48 consecutive hours of imprisonment, the remainder of the period of confinement may be served by a combination of: Imprisonment; a work release program, if such work release program requires such person to return to the confinement at the end of each day in the work release program; or a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; and

(ii) (a) if the person is placed into a work release program or placed under a house arrest program for any portion of the minimum of 30 days of confinement mandated by this subsection, the person shall receive hour-for-hour credit for time served in such program for the first 240 hours of confinement, and thereafter, the person shall receive day-for-day credit for time served in such program unless otherwise ordered by the court; and

(b) when in a work release program, the person shall only be given credit for the time served in confinement at the end of and continuing to the beginning of the person's work day. When under a house arrest program, the person shall be monitored by an electronic monitoring device that verifies the person's location and shall only be given credit for the time served within the boundaries of the person's residence.

(2) (A) 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 secretary of corrections may refuse to admit the person to the designated facility and place the person in a different state facility, or admit the person and subsequently transfer the person to a different state facility, if the secretary determines: (i) 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; (ii) the person has failed to meaningfully participate in the treatment program of the designated facility; (iii) the person is disruptive to the security or operation of the designated facility; or (iv) 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.

(B) In addition to the provisions of subsection (b)(1), for any conviction pursuant to subsection (b)(1)(D) or (b)(1)(E), if the person is granted probation, the court shall determine whether the person shall be supervised by community correctional services or court services based on the risk and needs of the person. The risk and needs of the person shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. During the probation supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a Kansas department for aging and disability 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 Kansas department for aging and disability services designated treatment provider and the person.

(3) In addition to the provisions of subsection (b)(1), for any conviction pursuant to subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A.

21-6711

or

22-3426

, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the person in charge. The court shall determine whether the person, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the person. The risk and needs of the person 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 person 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 person 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 Kansas department for aging and disability 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 Kansas department for aging and disability services designated treatment provider and the person. A person for whom a warrant has been issued by the court alleging a violation of this supervision shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it is found that the person has violated the provisions of this supervision, the court shall determine whether the time from the issuing of the warrant to the date of the court's determination of an alleged violation, or any part of it, shall be counted as time served on supervision. 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. The term of supervision may be extended at the court's discretion beyond one year, and any violation of the conditions of such extended term of supervision may subject such person to the revocation of supervision and imprisonment in jail of up to the remainder of the original sentence, not the term of the extended supervision.

(4) In addition to the provisions of subsection (b)(1), prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), 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 18 years of age or older 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 18 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 subsection (a)(4) or (a)(5), 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 person by the court.

(f) (1) 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.

(2) The court may, in its discretion, waive any portion of a fine imposed pursuant to this section, except the $250 required to be remitted to the state treasurer pursuant to subsection (q)(3), upon a showing that the person successfully completed court-ordered education or treatment.

(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 including any finding regarding the alcohol concentration in the person's blood or breath. 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.

(i) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:

(A) Driving a commercial motor vehicle under the influence, K.S.A.

8-2,144

, and amendments thereto;

(B) operating a vessel under the influence of alcohol or drugs, K.S.A.

32-1131

, and amendments thereto;

(C) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A.

21-3442

, prior to its repeal, or K.S.A.

21-5405

(a)(3) or (a)(5), and amendments thereto;

(D) aggravated battery as described in K.S.A.

21-5413

(b)(3) or (b)(4), and amendments thereto; and

(E) aggravated vehicular homicide, K.S.A.

21-3405a

, prior to its repeal, or vehicular battery, K.S.A.

21-3405b

, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes:

(A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (i)(2); and

(B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (i)(1) or (i)(2);

(4) multiple convictions of any crime described in subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) 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.

(j) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) the elements of the out-of-jurisdiction offense; and

(3) whether the out-of-jurisdiction offense prohibits similar conduct to the conduct prohibited by the closest approximate Kansas offense.

(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.

(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. This subsection shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

(o) The alternatives set out in subsection (a) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

(p) 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" includes any restrained environment in which the court and law enforcement agency intend to retain custody and control of a person 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.

(q) (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 Kansas department for aging and disability services alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

(2) On July 1, 2025, the director of accounts and reports shall transfer all moneys in the department of corrections alcohol and drug abuse treatment fund to the Kansas department for aging and disability services alcohol and drug abuse treatment fund. On July 1, 2025, all liabilities of the department of corrections alcohol and drug abuse treatment fund are hereby transferred and imposed on the Kansas department for aging and disability services alcohol and drug abuse treatment fund, and the department of corrections alcohol and drug abuse treatment fund is hereby abolished.

(3) 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 each 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.

KSA 8-1567a — Driving under the influence by any person less than 21 years of age; blood alcohol concentration; penalties

Driving under the influence by any person less than 21 years of age; blood alcohol concentration; penalties.

(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 or was under the age of 21 years and was operating or attempting to operate a vehicle 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 or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system;

(2) the person had been placed under arrest, was in custody 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 180 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 K.S.A.

40-277

(4)(a), and amendments thereto.

KSA 8-1568 — Fleeing or attempting to elude a police officer; penalties

Fleeing or attempting to elude a police officer; penalties.

(a) (1) (A) Any driver of a motor vehicle who knowingly 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).

(B) Any driver of a motor vehicle who knowingly 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) It shall be an affirmative defense to any prosecution under subsection (a)(1) that the driver's conduct in violation of such subsection 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 knowingly 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, shall be guilty as provided by subsection (c)(2):

(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;

(E) commits five or more moving violations; or

(F) is operating a stolen motor vehicle;

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided by subsection (c)(2); or

(3) knowingly drives the wrong way into an opposing lane of travel on a divided highway as defined in K.S.A.

8-1414

, and amendments thereto, knowingly departs the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver, knowingly drives through any intersection causing an evasive maneuver by another driver or causes a collision involving another driver, shall be guilty as provided by subsection (c)(3).

(c) (1) Violation of subsection (a) is a:

(A) Class B nonperson misdemeanor when the person being sentenced has no prior convictions for a violation of subsection (a) or (b);

(B) class A nonperson misdemeanor when the person being sentenced has one prior conviction for a violation of subsection (a) or (b); or

(C) severity level 9, person felony when the person being sentenced has two or more prior convictions for a violation of subsection (a) or (b).

(2) Violation of subsection (b)(1) or (b)(2) is a severity level 9, person felony.

(3) Violation of subsection (b)(3) is a severity level 7, person felony.

(4) In addition to the penalty described in paragraph (2), the court shall impose a fine of not less than $500 when the driver is operating a stolen motor vehicle during the commission of the offense.

(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 to 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. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(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.

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

Stopping, standing or parking outside of business or residence district.

(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.

KSA 8-1570 — Authority of police officer to remove vehicle in violation of K.S.A. 8-1569 from highway

Authority of police officer to remove vehicle in violation of K.S.A. 8-1569 from highway.

(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.

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

Stopping, standing or parking prohibited in specified places.

(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.

KSA 8-1572 — Additional parking regulations; powers of secretary and local authorities

Additional parking regulations; powers of secretary and local authorities.

(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.

KSA 8-1573 — Unattended motor vehicle

Unattended motor vehicle.

(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.

KSA 8-1574 — Limitations on backing vehicle

Limitations on backing vehicle.

(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.

KSA 8-1575 — Driving upon sidewalk

Driving upon sidewalk.

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

KSA 8-1576 — Driving vehicle prohibited when driver's view or driving mechanism obstructed

Driving vehicle prohibited when driver's view or driving mechanism obstructed.

(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.

KSA 8-1577 — Opening and closing vehicle doors

Opening and closing vehicle doors.

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.

KSA 8-1578 — Riding in house trailer or mobile or manufactured home prohibited

Riding in house trailer or mobile or manufactured home prohibited.

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.

KSA 8-1578a — Riding on vehicle prohibited, when; exceptions

Riding on vehicle prohibited, when; exceptions.

(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.

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

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.

KSA 8-1580 — Coasting prohibited

Coasting prohibited.

(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.

KSA 8-1581 — Following fire apparatus prohibited

Following fire apparatus prohibited.

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.

KSA 8-1582 — Driving over fire hose prohibited

Driving over fire hose prohibited.

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.

KSA 8-1583 — Putting glass, etc., on highway prohibited

Putting glass, etc., on highway prohibited.

(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.

KSA 8-1584 — Restrictions on driving into intersection or crosswalk or onto railroad grade crossing

Restrictions on driving into intersection or crosswalk or onto railroad grade crossing.

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.

KSA 8-1585 — Limitations on operation of snowmobile

Limitations on operation of snowmobile.

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.

KSA 8-1586 — Unlawful acts; application of regulations

Unlawful acts; application of regulations.

(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.

KSA 8-1587 — Traffic laws apply to persons riding bicycles

Traffic laws apply to persons riding bicycles.

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.

KSA 8-1588 — Riding on bicycles

Riding on bicycles.

(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.

KSA 8-1589 — Same; clinging to other vehicles prohibited

Same; clinging to other vehicles prohibited.

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.

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

Riding on bicycles or mopeds; riding on roadways and bicycle paths.

(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.

KSA 8-1591 — Same; carrying articles

Same; carrying articles.

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.

KSA 8-1592 — Lamps, brakes and other equipment on bicycles

Lamps, brakes and other equipment on bicycles.

(a) Every bicycle when in use between sunset and sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and either: (1) A red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; (2) a lamp on the rear that shall emit a red light visible from a distance of 500 feet to the rear; or (3) the operator of such bicycle shall be wearing a device that emits a red or amber light that shall be visible from a distance of 500 feet to the rear.

(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 which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of 200 feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this subsection.

KSA 8-1592a — Application of K.S.A. 8-1586 through 8-1592 to motorized bicycles

Application of K.S.A. 8-1586 through 8-1592 to motorized bicycles.

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.

KSA 8-1592b — Electric-assisted bicycles; application of traffic laws; vehicle registration, vehicle liability insurance, title certificate, license plate or driver's license not required; manufacturing requirements; location of operation; restrictions

Electric-assisted bicycles; application of traffic laws; vehicle registration, vehicle liability insurance, title certificate, license plate or driver's license not required; manufacturing requirements; location of operation; restrictions.

(a) Except as specifically provided, an electric-assisted bicycle or a rider of an electric-assisted bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the rider of a bicycle. An electric-assisted bicycle is a vehicle to the same extent as a bicycle.

(b) An electric-assisted bicycle or a person riding an electric-assisted bicycle shall not be required to maintain: (1) Vehicle liability insurance coverage; (2) a driver's license; (3) registration in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; (4) a certificate of title; or (5) a license plate. An electric-assisted bicycle shall not be considered a motor vehicle.

(c) On and after January 1, 2023, manufacturers and distributors of electric-assisted bicycles shall apply a label that is permanently affixed, in a prominent location, to each electric-assisted bicycle. The label shall contain the classification number, top assisted speed and motor wattage of the electric-assisted bicycle and shall be printed in Arial font in at least nine-point type.

(d) A person shall not tamper with or modify an electric-assisted bicycle in a manner that changes the motor-powered speed capability or engagement of an electric-assisted bicycle, unless the label indicating the classification required in subsection (c) is replaced after modification.

(e) An electric-assisted bicycle shall comply with the equipment and manufacturing requirements adopted by the United States consumer product safety commission, 16 C.F.R. part 1512.

(f) (1) An electric-assisted bicycle may be ridden in places where bicycles are allowed, including, but not limited to, streets, highways, roadways, bicycle lanes, bicycle or multi-use paths, trails or trail networks.

(2) This subsection shall not be construed to prevent a city, through the exercise of its home rule powers, from adopting an ordinance governing the operation of electric-assisted bicycles on streets, highways, roadways, sidewalks or sidewalk areas under the city's jurisdiction or to prevent a municipality, county or agency of the state having jurisdiction over a

bicycle or multi-use path, trail or trail network from restricting or prohibiting the operation of an electric-assisted bicycle or a specific class of electric-assisted bicycle on a bicycle or multi-use path, trail or trail network.

(3) Subsection (g)(1)* shall not apply to a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or state agency having jurisdiction over a trail described in this subsection may regulate the use of an electric-assisted bicycle on such trail.

(g) No person under 16 years of age may operate a class 3 electric-assisted bicycle. A person under 16 years of age may ride as a passenger on a class 3 electric-assisted bicycle that is designed to accommodate passengers.

KSA 8-1593 — Rights and duties of persons riding motorcycles

Rights and duties of persons riding motorcycles.

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 and except as to those provisions of this act which by their nature can have no application.

KSA 8-1594 — Operation of motorcycles

Operation of motorcycles.

(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 person, in which event a passenger may ride upon the permanent and regular seat if designed for two 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. This subsection shall not apply to any person riding within an autocycle.

(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.

KSA 8-1595 — Same; roadways laned for traffic

Same; roadways laned for traffic.

(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.

KSA 8-1596 — Same; clinging to other vehicles prohibited

Same; clinging to other vehicles prohibited.

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

KSA 8-1597 — Same; equipment on motorcycles for passengers

Same; equipment on motorcycles for passengers.

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

KSA 8-1598 — Operation of motorcycles; equipment required for operators and riders

Operation of motorcycles; equipment required for operators and riders.

(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, an autocycle 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.

KSA 8-1599 — Transportation of liquor in opened containers unlawful; exceptions; penalty; report of prior convictions; city or county not prohibited from enacting comparable ordinance or resolution, requirements

Transportation of liquor in opened containers unlawful; exceptions; penalty; report of prior convictions; city or county not prohibited from enacting comparable ordinance or resolution, requirements.

(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.

KSA 8-15,100 — Operation of all-terrain vehicles; where; when; exceptions

Operation of all-terrain vehicles; where; when; exceptions.

(a) Except as provided in subsection (b), (c) or (d), 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) Notwithstanding the provisions of subsection (a), all-terrain vehicles may be operated to cross a federal highway or state highway.

(d) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate an all-terrain vehicle on a federal highway or state highway under the following conditions:

(1) The operator of the all-terrain vehicle must be a licensed driver and be operating within the restrictions of the operator's license;

(2) the federal highway or state highway must have a posted speed limit of 65 miles per hour or less;

(3) the operator of the all-terrain vehicle must operate the all-terrain vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left turn; and

(4) the purpose of the trip using the all-terrain vehicle must be for agricultural purposes.

(e) 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.

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

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

Unlawful operation of low-speed vehicle.

(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.

KSA 8-15,102 — Littering

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.

KSA 8-15,103 — Failure to obey school crossing guard

Failure to obey school crossing guard.

(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.

KSA 8-15,104 — School crossing guards; appointment; training; limitations

School crossing guards; appointment; training; limitations.

(a) The governing body of any school district, nonpublic school, city, township located in a county designated as an urban area pursuant to K.S.A.

19-2654

, and amendments thereto, or county is hereby authorized to appoint and equip volunteers and designated employees of such school district, nonpublic school, city, township or county, and may provide training to such volunteers and employees as school crossing guards, as defined in K.S.A.

8-1492

, and amendments thereto, and is further hereby authorized to retain any other individual, firm, partnership, corporation, public agency or other association of persons, by contract for services to direct traffic at school crossings, streets and highways in the vicinity of schools and bus stops, by means of lawful orders, signs or semaphores. Such persons shall wear a distinctive garb or insignia indicating such appointment.

(b) School crossing guards shall not have the power to issue citations or the power to arrest provided to law enforcement officers.

KSA 8-15,106 — Operation of micro utility trucks; where; when

Operation of micro utility trucks; where; when.

(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.

KSA 8-15,107 — Removal of vehicles obstructing traffic; requirements

Removal of vehicles obstructing traffic; requirements.

(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.

KSA 8-15,108 — Operation of golf cart; where; when

Operation of golf cart; where; when.

(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, unless equipped with: (1) Lights as required by law for motorcycles; and (2) a properly mounted slow-moving vehicle emblem as required by K.S.A.

8-1717

, and amendments thereto.

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

KSA 8-15,109 — Operation of work-site utility vehicle; where; when; exceptions

Operation of work-site utility vehicle; where; when; exceptions.

(a) It shall be unlawful for any person to operate a work-site 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) Notwithstanding the provisions of subsection (a), work-site utility vehicles may be operated to cross a federal highway or state highway.

(c) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate a work-site utility vehicle on a federal highway or state highway under the following conditions:

(1) The operator of the work-site utility vehicle must be a licensed driver and be operating within the restrictions of the operator's license;

(2) the federal highway or state highway must have a posted speed limit of 65 miles per hour or less;

(3) the operator of the work-site utility vehicle must operate the work-site utility vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left turn; and

(4) the purpose of the trip using the work-site utility vehicle must be for agricultural purposes.

(d) 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.

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

KSA 8-15,110 — Covering license plate with plastic-like material

Covering license plate with plastic-like material.

(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.

KSA 8-15,111 — Text messaging, prohibited; exceptions

Text messaging, prohibited; exceptions.

(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.

KSA 8-15,112 — Unlawful passing of a waste collection vehicle

Unlawful passing of a waste collection vehicle.

(a) The driver of a motor vehicle, upon approaching a stationary waste collection vehicle obviously and actually engaged in waste collection and displaying vehicular hazard warning signal lamps as required by 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 waste collection 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.

(b) For purposes of this section, a waste collection vehicle is a vehicle specifically designed and equipped and used exclusively for garbage, refuse, recycling or solid waste collection or disposal operations.

(c) From and after the effective date of this act and prior to July 1, 2019, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (a).

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

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

KSA 8-15,113 — Operation of electric-assisted scooter; where; exceptions

Operation of electric-assisted scooter; where; exceptions.

(a) It shall be unlawful for any person to operate an electric-assisted scooter on any interstate highway, federal highway or state highway.

(b) Notwithstanding the provisions of subsection (a), traffic regulations applicable to bicycles shall apply to electric-assisted scooters.

(c) The governing body of a city or county may adopt an ordinance or resolution that further restricts or prohibits the operation of electric-assisted scooters on any public highway, street or sidewalk within such city or county.

(d) Except as otherwise provided in subsection (c), the provisions of subsection (a) shall not prohibit an electric-assisted scooter from crossing a federal or state highway.

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

KSA 8-15,114 — Unlawful passing of an authorized utility or telecommunications vehicle

Unlawful passing of an authorized utility or telecommunications vehicle.

(a) The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of a stationary authorized utility or telecommunications vehicle.

(b) The driver of a vehicle shall yield the right-of-way to any authorized utility or telecommunications vehicle or pedestrian actually engaged in work on the 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 utility or telecommunications vehicle that is obviously and actually engaged in work upon a highway, when such authorized utility or telecommunications 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 and weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized public utility or telecommunications 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 described in paragraph (1) 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 and weather and traffic conditions.

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

(e) As used in this section, "authorized utility or telecommunications vehicle" means:

(1) A motor vehicle operated by an authorized person as defined in K.S.A.

66-1710

, and amendments thereto, for an electric or natural gas public utility as defined in K.S.A.

66-104

, and amendments thereto, or a municipality-owned utility, when such motor vehicle is utilized for repairs that are needed on electric utility or natural gas equipment to restore necessary services or ensure public safety and is making use of

visual signals meeting the requirements of K.S.A.

8-1731

, and amendments thereto; and

(2) a motor vehicle operated by a provider, as defined in K.S.A.

17-1902

, and amendments thereto, or a wireless infrastructure provider or a wireless services provider, as defined in K.S.A.

66-2019

, and amendments thereto, when such vehicle is utilized for repairs and is making use of visual signals meeting the requirements of K.S.A.

8-1731

, and amendments thereto.

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

KSA 8-15,115 — Unlawful manufacture, importation, distribution, sale, offering for sale, installation or reinstallation of a counterfeit supplemental restraint system component or nonfunctional airbag

Unlawful manufacture, importation, distribution, sale, offering for sale, installation or reinstallation of a counterfeit supplemental restraint system component or nonfunctional airbag.

(a) No person shall knowingly or intentionally manufacture, import, distribute, sell, offer for sale, install or reinstall a device intended to replace a supplemental restraint system component if the device is:

(1) A counterfeit supplemental restraint system component;

(2) a nonfunctional airbag; or

(3) any object in lieu of a supplemental restraint system component that was not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle in which such device is or will be installed.

(b) Violation of subsection (a) shall be a class A nonperson misdemeanor.

(c) As used in this section:

(1) "Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(2) "Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier.

(3) "Nonfunctional airbag" means a replacement airbag that:

(A) Was previously deployed or damaged;

(B) has an electric fault that is detected by the motor vehicle's diagnostic systems when the installation procedure is completed and the motor vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) includes a part or object, including a supplemental restraint system component, installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(D) is prohibited from being sold or leased in accordance with 49 U.S.C. Â§ 30120(j).

(4) "Supplemental restraint system" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems as described in 49 C.F.R. Â§ 571.208. A supplemental restraint system includes:

(A) Each airbag installed in accordance with the motor vehicle manufacturer's design; and

(B) all components required to ensure that an airbag operates as designed in the event of a crash and in accordance with the federal motor vehicle safety standards for the specific make, model and year of the motor vehicle.

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

KSA 8-15,116 — Unlawful passing of a stationary vehicle

Unlawful passing of a stationary vehicle.

(a) The driver of a motor vehicle, upon approaching a stopped, standing or parked vehicle that is displaying hazard warning signal lamps, road flares or caution signals, including traffic cones, caution signs or reflective triangles, 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 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.

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

KSA 8-1601 — Application of sections in article 16

Application of sections in article 16.

The provisions of this article shall apply upon highways and elsewhere throughout the state.

KSA 8-1602 — Accident involving death or personal injury; duties of drivers, reports; criminal penalties for violations; revocation of license, permit or driving privileges

Accident involving death or personal injury; duties of drivers, reports; criminal penalties for violations; revocation of license, permit or driving privileges.

(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) Violation of subsection (a) when an accident results in:

(1) Total property damages of less than $1,000 is 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 of $1,000 or more is a class A person misdemeanor.

(3) Great bodily harm to any person is a severity level 8, person felony.

(4) The death of any person is a severity level 6, person felony, except as provided in subsections (b)(5) and (b)(6).

(5) The death of any person, if the driver knew or reasonably should have known that such accident resulted in injury or death, is a severity level 4, person felony, except as provided in subsection (b)(6).

(6) The death of more than one person, if the driver knew or reasonably should have known that such accident resulted in injury or death, is a severity level 3, person felony.

(c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person convicted of a violation of this section.

(d) The driver shall comply with the provisions of K.S.A.

8-15,107

, and amendments thereto.

KSA 8-1604 — Duty of driver to give certain information after accident; failure to provide proof of liability insurance or financial security; duty to render aid after accident; proof of liability insurance

or financial security by electronic means, restrictions

Duty of driver to give certain information after accident; failure to provide proof of liability insurance or financial security; duty to render aid after accident; proof of liability insurance or financial security by electronic means, restrictions.

(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 $1,000 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. Such evidence also may be produced by displaying on a cellular phone or other type of portable electronic device evidence of financial security required by this subsection. Any person to whom such evidence of financial security is displayed shall view only such evidence of financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic devices. 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.

KSA 8-1605 — Duty of driver upon damaging unattended vehicle or other property; misdemeanor

Duty of driver upon damaging unattended vehicle or other property; misdemeanor.

(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.

KSA 8-1607 — Division may require driver or owner to submit written accident report

Division may require driver or owner to submit written accident report.

The division may require any driver or owner of a vehicle involved in an accident to file a written report whenever the division deems it necessary to satisfy the requirements of any other provision of law.

KSA 8-1608 — False information or report concerning accident; misdemeanor

False information or report concerning accident; misdemeanor.

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

KSA 8-1609 — Failure to report; suspension of driver's license; penalty

Failure to report; suspension of driver's license; penalty.

The director shall suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as herein provided until such report has been filed, and the director may extend such suspension not to exceed thirty (30) days. Any person who shall fail to make a written report as required in this article and who shall fail to file such report with the division within the time prescribed shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in K.S.A.

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KSA 8-1610 — Reports by secretary of health and environment on deaths resulting from accidents

Reports by secretary of health and environment on deaths resulting from accidents.

On or before the 10

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day of each month, the secretary of health and environment shall report in writing to the department of transportation, the death of any person resulting from a vehicle accident, giving the time and place of the accident and the circumstances relating thereto.

KSA 8-1611 — Reports by law enforcement officers investigating accidents

Reports by law enforcement officers investigating accidents.

(a) Every law enforcement officer who:

(1) Investigates a vehicle accident of which a report must be made as required in this article; or

(2) otherwise prepares a written report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, when such accident under paragraphs (1) or (2) results in injury or death to any person or total damage to all property to an apparent extent of $1,000 or more, shall forward a written report of such accident to the department of transportation within 10 days after investigation of the accident.

(b) Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential.

(c) The provisions of this section shall be deemed to be satisfied by the electronic submission of reports prepared by computer and containing the information required to be included in written reports. The format of such electronic reports and the frequency of submission must be acceptable to the secretary of transportation.

KSA 8-1612 — Accident report forms; department of transportation to provide division of vehicles accident reports or data

Accident report forms; department of transportation to provide division of vehicles accident reports or data.

(a) The department of transportation shall prepare and upon request supply to police departments, sheriffs and other appropriate agencies or individuals, forms for written accident reports as required in this article, suitable with respect to the persons required to make such reports and the purposes to be served. The written reports shall call for sufficiently detailed information to disclose, with reference to a vehicle accident, the cause, conditions then existing and the persons and vehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the department of transportation and shall contain all the information required therein unless not available.

(c) The department of transportation shall provide the division of vehicles with the necessary accident reports and accident data to satisfy the division's requirements as provided in K.S.A.

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and

40-3118

, and amendments thereto.

KSA 8-1613 — Tabulation and analysis of accident reports by secretary of transportation

Tabulation and analysis of accident reports by secretary of transportation.

The secretary of transportation shall tabulate and may analyze all accident reports received in compliance with this article, and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of vehicle accidents.

KSA 8-1701 — Scope and effect of sections in article 17; unlawful acts

Scope and effect of sections in article 17; unlawful acts.

(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, 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.

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, 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. Â§ 571.500 shall be deemed to be in compliance with the provisions of this article 17.

KSA 8-1702 — Approval or disapproval of equipment by secretary of transportation

Approval or disapproval of equipment by secretary of transportation.

(a) The secretary of transportation is hereby required to approve or disapprove any lighting device or other safety equipment, components or assemblies of a type for which approval is specifically required in this act within a reasonable time after such approval has been requested. Such approvals may be based upon certificates of approval and test reports furnished to the secretary by the American association of motor vehicle administrators.

(b) The secretary of transportation is further authorized to establish the procedure to be followed when request for approval of any lighting device or other safety equipment, component or assembly is submitted under this section.

(c) The secretary of transportation shall maintain and publish lists of all such devices, components or assemblies which have been approved by the secretary or under authority contained in this act.

KSA 8-1703 — When lighted lamps required

When lighted lamps required.

(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).

KSA 8-1704 — Visibility distance and mounted height of lamps; method and conditions of measuring

Visibility distance and mounted height of lamps; method and conditions of measuring.

(a) Whenever any requirement is declared in this article 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.

KSA 8-1705 — Head lamps on motor vehicles

Head lamps on motor vehicles.

(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.

(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.

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KSA 8-1706 — Tail lamps

Tail lamps.

(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.

KSA 8-1707 — Reflectors

Reflectors.

(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.

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(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.

KSA 8-1708 — Stop lamps and turn signals

Stop lamps and turn signals.

(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.

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(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.

KSA 8-1709 — Application of K.S.A. 8-1710 through 8-1714

Application of K.S.A. 8-1710 through 8-1714.

K.S.A.

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, 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.

KSA 8-1710 — Additional lighting equipment required on certain vehicles

Additional lighting equipment required on certain vehicles.

In addition to other equipment required in this article, 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.

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

Color of clearance lamps, identification lamps, side marker lamps and reflectors.

(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.

KSA 8-1712 — Mounting of reflectors, clearance lamps and side marker lamps

Mounting of reflectors, clearance lamps and side marker lamps.

(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.

(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.

KSA 8-1713 — Visibility requirements for reflectors, clearance lamps, identification lamps and side marker lamps

Visibility requirements for reflectors, clearance lamps, identification lamps and side marker lamps.

(a) Every reflector upon any vehicle referred to in K.S.A.

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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.

KSA 8-1714 — Operation of obstructed lamps not required on combination of vehicles

Operation of obstructed lamps not required on combination of vehicles.

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.

KSA 8-1715 — Lamps or flags required on projecting loads

Lamps or flags required on projecting loads.

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.

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, 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.

KSA 8-1716 — Parked vehicles; lamps required; color; location; time for display of lighted lamps; depressing or dimming of head lamps

Parked vehicles; lamps required; color; location; time for display of lighted lamps; depressing or dimming of head lamps.

(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.

KSA 8-1717 — Lights, lamps and reflectors on farm tractors; slow-moving vehicle and slow-moving vehicle emblem defined; requirements for slow-moving vehicles; unlawful acts; exception

Lights, lamps and reflectors on farm tractors; slow-moving vehicle and slow-moving vehicle emblem defined; requirements for slow-moving vehicles; unlawful acts; exception.

(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.

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, 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.

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, and amendments thereto, be equipped with lamps and reflectors as follows:

(1) At least two head lamps meeting the requirements of K.S.A.

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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.

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, 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 1Â¾ 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.

KSA 8-1718 — Lamps and equipment required on implements of husbandry, road rollers, road machinery and animal-drawn vehicles

Lamps and equipment required on implements of husbandry, road rollers, road machinery and animal-drawn vehicles.

(a) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection (c) of K.S.A.

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, not specifically required by the provisions of other sections in this article to be equipped with lamps or other lighting devices, shall be equipped, at all times specified in K.S.A.

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, 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

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KSA 8-1719 — Spot lamps, fog lamps, auxiliary passing lamps and auxiliary driving lamps

Spot lamps, fog lamps, auxiliary passing lamps and auxiliary driving lamps.

(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

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(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.

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shall apply to any combination of head lamps and auxiliary driving lamps.

KSA 8-1720 — Lamps and lights on authorized emergency vehicles; alternately or simultaneously flashing head lamps

Lamps and lights on authorized emergency vehicles; alternately or simultaneously flashing head lamps.

(a) Except as provided in subsection (b), every authorized emergency vehicle, in addition to any other equipment required by this act, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, or in lieu thereof, any such authorized emergency vehicle shall be

equipped with at least one rotating or oscillating light, which shall be mounted as high as practicable on such vehicle and which shall display to the front and rear of such vehicle a flashing red light or alternate flashes of red and white lights or red and blue lights in combination. All lights required or authorized by this subsection shall have sufficient intensity to be visible at 500 feet in normal sunlight. Every authorized emergency vehicle may, but need not, be equipped with head lamps which alternately flash or simultaneously flash.

(b) A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with:

(1) Head lamps which alternately flash or simultaneously flash;

(2) flashing lights specified in subsection (a), but any flashing lights, used on a police vehicle, other than the flashing lights specified in K.S.A.

8-1722

, and amendments thereto, rotating or oscillating lights or alternately flashing head lamps or simultaneously flashing head lamps, shall be red in color; or

(3) rotating or oscillating lights, which may display a flashing red light or alternate flashes of red and blue lights in combination.

KSA 8-1721 — Stop lamps and signal lamps; color; visibility

Stop lamps and signal lamps; color; visibility.

(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).

KSA 8-1722 — Vehicular hazard warning lamps; warning lamps on police vehicles; trash trucks

Vehicular hazard warning lamps; warning lamps on police vehicles; trash trucks.

(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.

KSA 8-1723 — Additional lighting equipment permitted; ground effect lighting; lead vehicle of funeral procession

Additional lighting equipment permitted; ground effect lighting; lead vehicle of funeral procession.

(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.

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, 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 K.S.A.

8-1710

(g), 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 ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the bulb or lighting fixture be visible. "Ground effect lighting" means lights 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.

KSA 8-1724 — Multiple-beam road-lighting equipment; visibility; direction of beam; high beam indicator

Multiple-beam road-lighting equipment; visibility; direction of beam; high beam indicator.

(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.

KSA 8-1725 — Head lamps; use of; exception for alternately or simultaneously flashing head lamps

Head lamps; use of; exception for alternately or simultaneously flashing head lamps.

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.

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, 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 other than the uppermost distribution of light specified in subsection (a)(1) of K.S.A.

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, 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.

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, 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.

KSA 8-1726 — Single-beam road-lighting equipment permitted on certain vehicles

Single-beam road-lighting equipment permitted on certain vehicles.

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.

KSA 8-1727 — Alternate road-lighting equipment on certain vehicles; limitations on speed

Alternate road-lighting equipment on certain vehicles; limitations on speed.

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.

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or

8-1726

: Provided, That at no time shall it be operated at a speed in excess of twenty-five (25) miles per hour.

KSA 8-1728 — Number of driving lamps required or permitted

Number of driving lamps required or permitted.

(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.

KSA 8-1729 — Lights and signals; restrictions; exceptions for certain vehicles including school, church and day care buses

Lights and signals; restrictions; exceptions for certain vehicles including school, church and day care buses.

(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 that projects a beam of light of an intensity 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, or K.S.A.

8-1762

, 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.

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, and amendments thereto.

(d) The flashing lights described in K.S.A.

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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.

KSA 8-1730 — Lighting equipment and warning devices on school buses

Lighting equipment and warning devices on school buses.

(a) Every school bus, in addition to any other equipment and distinctive markings required by this act:

(1) Shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight; and

(2) every new school bus put into initial service after July 1, 2007, shall be equipped with a white flashing strobe light mounted on the roof of such bus to afford optimum visibility.

(b) Any school bus, in addition to the lights required by subsection (a), may be equipped with:

(1) Yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 200 feet, but not more than 1,000 feet, before every stop at which the alternately flashing red lights required by subsection (a) will be actuated; or

(2) head lamps which alternately flash on low beam or simultaneously flash on low beam, except such head lamps shall only be activated during daylight hours.

(c) The state board of education is authorized to adopt rules and regulations promulgating standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this act. Such standards and specifications shall correlate with and so far as consistent with the provisions of this act conform to the specifications then current as approved by the society of automotive engineers.

(d) The provisions of this section shall be subject to the provisions contained in K.S.A.

8-2009a

, and amendments thereto.

KSA 8-1730a — Definitions of "church bus" and "day care program bus"; equipment and markings

Definitions of "church bus" and "day care program bus"; equipment and markings.

(a) As used in chapter 8 of Kansas Statutes Annotated, "church bus" means every bus owned by a religious organization, and operated for the transportation of persons to or from services or activities of such religious organization. As used in this section, "religious organization" means any organization, church, body of communicants or group, gathered in common membership for mutual edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place.

(b) As used in chapter 8 of Kansas Statutes Annotated "day care program" means the same as is ascribed thereto in K.S.A.

39-1006

, and amendments thereto, and "day care program bus" means every bus used primarily to carry out functions of a day care program or used by a child care facility licensed by the Kansas department of health and environment who provides transportation for children six through 18 years of age.

(c) Any church bus or day care program bus, in addition to any other equipment and distinctive markings required by law, may be equipped with: (1) Signal lamps which conform to the requirements of K.S.A.

8-1730

, and amendments thereto, and rules and regulations adopted pursuant thereto; and (2) a stop signal arm which conforms to requirements applicable to school buses which have been adopted by rules and regulations of the state board of education.

KSA 8-1731 — Lights on highway construction and maintenance vehicles; rules and regulations of secretary

Lights on highway construction and maintenance vehicles; rules and regulations of secretary.

The secretary of transportation shall adopt rules or regulations establishing specifications and rules governing the design and use of special flashing lights on vehicles engaged in highway construction or maintenance operations.

KSA 8-1734 — Braking systems for motor vehicles and combinations of vehicles; performance requirements; additional braking systems, when; antique vehicles exempted

Braking systems for motor vehicles and combinations of vehicles; performance requirements; additional braking systems, when; antique vehicles exempted.

(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.

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et seq., and any amendments thereto.

KSA 8-1738 — Horns and warning devices

Horns and warning devices.

(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.

KSA 8-1739 — Mufflers and noise suppressing systems

Mufflers and noise suppressing systems.

(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.

KSA 8-1740 — Mirrors

Mirrors.

(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.

KSA 8-1741 — Windshields and windows; damaged windshields prohibited; obstruction or impairment prohibited; wipers

Windshields and windows; damaged windshields prohibited; obstruction or impairment prohibited; wipers.

(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.

KSA 8-1742 — Restrictions as to tire equipment

Restrictions as to tire equipment.

(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

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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.

KSA 8-1742a — Sale of unsafe tires; misdemeanor

Sale of unsafe tires; misdemeanor.

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

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16

inch measured as provided in subsection (e) of K.S.A.

8-1742

, and amendments thereto. Violation of this section is a misdemeanor.

KSA 8-1742b — Wide-base single tires; prohibitions

Wide-base single tires; prohibitions.

(a) As used in this section, "wide-base single tires" means all tires having a section width, as specified by the manufacturer, of 14 inches or more.

(b) The following shall apply where wide-base single tires are used in the operation of any vehicle or combination of vehicles:

(1) The maximum load for a wide-base single tire on a steering axle shall not exceed 600 pounds per inch of tire section width. The maximum load for a wide-base single tire on any other axle shall not exceed 575 pounds per inch of tire section width.

(2) No wide-base single tire shall exceed the load designated by the manufacturer; and

(3) the maximum tire inflation pressures shall be as designated by the manufacturer.

(c) The provisions of paragraph (1) of subsection (b) shall apply to all wide-based single tires purchased after July 1, 1993.

(d) Any conviction or forfeiture of bail or bond for any violation of this section shall not be construed as a moving traffic violation for the purpose of K.S.A.

8-255

, and amendments thereto.

KSA 8-1743 — Safety glazing material requirements; limitation on registration; misdemeanor

Safety glazing material requirements; limitation on registration; misdemeanor.

(a) No person shall sell any new motor vehicle as specified in this section, nor shall any such new motor vehicle be registered, unless such vehicle is equipped with safety glazing material when glazing materials are used in doors, windows and windshields. This subsection (a) shall apply to all passenger-type motor vehicles, including passenger buses and school buses. This subsection (a) shall not apply to glazing material in compartments of trucks and truck tractors not designed and equipped for persons to ride therein.

(b) No person shall sell or affix to a motor vehicle any truck-camper manufactured or assembled after July 1, 1968, unless such truck-camper is equipped with safety glazing material where glazing material is used in doors and windows.

(c) The division of vehicles shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with safety glazing material, and the division shall suspend the registration of any such motor vehicle which is not so equipped until it conforms to the requirements of this section.

(d) No person shall replace any glass or glazing materials used in partitions, doors, windows or windshields in any motor vehicle with any material other than safety glazing material.

(e) This section is subject to K.S.A.

8-2009a

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(f) As used in this section, "safety glazing material" means glazing material which conforms to the American national standard "safety code for safety glazing materials for glazing motor vehicles operating on land highways," Z26.1-1966, July 15, 1966, as supplemented by Z26.1a-1969, March 7, 1969.

(g) Violation of this section is a misdemeanor.

KSA 8-1744 — Flares or warning devices; vehicles subject to requirements; use, when required; unlawful acts; compliance with federal requirements

Flares or warning devices; vehicles subject to requirements; use, when required; unlawful acts; compliance with federal requirements.

(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

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

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.

KSA 8-1746 — Vehicles transporting hazardous materials; regulations by secretary, compliance; markings of and equipment on vehicles; misdemeanor

Vehicles transporting hazardous materials; regulations by secretary, compliance; markings of and equipment on vehicles; misdemeanor.

(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.

KSA 8-1747 — Air-conditioning equipment

Air-conditioning equipment.

(a) The term "air-conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(b) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public, and shall not contain any refrigerant which is toxic to persons or which is flammable.

(c) The secretary of transportation may adopt and enforce safety requirements, rules or regulations and specifications consistent with the requirements of this section applicable to such equipment, which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the society of automotive engineers.

(d) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.

(e) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of this section.

KSA 8-1749 — Safety belts and shoulder harnesses

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.

KSA 8-1749a — One-way glass and sun screening devices; requirements; exceptions; penalties

One-way glass and sun screening devices; requirements; exceptions; penalties.

(a) No motor vehicle required to be registered in this state and that 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.

(c) The provisions of subsection (a) shall not apply to the installation, affixation or application of a clear, colorless and transparent material that may be installed, affixed or applied to the windshields, side wings, side windows or rear windows of a motor vehicle if the following conditions are met:

(1) The material has a minimum visible light transmittance of 78%;

(2) the window glazing with the material applied meets all requirements of federal motor vehicle safety standard no. 205, including the specified minimum light transmittance of 70% and the abrasion resistance of AS-14 glazing, as specified in that federal standard;

(3) the material is designed and manufactured to enhance the ability of the existing window glass to block the sun's harmful ultraviolet A or B rays;

(4) the driver or occupant of the vehicle possesses a signed statement from a licensed physician or licensed optometrist that:

(A) Identifies with reasonable specificity the driver or occupant of the vehicle; and

(B) states that, in the physician's or optometrist's professional opinion, the equipping of the vehicle with the material is necessary to safeguard the health of the driver or occupant of the vehicle; and

(5) if the material described in this subsection tears or bubbles, or is otherwise worn to prohibit clear vision, it shall be removed or replaced.

(d) Any driver who is issued a citation for failure to possess a signed statement pursuant to subsection (c)(4) shall have 60 days to either produce in court a signed statement or remove the material described in subsection (c). If such driver produces the signed statement or submits proof to the satisfaction of the court that the material described in subsection (c) has been removed, then the court shall dismiss the citation.

(e) The superintendent of the highway patrol may adopt such rules and regulations necessary to carry out the provisions of this section.

(f) This section shall not prohibit labels, stickers or other informational signs that are required or permitted by state law.

(g) No motor vehicle required to be registered in this state that is operated on the highways of this state shall be equipped with head lamps that 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.

(h) Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor.

KSA 8-1749b — Sun screening devices; definitions

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.

KSA 8-1749c — Unlawful installation of sun screening device; penalty

Unlawful installation of sun screening device; penalty.

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.

KSA 8-1759 — Spot inspections by highway patrol; penalties

Spot inspections by highway patrol; penalties.

(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.

KSA 8-1759a — Inspection by highway patrol upon reasonable cause; notice of defects; penalties

Inspection by highway patrol upon reasonable cause; notice of defects; penalties.

(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.

KSA 8-1761 — Improper compression release engine braking system

Improper compression release engine braking system.

(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.

KSA 8-1762 — Transportation network company lighting device; city ordinance; requirements

Transportation network company lighting device; city ordinance; requirements.

(a) The governing body of a city may adopt an ordinance that allows a driver for a transportation network company, who is logged on to the transportation network company's digital network, to equip the vehicle with a lighting device capable of displaying light visible from directly in front of the center of the vehicle. Such lighting device may display: (1) Steady light; and (2) light of any color, except red.

(b) The words and phrases used in this section have the meanings respectively ascribed thereto by K.S.A.

8-2702

, and amendments thereto, unless a different meaning is plainly required by the context.

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

KSA 8-1801 — Headlamps; modulation systems

Headlamps; modulation systems.

(a) Every motorcycle and every motor-driven cycle shall be equipped with at least one headlamp which shall comply with the requirements and limitations of this article.

(b) Every headlamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in subsection (b) of K.S.A.

8-1704

, and amendments thereto.

(c) Any headlamp, required by this section, may be wired with a headlamp modulation system provided the headlamp modulation system complies with federal standards established by 49 C.F.R. Â§ 571.108.

KSA 8-1802 — Tail lamps

Tail lamps.

(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.

KSA 8-1803 — Reflectors

Reflectors.

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

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KSA 8-1804 — Stop lamps, turn signals and side lamps

Stop lamps, turn signals and side lamps.

(a) Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of subsection (a) of K.S.A.

8-1721

, and amendments thereto.

(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

, and amendments thereto. Motor-driven cycles may, but need not, be equipped with electric turn signals.

(c) In addition to the lamps otherwise permitted by this article, a motorcycle may be equipped with lamps on the sides thereof, visible from the side of the motorcycle but not from the front or rear thereof, which lamps, together with mountings

or receptacles, shall be set into depressions or recesses in the body or wheel of the motorcycle and shall not protrude beyond or outside the body or wheel of the motorcycle. The light source may emit only white, amber or red light without glare.

KSA 8-1805 — Multiple-beam road-lighting equipment on motorcycles

Multiple-beam road-lighting equipment on motorcycles.

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.

KSA 8-1806 — Road-lighting equipment on motor-driven cycles

Road-lighting equipment on motor-driven cycles.

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

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(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.

KSA 8-1807 — Brakes

Brakes.

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.

KSA 8-1808 — Performance ability of brakes

Performance ability of brakes.

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.

KSA 8-1809 — Approval of braking systems on motor-driven cycles; suspension or revocation of registration; prohibited acts

Approval of braking systems on motor-driven cycles; suspension or revocation of registration; prohibited acts.

(a) The secretary of transportation is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove the braking system on any such vehicle which it finds will not comply with the performance ability standard set forth in K.S.A.

8-1808

, or which in the opinion of the secretary is equipped with a braking system that is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) The director may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the secretary of transportation determines that the braking system thereon does not comply with the provisions of this section.

(c) No person shall operate on any highway any vehicle referred to in this section in the event the secretary of transportation has disapproved the braking system upon such vehicle.

KSA 8-1810 — Other equipment; compliance with sections in article 18; applicability of other equipment laws

Other equipment; compliance with sections in article 18; applicability of other equipment laws.

(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, 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.

KSA 8-1901 — Criminal penalties for violation of size and weight laws; exceptions

Criminal penalties for violation of size and weight laws; exceptions.

(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, 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 60,000 pounds for three axles or 40,000 pounds for two axles, regardless of width spacing between axles.

(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.

KSA 8-1902 — Width of vehicles and loads thereon

Width of vehicles and loads thereon.

(a) The total outside width of any vehicle or the load thereon shall not exceed 8

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feet, except as otherwise provided in this section.

(b) A farm tractor or a fertilizer dispensing machine shall not be permitted to travel on any highway which is a part of the national system of interstate and defense highways. Whenever a farm tractor or implement of husbandry, and any load on any such vehicle, exceeds the width limitations prescribed by this section to the extent that the width of such vehicle, including any load thereon, exceeds the width of that portion of a roadway on which such vehicle is driven, which is marked as a single lane of traffic, or, if such roadway has not been marked for lanes of traffic, the width of such vehicle exceeds more than

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the width of such roadway, the driver shall move such vehicle as soon as possible as far to the right side of the highway as is practicable and safe upon the approach of any oncoming or following vehicle and upon approaching the crest of a hill.

(c) The secretary shall adopt rules and regulations consistent with federal requirements designating safety and other devices which may extend out on either side of the vehicle.

(d) (1) A vehicle may be loaded with bales of hay which shall not exceed 12 feet in width and a height as authorized by K.S.A.

8-1904

, and amendments thereto, but vehicles so loaded shall not be moved on any highway designated as a part of the national network of highways, except as permitted under subsection (j) of K.S.A.

8-1911

, and amendments thereto, or under paragraph (2) of this subsection.

(2) A farm vehicle may be loaded with bales of hay which shall not exceed 12 feet in width and a height as authorized by K.S.A.

8-1904

, and amendments thereto, but vehicles so loaded shall not be moved on any highway designated as a part of the national system of interstate and defense highways, except as permitted under subsection (j) of K.S.A.

8-1911

, and amendments thereto. As used in this paragraph "farm vehicle" means a truck or truck tractor registered under K.S.A.

8-143

, and amendments thereto, as a farm truck or truck tractor. Such farm truck or truck tractor may be used in combination with any type of trailer or semitrailer.

(3) Any such vehicles under paragraphs (1) or (2) so loaded shall not be moved during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise. Any vehicle loaded with bales of hay as authorized by the exception in this subsection, with the load extending beyond 8

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feet, shall have attached thereto a sign which states "OVERSIZE LOAD" and the dimensions of the sign shall be a minimum of seven feet long and 18 inches high. Letters shall be a minimum of 10 inches high with a brush stroke of not less than 1

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inches. The sign shall be readily visible from a distance of 500 feet and shall be removed when the vehicle or load does not exceed the legal width. Each vehicle shall be equipped with red flags on all four corners of the oversized load.

(e) The secretary of transportation shall adopt rules and regulations authorizing vehicles to be loaded with two combine headers which exceed the legal width, but vehicles so loaded shall not be moved on any highway designated as a part of the national system of interstate and defense highways, except as permitted under subsection (i) of K.S.A.

8-1911

, and amendments thereto, and vehicles so loaded shall not be moved during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise.

(f) A motor home or travel trailer, may exceed 102 inches, if such excess width is attributable to an appurtenance, except that no appurtenance may extend further than the rear view mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

For the purposes of this subsection the term "appurtenance" shall include:

(1) An awning and its support hardware; and

(2) any appendage that is intended to be an integral part of a motor home or travel trailer coach and that is installed by the manufacturer or dealer.

The term "appurtenance" shall not include any item that is temporarily affixed or attached to the exterior of a motor home or travel trailer by the owner of such motor home or travel trailer for the purposes of transporting such item from one location to another.

KSA 8-1903 — Loads on passenger vehicles extending to either side

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.

KSA 8-1904 — Height and length of vehicles and loads; exceptions to maximums

Height and length of vehicles and loads; exceptions to maximums.

(a) No vehicle including any load thereon shall exceed a height of 14 feet, except that a vehicle transporting cylindrically shaped bales of hay as authorized by K.S.A.

8-1902

(e), and amendments thereto, may be loaded with such bales secured to a height not exceeding 14

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feet. Should a vehicle so loaded with bales strike any overpass or other obstacle, the operator of the vehicle shall be liable for all damages resulting therefrom. The secretary of transportation may adopt rules and regulations for the movement of such loads of cylindrically shaped bales of hay.

(b) No motor vehicle including the load thereon shall exceed a length of 45 feet extreme overall dimension, excluding the front and rear bumpers, except as provided in subsection (d).

(c) Except as otherwise provided in K.S.A.

8-1914

and

8-1915

, and amendments thereto, and subsections (d), (e), (f), (g), (h), (i) and (j), no combination of vehicles coupled together shall exceed a total length of 65 feet.

(d) The length limitations in subsection (b) shall not apply to a truck tractor. No semitrailer which is being operated in combination with a truck tractor shall exceed 59

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feet in length. No semitrailer or trailer which is being operated in a combination consisting of a truck tractor, semitrailer and trailer shall exceed 28

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feet in length.

(e) The limitations in this section governing maximum length of a semitrailer or trailer shall not apply to vehicles operating in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, except that it shall be unlawful to operate any such vehicle or combination of vehicles which exceeds a total length of 85 feet unless a special permit for such operation has been issued by the secretary of transportation or by an agent or designee of the secretary pursuant to K.S.A.

8-1911

, and amendments thereto. For the purpose of authorizing the issuance of such special permits at motor carrier inspection stations, the secretary of transportation may contract with the superintendent of the Kansas highway patrol for such purpose, and in such event, the superintendent or any designee of the superintendent may issue such special permit pursuant to the terms and conditions of the contract. The limitations in this section shall not apply to vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties or when operated under special permit as provided in K.S.A.

8-1911

, and amendments thereto, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load.

(f) The limitations of this section governing the maximum length of combinations of vehicles shall not apply to a combination of vehicles consisting of a truck tractor towing a house trailer, if such combination of vehicles does not exceed an overall length of 97 feet.

(g) The length limitations of this section shall not apply to stinger-steered automobile or boat transporters or one truck and one trailer vehicle combination, loaded or unloaded, used in transporting a combine, forage cutter or combine header to be engaged in farm custom harvesting operations, as defined in K.S.A.

8-143j

(d), and amendments thereto. A stinger-steered boat transporter or one truck and one trailer vehicle combination, loaded or unloaded, used in transporting a combine, forage cutter or combine header to be engaged in farm custom harvesting operations, as defined in K.S.A.

8-143j

(d), and amendments thereto, shall not exceed an overall length limit of 75 feet, exclusive of front and rear overhang. A stinger-steered automobile transporter shall not exceed an overall length limit of 80 feet, exclusive of front and rear overhang.

(h) The length limitations of this section shall not apply to drive-away saddlemount or drive-away saddlemount with fullmount vehicle transporter combination. A drive-away saddlemount or drive-away saddlemount with fullmount vehicle transporter combination shall not exceed an extreme overall dimension of 97 feet.

(i) The length limitations of this section shall not apply to a one truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans or milo, during the months of April through November, but the length of the property-carrying units, excluding load, shall not exceed 81

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feet.

(j) The length limitations of this section shall not apply to a towaway trailer transporter combination consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight not exceeding 26,000 pounds and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor or dealer of such trailers or semitrailers. Such towaway trailer transporter combination shall not exceed a length of 82 feet. As used in this subsection, "a trailer transporting towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

KSA 8-1905 — Projecting loads to the front and rear

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 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 four feet beyond the front and six feet beyond the rear of the transporting vehicle or combination of vehicles.

KSA 8-1906 — Securing loads on vehicles; requirements for hauling livestock; exceptions

Securing loads on vehicles; requirements for hauling livestock; exceptions.

(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) (A) subsections (a) and (c) shall not apply to:

(i) 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;

(ii) trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The provisions of this clause shall not apply to trucks, trailers or semitrailers hauling:

(a) Hay bales; or

(b) other packaged or bundled forage commodities; or

(iii) trucks, trailers or semitrailers when hauling cotton bales transported by the producer intrastate from the place of production or storage to a market, place of storage or place of use if:

(a) Cotton bales are fully loaded from front to back on such truck, trailer or semitrailer in a single layer;

(b) the truck, trailer or semitrailer is equipped with cradles; and

(c) the truck, trailer or semitrailer is equipped with stakes, side boards or side posts that are not less than 12 inches high.

(B) Paragraph (2)(A)(i) 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.

KSA 8-1907 — Towing vehicles; connection and safety equipment; exceptions

Towing vehicles; connection and safety equipment; exceptions.

(a) When one vehicle is towing another, the drawbar, towbar or other connections shall be of sufficient strength to pull, stop and hold all weight towed thereby, and so designed, constructed and installed as to insure that any vehicle or motor vehicle towed on a level, smooth, paved surface will follow in the path of the towing vehicle when it is moving in a straight line. In addition to the drawbar connections between any two such vehicles, there shall be provided an adequate safety hitch.

(b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(c) Motor vehicles in transit may be transported in combination by means of towbar, saddlemount or fullmount mechanisms, utilizing the motive power of one of the motor vehicles in such combination, except that not more than two vehicles in any such combination of motor vehicles in transit may be connected by means of a towbar mechanism. Whenever motor vehicles are transported as authorized in this subsection, such motor vehicles shall be connected securely in combination in accordance with rules and regulations adopted by the secretary of transportation, and any combination of such motor vehicles shall comply with the limitations prescribed by K.S.A.

8-1904

, and amendments thereto.

(d) Except as otherwise provided in subsection (c), not more than three vehicles, including the towing vehicle, in any combination of vehicles may be connected by means of a towbar mechanism, and if the three such vehicles are connected by towbar mechanisms, the towbar mechanism between the towing vehicle and the first towed vehicle shall be equipped with an anti-sway mechanism. In addition, the second towed vehicle of every combination of vehicles so connected shall be equipped with service brakes acting on the wheels of at least one axle, and which are of a type approved by the secretary of transportation and of such character as to be applied automatically and promptly, except that this sentence shall not apply to combinations of vehicles which include a slow-moving vehicle which is an implement of husbandry when moving from field to field.

KSA 8-1908 — Gross weight limits on wheels and axles

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 132 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.

KSA 8-1909 — Gross weight limits for vehicles; exceptions; safety of certain vehicles for operation

Gross weight limits for vehicles; exceptions; safety of certain vehicles for operation.

(a) No vehicle or combination of vehicles shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed in the following table:

Distance in feet between the Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â

Maximum load in pounds carried

extremes of any group of 2 or Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â

on any group of 2 or more

more consecutive axlesÂ Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â

16Â .Â .Â .

41Â .Â .Â .

8-1908

, and amendments thereto. As used in this paragraph (3), the term "dump semitrailer" means any semitrailer designed in such a way as to divest itself of the load carried thereon.

(b) Any vehicle registered under the laws of this state which vehicle is designed and used primarily for the transportation of property or for the transportation of 10 or more persons may, at the time of its registration, be subjected by the director of vehicles to investigation or test as may be necessary to enable such director to determine whether such vehicle may safely be operated upon the highways in compliance with all provisions of this act. Every such vehicle shall meet the following requirements:

(1) It shall be equipped with brakes as required in K.S.A.

8-1734

, and amendments thereto.

(2) Every motor vehicle to be operated outside of business and residence districts shall have motive power adequate to propel such vehicle and any load thereon or to be drawn thereby, at a speed which will not impede or block the normal and reasonable movement of traffic. Exception to this requirement shall be recognized when reduced speed is necessary for safe operation or when a vehicle or combination of vehicles is necessarily or in compliance with law or police direction proceeding at reduced speed.

(c) It shall be unlawful for any person to operate any vehicle or combination of vehicles with a gross weight in excess of the limitations set forth in article 19 of chapter 8 of * Kansas Statutes Annotated, and amendments thereto, except as provided in K.S.A.

8-1911

, and amendments thereto.

(d) As used in this section, "interstate system" means the national system of interstate and defense highways.

(e) A vehicle, if operated by an engine fueled primarily by natural gas, may exceed any vehicle weight limit under this section, up to a maximum gross vehicle weight of 82,000 pounds, by an amount that is equal to the difference between:

(1) The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and

(2) the weight of a comparable diesel tank and fueling system.

KSA 8-1909a — Vehicle operation on national system of interstate and defense highways; exceptions

Vehicle operation on national system of interstate and defense highways; exceptions.

Nothing in this act shall authorize any gross weight of a vehicle, combination of vehicles or axle or axles of a vehicle on the national system of interstate and defense highways greater than permitted by laws of the United States congress, except that this section shall not apply to a truck tractor and dump semitrailer or truck trailer combination authorized under the provisions of subsection (a)(3) of K.S.A.

8-1909

, and amendments thereto.

KSA 8-1910 — Enforcement of vehicle weight laws; officers may weigh vehicles; portable scales; required drive to stationary scales; off-loading or load redistribution required, when

Enforcement of vehicle weight laws; officers may weigh vehicles; portable scales; required drive to stationary scales; off-loading or load redistribution required, when.

(a) Any police officer having reason to believe that the gross weight of a vehicle or combination of vehicles or the gross weight on any axle or sets of axles is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that such vehicle be driven to any scales suitable for this purpose within five miles. When portable scales are used for weighing for the purpose of this section, the location of such portable scales shall be not more than 10 miles from any stationary scales whose accuracy is certified in accordance with law.

(b) Whenever a police officer, upon weighing a vehicle or combination of vehicles, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load

is removed as may be necessary to reduce the gross weight of such vehicle or combination of vehicles or remove or redistribute the gross weight on any axle or sets of axles to such limit as permitted under article 19 of chapter 8 of Kansas Statutes Annotated. All material so unloaded shall be cared for by the owner, lessee or operator of such vehicle at the risk of such owner, lessee or operator.

(c) Any driver of a vehicle or combination of vehicles who fails or refuses to stop and submit such vehicle or combination of vehicles to weighing as provided in this section or who fails or refuses when directed by a police officer to comply with the provisions of this section shall be guilty of a misdemeanor.

KSA 8-1911 — Permits for oversize or overweight vehicles; fees

Permits for oversize or overweight vehicles; fees.

(a) The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion, upon application, may issue a special permit, such term shall include an authorization number, to the owner or operator of an oversize or overweight vehicle. The special permit shall authorize the special permit holder to operate or move a vehicle or combination of vehicles that exceed the limitations of this act, on a route, or routes, designated in the special permit and in accordance with the terms and conditions of the special permit.

(b) The application for the permit shall describe the vehicle, or combination of vehicles and all loads or cargo for which the special permit is requested, the route or routes on which operation is sought and whether a single trip or annual operation is requested. One special permit may be issued for a vehicle or combination of vehicles, that are both oversize and overweight. A special permit under this section may be for a single trip or for annual operation. The special permit shall designate the route or routes that may be used and any other terms, conditions or restrictions deemed necessary. The secretary of transportation shall charge a fee for each permit or authorization number issued as provided for in subsection (f). No permit shall be required to authorize the moving or operating upon any highway, by an implement dealer, as defined in K.S.A.

8-1918

, and amendments thereto, or employee thereof who possesses an annual permit and following all conditions set forth in K.S.A.

8-1918

, and amendments thereto, of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms. No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, except that this sentence shall not: (1) Exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A.

8-1909

, and amendments thereto; or (2) authorize travel on interstate highways.

(c) A permit shall be valid only when the registration on the power unit is equal to or exceeds the total gross weight of the vehicle. When the gross weight of the vehicle exceeds the upper limit of the available registration, the maximum amount of registration must be purchased. The provisions of this subsection shall not apply to a wrecker or tow truck, as defined in K.S.A.

66-1329

, and amendments thereto, and registered in accordance with the provisions of K.S.A.

8-143

, and amendments thereto.

(d) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of

vehicles, when necessary to assure against undue damage to the road. The secretary or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of the special permit.

(f) The secretary of transportation shall charge and collect fees as follows:

(1) Prior to January 1, 2020:

(A) Twenty dollars for each single-trip permit;

(B) thirty dollars for each single-trip permit for a large structure, as defined by rules and regulations;

(C) fifty dollars for each single-trip permit for a superload, as defined by rules and regulations;

(D) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;

(E) one hundred and fifty dollars for each annual permit; or

(F) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A.

8-1915

, and amendments thereto, plus $50 per year for each power unit operating under such annual permit.

(2) On and after January 1, 2020:

(A) Forty dollars for each single-trip permit;

(B) two hundred dollars for each single-trip permit for a large structure, as defined by rules and regulations;

(C) two hundred dollars for each single-trip permit for a superload, as defined by rules and regulations;

(D) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;

(E) two hundred dollars for each annual permit; or

(F) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A.

8-1915

, and amendments thereto, plus $50 per year for each power unit operating under such annual permit.

No fees shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. All permit fees received under this section shall be remitted 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 state highway fund. The secretary may adopt rules and regulations for payment and collection of all fees. The secretary may adopt rules and regulations implementing the provisions of this section to prescribe standards for any permit program to enhance highway safety.

(g) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(h) A house trailer, manufactured home or mobile home that exceeds the width as provided in K.S.A.

8-1902

(a), and amendments thereto, may be moved on the highways of this state by obtaining a permit as provided in this section, if:

(1) The width of such house trailer, manufactured home or mobile home does not exceed 16

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feet;

(2) the driver of the vehicle pulling the house trailer, manufactured home or mobile home has a valid driver's license; and

(3) the driver carries evidence that the house trailer, manufactured home or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than $100,000 for injury to any one person, and $300,000 for injury to persons in any one accident, and $25,000 for injury to property.

For the purposes of this subsection, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A.

58-4202

, and amendments thereto.

(i) Upon proper application stating the description and registration of each power unit, the secretary of transportation shall issue permits for a period, from May 1 to November 15, for custom combine operators to tow custom-combine equipment on a trailer within legal dimensions or a trailer especially designed for the transportation of combines or combine equipment at the rate of $10 per power unit. Each application shall be accompanied by information as required by the secretary. The permit shall allow custom combine operators to haul two combine headers on designated interstate highways provided:

(1) The vehicle plus the load do not exceed 14 feet in width;

(2) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset; and

(3) the vehicle plus the load are not overweight.

(j) Except as provided in K.S.A.

8-1902

(d)(2), and amendments thereto, a vehicle loaded with bales of hay that exceeds the width as provided in K.S.A.

8-1902

(a), and amendments thereto, may be moved on any highway designated as a part of the national network of highways by obtaining a permit as provided by this section, if:

(1) The vehicle plus the bales of hay do not exceed 12 feet in width;

(2) the vehicle plus the bales of hay do not exceed the height authorized under K.S.A.

8-1904

, and amendments thereto;

(3) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset;

(4) the vehicle plus the load are not overweight; and

(5) the vehicle plus the load comply with the signing and marking requirements of K.S.A.

8-1902

(d)(3), and amendments thereto.

(k) If it is determined by the secretary of transportation that a person has been granted a permit and has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may cancel the permit and may refuse to grant future permits to the individual.

(l) (1) Vehicles operating under the provisions of a permit issued under subsection (a), that exceed the width limitations prescribed by K.S.A.

8-1902

, and amendments thereto, or the length provisions in K.S.A.

8-1904

, and amendments thereto, shall have a sign attached that states "OVERSIZE LOAD" and the dimensions of the sign shall be a minimum of seven feet long and 18 inches high. Letters shall be a minimum of 10 inches high with a brush stroke of not less than 1

2

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5

inches. The sign shall be readily visible from a distance of 500 feet and shall be removed when the vehicle or load no longer exceeds the legal width dimensions prescribed by K.S.A.

8-1902

, and amendments thereto, or the length provisions in K.S.A.

8-1904

, and amendments thereto. Each such vehicle shall be equipped with red flags on all four corners of the oversize load.

(2) Vehicles operating under the provision of a permit issued under subsection (a), which exceed the weight limitations of K.S.A.

8-1908

or

8-1909

, and amendments thereto, but do not exceed the width limitations prescribed by K.S.A.

8-1902

, and amendments thereto, or the length provisions in K.S.A.

8-1904

, and amendments thereto, shall not have a sign attached which states "OVERSIZE LOAD."

(m) (1) Vehicles operating under the provisions of a permit issued under subsection (a), that exceed the width limitations prescribed by K.S.A.

8-1902

, and amendments thereto, or the length provisions in K.S.A.

8-1904

, and amendments thereto, shall not operate: (A) During the time period between 30 minutes after sunset to 30 minutes before sunrise, unless specifically authorized under another statute or regulation; (B) under conditions where visibility is less than

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2

mile; or (C) when highway surfaces have ice or snow pack or drifting snow.

(2) Vehicles operating under the provisions of a permit issued under subsection (a), that exceed the weight limitations of K.S.A.

8-1908

or

8-1909

, and amendments thereto, but do not exceed the width limitations prescribed by K.S.A.

8-1902

, and amendments thereto, or the length provisions in K.S.A.

8-1904

, and amendments thereto, may operate 24-hour days, except that such vehicles shall not operate when highway surfaces have ice or snow pack or drifting snow.

KSA 8-1912 — When secretary of transportation or local authorities may restrict use of highways

When secretary of transportation or local authorities may restrict use of highways.

(a) Local authorities with respect to highways under their jurisdiction may prohibit, by ordinance or resolution, the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed ninety (90) days in any one (1) calendar year, whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The local authority enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective unless and until such signs are erected and maintained.

(c) Local authorities with respect to highways under their jurisdiction also, by ordinance or resolution, may prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight or size thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways: Provided, That adjacent premises to such restricted streets may be served, and such restrictions shall not apply to any street which is a connecting link of the state highway system, unless a satisfactory alternate route is provided and has been approved by the secretary of transportation.

(d) The secretary of transportation likewise shall have authority as hereinabove granted to local authorities to determine by resolution and to impose restrictions as to the weight or size of vehicles operated upon any highways under the jurisdiction of said secretary and such restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway affected by such resolution.

KSA 8-1913 — Liability for damage to highway or structure

Liability for damage to highway or structure.

(a) Any person driving any vehicle, object or contrivance upon any highway or highway structure shall be liable for all damage which said highway or structure may sustain as a result of any illegal operation, driving or moving of such vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight in this act but authorized by a special permit issued as provided in this article.

(b) Whenever such driver is not the owner of such vehicle, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.

(c) Such damage may be recovered in a civil action brought by the authorities in control of such highways or highway structure.

KSA 8-1914 — Issuance of special permits for operation of vehicles from Kansas turnpike authority toll booths and motor-freight truck terminals

Issuance of special permits for operation of vehicles from Kansas turnpike authority toll booths and motor-freight truck terminals.

The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction may issue permits authorized under the provisions of K.S.A.

8-1911

, and amendments thereto, for the operation of combinations of vehicles operating on a route designated by the secretary or local authority between a Kansas turnpike authority toll booth and a motor-freight truck terminal located within a ten-mile radius of any such toll booth, except at the northeastern end of the turnpike at which location a twenty-mile radius shall apply.

KSA 8-1915 — Issuance of special vehicle combination permits; conditions; penalties; rules and regulations

Issuance of special vehicle combination permits; conditions; penalties; rules and regulations.

(a) The secretary of transportation may issue a special vehicle combination permit pursuant to the provisions of K.S.A.

8-1911

, and amendments thereto, for the operation of a special vehicle combination consisting of a truck tractor, semitrailer, trailer and trailer. In addition to the conditions the secretary may establish under K.S.A.

8-1911

, and amendments thereto, such vehicle combinations shall also be required to operate under the following conditions:

(1) The special vehicle combination may be operated only on:

(A) United States highway 69 alternate between a motor-freight truck terminal located at the city of Baxter Springs and the Kansas-Oklahoma line; and

(B) interstate highway 70 between a motor-freight truck terminal located within a five-mile radius of such interstate at the city of Goodland and the Kansas-Colorado line;

(2) any semitrailer or trailer used in such special vehicle combination, shall not exceed 28½ feet in length;

(3) travel of such special vehicle combination may be restricted to specific routes, hours of operation, specific days or seasonal periods; and

(4) the secretary may enforce any other restrictions determined by the secretary to be necessary.

(b) The secretary of transportation may adopt rules and regulations implementing the provisions of subsection (a), including prescribing standards for the qualifications of drivers operating such special vehicle combinations and the equipping and operation of such special vehicle combinations to enhance highway traffic safety.

(c) A person, firm or corporation convicted of violating any provision of this section or any restriction on the special permits issued by the secretary under this section shall be punished by a fine of not less than $500 nor more than $1,000 and all special permits issued for the operation of such special vehicle combinations in violation shall be confiscated. The special vehicle combination must be separated into combinations of legal length before the units may proceed.

(d) The provisions of this section shall not govern the operations of combinations of vehicles authorized to be operated under the provisions of K.S.A.

8-1914

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KSA 8-1916 — Cotton modules; allowable movement

Cotton modules; allowable movement.

(a) Any person issued a special permit under the provisions of K.S.A.

8-1911

, and amendments thereto, for the purpose of moving cotton modules on the highways of this state, shall be allowed to move such cotton modules 24-hours per day. Such person shall comply with all applicable provisions of K.S.A.

8-1911

, and amendments thereto, and rules and regulations adopted by the secretary.

(b) The gross weight on tandem axles of a cotton module issued a special permit under K.S.A.

8-1911

, and amendments thereto, shall not exceed 50,000 pounds. A cotton module with a tandem gross axle weight of 50,000 pounds or less shall not be considered a superload as defined in rules and regulations of the Kansas department of transportation.

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

KSA 8-1917 — Idle reduction technology; maximum weight limit exception

Idle reduction technology; maximum weight limit exception.

(a) Notwithstanding the provisions of K.S.A.

8-1908

and

8-1909

, and amendments thereto, the maximum gross weight limit and axle weight limit for any vehicle or combination of vehicles equipped with idle reduction technology may be increased by a quantity necessary to compensate for the additional weight of such idle reduction technology as provided for in 23 U.S.C. Â§ 658.17. In no case shall the additional weight increase allowed by this section be greater than 400 pounds.

(b) Upon request by an appropriate law enforcement officer, the vehicle operator shall provide proof:

(1) By written certification, the weight of the idle reduction technology;

(2) by demonstration or certification, that the idle reduction technology is fully functional at all times; and

(3) that the gross weight increase is not used for any purpose other than for the use of idle reduction technology.

(c) As used in this section, "idle reduction technology" means any device or system of devices that:

(1) Is installed on a heavy-duty diesel-powered on-highway truck or truck tractor; and

(2) is designed to provide to such truck or truck tractor those services, such as heat, air conditioning or electricity, that would otherwise require the operation of the main drive engine while the truck or truck tractor is temporarily parked or remains stationary.

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

KSA 8-1918 — Implement dealers; permits; allowable movement

Implement dealers; permits; allowable movement.

(a) An implement dealer who obtains an annual permit pursuant to K.S.A.

8-1911

, and amendments thereto, shall be allowed to move or transport farm tractors, implements of husbandry, combines, fertilizer dispensing equipment or other farm machinery on highways under the jurisdiction of the secretary of transportation.

(b) Such annual permit shall allow an implement dealer to move such equipment or machinery subject to the following conditions:

(1) Except as provided in subsection (e), loads being moved or transported shall not exceed a width of 17 feet, nine inches;

(2) except as provided in subsection (e), movement of loads exceeding a width of 14 feet shall use escort vehicles as required by the rules and regulations of the Kansas department of transportation;

(3) moves shall not be made within ½ hour after sunset and ½ hour before sunrise; and

(4) loads cannot be moved on any highway that is part of the national systems of interstate and defense highways.

(c) An implement dealer, or employee thereof, moving farm equipment or machinery on highways under the jurisdiction of the secretary of transportation that exceed the weight limits established by K.S.A.

8-1908

or

8-1909

, and amendments thereto, or the height and length limits established by K.S.A.

8-1904

, and amendments thereto, shall obtain an appropriate permit under K.S.A.

8-1911

, and amendments thereto, and the rules and regulations promulgated by the Kansas department of transportation.

(d) Except as provided in subsection (e), the provisions of this section shall apply whether the implement dealer, or employees thereof, moves the equipment or machinery either:

(1) On a trailer or semi-trailer;

(2) pinning the equipment or machinery onto a truck or truck tractor with the item traveling on the item's wheels; or

(3) under the machinery or equipment's own power.

(e) An implement dealer, or employees thereof, may move farm machinery when towing such machinery behind a farm tractor within a 100 mile radius of any of the implement dealer's places of business when such farm tractor and equipment or machinery are equipped with flashing lights on both the front and rear and towed in accordance with subsections (b)(3), (b)(4) and (c).

(f) An implement dealer, or employee thereof, moving farm machinery designed for use at speeds of less than 25 miles per hour, or which is normally moved at speeds less than 25 miles per hour, shall have displayed on the farm machinery a slow-moving vehicle emblem, as defined in K.S.A.

8-1717

(e)(2), and amendments thereto, which shall be clearly visible from the rear of the farm machinery.

(g) As used in this section, "implement dealer" shall mean a person, firm, organization or business that buys, sells or services farm tractors, implements of husbandry, combines, fertilizer dispensing equipment or other farm machinery in the regular course of business.

KSA 8-1919 — Issuance of special permits for certain vehicle combinations; fees; conditions

Issuance of special permits for certain vehicle combinations; fees; conditions.

(a) The secretary of transportation, with respect to highways under the secretary's jurisdiction, including those highways designated as city connecting links, may issue an annual overweight divisible load permit for a truck-tractor semitrailer combination vehicle or a truck-tractor semitrailer, trailer combination vehicle with a gross vehicle weight of more than 85,500 pounds but not more than 90,000 pounds transporting divisible loads on six or more axles.

(b) Such vehicles shall be subject to the following requirements:

(1) The vehicle, when loaded in excess of 80,000 pounds, may not be operated on the interstate system;

(2) the vehicle must be registered at the maximum weight category in accordance with K.S.A.

8-143

, and amendments thereto;

(3) the vehicle shall not be operated on any bridge or highway that has a posted gross weight limit or posted axle weight limit less than that which the vehicle is operating;

(4) the permit must be carried in the vehicle when the vehicle is operating at a weight over 85,500 pounds;

(5) the vehicle must comply with the provisions of K.S.A.

8-1908

and

8-1909

, and amendments thereto, except as otherwise provided by this section;

(6) any vehicle operating under an overweight divisible load permit cannot violate the width provisions of K.S.A.

8-1902

, and amendments thereto, or the height and length provisions of K.S.A.

8-1904

, and amendments thereto;

(7) the vehicle, when operating in excess of 85,500 pounds, must not operate when highway surfaces have ice or snowpack or drifting snow; and

(8) the vehicle, when operating in excess of 85,500 pounds, shall only carry agricultural inputs, farm supplies, biofuels, feed, raw or processed agricultural commodities, livestock, raw meat products intended by the shipper for further processing or farm products. The provisions of this paragraph shall be construed liberally so as to effectuate the purposes thereof.

(c) The secretary shall charge and collect a fee of $200 for the annual permit provided in this section. No single trip permits shall be issued.

(d) No vehicle issued a permit under this section shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles		
	6 axles	7 axles	8 axles
35	86,000		
36	86,500		
37	87,000		
38	87,500		
39	88,500		
40	89,000		
41	89,500		
42	90,000		
43			
44			
45	86,000		
46	87,000		
47	87,500		
48	88,000		
49	88,500		
50	89,000		
51	89,500		
52	90,000		
53	86,000		
54	86,500		
55	87,000		
56	87,500		
57	88,000		
58	89,000		
59	89,500		
60	90,000		

(e) All permit fees received under this section shall be remitted 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 state highway fund.

KSA 8-1920 — Gross weight limits for emergency vehicles

Gross weight limits for emergency vehicles.

(a) Notwithstanding any other laws to the contrary, an emergency vehicle may operate at a gross weight not exceeding 86,000 pounds, subject to a maximum weight of:

(1) 24,000 pounds on a single steering axle;

(2) 33,500 pounds on a single drive axle;

(3) 62,000 pounds on a tandem axle;

(4) 52,000 pounds on a tandem rear drive steer axle.

(b) As used in this section, "emergency vehicle" means a vehicle designed to be used under emergency conditions to:

(1) Transport personnel and equipment; and

(2) support the suppression of fires and mitigation of other hazardous situations.

KSA 8-1921 — Escort vehicle company registration; requirements; penalty

Escort vehicle company registration; requirements; penalty.

(a) Commencing on and after January 1, 2020, each company that operates an escort vehicle service in this state shall register annually with the secretary of transportation in accordance with rules and regulations adopted by the secretary.

(b) Each application for registration shall be accompanied by the following:

(1) The name and address of the agent for service of process;

(2) proof that each vehicle operated in this state by the applicant maintains the required insurance, self-insurance or other financial security required pursuant to K.S.A.

40-3104

, and amendments thereto;

(3) proof that each driver of an escort vehicle has a valid operator's license issued by a state or territory of the United States;

(4) proof that each driver has successfully completed an escort vehicle training course approved by the secretary; and

(5) such other information as the secretary may require.

(c) The secretary may revoke, suspend or refuse to issue a registration for any violation of this section.

KSA 8-2001 — Provisions of act uniform throughout state; local traffic regulations

Provisions of act uniform throughout state; local traffic regulations.

The provisions of this act shall be applicable and uniform throughout this state and in all cities and other political subdivisions therein, and no local authority shall enact or enforce any ordinance in conflict with the provisions of this act unless expressly authorized; however, local authorities may adopt additional traffic regulations which are not in conflict with the provisions of this act.

KSA 8-2002 — Powers of local authorities

Powers of local authorities.

(a) The provisions of this act shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) Regulating or prohibiting stopping, standing or parking;

(2) regulating traffic by means of police officers or official traffic-control devices;

(3) regulating or prohibiting processions or assemblages on the highways;

(4) designating particular highways or roadways for use by traffic moving in one direction as authorized in K.S.A.

8-1521

, and amendments thereto;

(5) establishing speed limits for vehicles in public parks notwithstanding the provisions of subsection (a)(3) of K.S.A.

8-1560

, and amendments thereto;

(6) designating any highway as a through highway or designating any intersection or junction of roadways as a stop or yield intersection or junction;

(7) restricting the use of highways as authorized in K.S.A.

8-1912

, and amendments thereto;

(8) regulating the operation of bicycles and requiring the registration and inspection of same, including the requirement of a registration fee;

(9) regulating or prohibiting the turning of vehicles or specified types of vehicles;

(10) altering or establishing speed limits as authorized in K.S.A.

8-1560

, and amendments thereto;

(11) establish school zones as provided in subsection (a)(4) of K.S.A.

8-1560

, and amendments thereto;

(12) designating no-passing zones as authorized in K.S.A.

8-1520

, and amendments thereto;

(13) prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic as authorized in K.S.A.

8-1525

, and amendments thereto;

(14) prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(15) establishing minimum speed limits as authorized in subsection (b) of K.S.A.

8-1561

, and amendments thereto;

(16) designating hazardous railroad grade crossings as authorized in K.S.A.

8-1552

, and amendments thereto;

(17) designating and regulating traffic on play streets;

(18) prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in K.S.A.

8-2006

, and amendments thereto;

(19) restricting pedestrian crossings at unmarked crosswalks as authorized in K.S.A.

8-2007

, and amendments thereto;

(20) regulating persons propelling push carts;

(21) regulating persons upon skates, coasters, sleds and other toy vehicles;

(22) adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;

(23) adopting such other traffic regulations as are specifically authorized by this act.

(b) No local authority shall erect or maintain any official traffic-control device at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the secretary of transportation.

(c) No ordinance, resolution or regulation enacted under paragraph (4), (5), (6), (7), (9), (10), (12), (13), (14), (16), (17) or (19) of subsection (a) of this section shall be effective until official traffic-control devices giving notice of such local traffic regulations are erected upon or at the entrances to the highway or part thereof affected as may be most appropriate.

(d) No ordinance, resolution or regulation enacted under paragraph (5), (10) or (22) shall establish a speed limit in excess of the speed limit established by or pursuant to subsection (a) of K.S.A.

8-1558

, and amendments thereto, or paragraph (2) of subsection (a) or subsection (b) of K.S.A.

8-1560

, and amendments thereto.

KSA 8-2003 — Secretary of transportation to adopt sign manual

Secretary of transportation to adopt sign manual.

The secretary of transportation shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this act for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system set forth in the most recent edition of the manual on uniform traffic-control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

KSA 8-2004 — Traffic-control devices on state highways; doubling of fine in road construction zone

Traffic-control devices on state highways; doubling of fine in road construction zone.

(a) The secretary of transportation shall place and maintain such traffic-control devices, conforming to the manual and specifications adopted under K.S.A.

8-2003

, and amendments thereto, upon all state highways as the secretary shall deem necessary to indicate and to carry out the provisions of this act or to regulate, warn or guide traffic.

(b) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the secretary of transportation, except by the latter's permission.

(c) The secretary of transportation shall post signs informing motorists that conviction 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 a road construction zone, as defined in K.S.A.

8-1458a

, shall result in a fine which is double the fine listed in the uniform fine schedule in K.S.A.

8-2118

, and amendments thereto.

KSA 8-2005 — Local traffic-control devices; highways and streets designated as connecting links; township roads

Local traffic-control devices; highways and streets designated as connecting links; township roads.

(a) Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this act or local traffic ordinances or to regulate, warn or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

(b) Local authorities in exercising those functions referred to in subsection (a) shall be subject to the direction and control of the secretary of transportation with respect to highways and streets designated by the secretary as connecting links in the state highway system.

(c) In all counties operating under the county-township system, responsibilities for traffic-control devices and signage shall be as follows:

(1) Counties shall maintain the county roads and shall place and maintain traffic-control devices on county roads. Counties shall maintain and place on township roads signs related to county culverts and county bridges, and construction signage related to county projects on township roads.

(2) Township boards shall maintain the local township roads and shall place and maintain traffic-control signage on such township roads, except as provided in paragraph (1). Regulatory signs on township roads under the township board's jurisdiction shall be consistent with resolutions of the board of county commissioners of the county in which the township road is located.

(3) For purposes of this subsection, a regulatory sign is a sign setting forth a regulation, the violation of which subjects the operator of the motor vehicle to a fine, imprisonment, or both. Nothing in this subsection shall be construed as precluding the board of county commissioners from placing and maintaining traffic-control devices or street name signs on township roads, if the board determines that traffic-control devices or signs placed by a township are inadequate, but the board of county commissioners shall not be required to take such action.

(d) In all counties operating under the county road unit system, responsibilities for traffic-control devices and signage shall be as follows:

(1) Counties shall maintain the county roads and township roads and shall place and maintain all traffic-control devices on such roads.

(2) Township boards shall not be responsible for roads or signage.

(e) In all counties operating under the general county rural highway system, responsibilities for traffic-control devices and signage shall be as follows:

(1) Counties shall maintain the county roads and township roads and maintain all traffic-control devices on such roads in accordance with K.S.A.

68-591

et seq., and amendments thereto.

(2) Township boards shall not be responsible for roads or signage.

KSA 8-2006 — Restrictions on pedestrian crossings

Restrictions on pedestrian crossings.

Local authorities, by ordinance or resolution, and the secretary of transportation, by erecting appropriate official traffic-control devices, are hereby empowered within their respective jurisdictions to prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

KSA 8-2007 — Same; unmarked crosswalks

Same; unmarked crosswalks.

The secretary of transportation and local authorities in their respective jurisdictions, after an engineering and traffic investigation, may designate unmarked crosswalk locations where pedestrian crossing is prohibited or where pedestrians must yield the right-of-way to vehicles. Such restrictions shall be effective only when official traffic-control devices indicating the restrictions are in place.

KSA 8-2008 — Erection and maintenance of stop signs, yield signs and traffic-control devices

Erection and maintenance of stop signs, yield signs and traffic-control devices.

The secretary of transportation, with reference to state highways, and local authorities with reference to highways under their jurisdiction may erect and maintain stop signs, yield signs, or other official traffic-control devices to designate through highways, or to designate intersections or other roadway junctions at which vehicular traffic on one (1) or more of the roadways shall yield or stop and yield before entering the intersection or junction.

KSA 8-2009 — Regulations governing design and operation of school buses; effect of noncompliance

Regulations governing design and operation of school buses; effect of noncompliance.

(a) All seats on school buses shall be forward-facing and shall be securely fastened to that part or parts of the school bus which support them, and any rule and regulation of the state board of education providing for any other seating arrangement shall be null and void. The state board of education shall adopt and enforce rules and regulations not inconsistent with this act to govern the design and operation of all school buses. The state board of education shall confer and consult, at such time or times as deemed necessary or advisable, with school officers and administrators and other persons responsible for school transportation services as to the effect of such rules and regulations. When any privately owned school bus is operated under contract with any school district or nonpublic school in this state, such rules and regulations shall by reference be made a part of any such contract with a school district or with a nonpublic school. Every school district, its officers and employees, and every nonpublic school, its officers and employees, and every person employed under contract by a school district or a nonpublic school shall be subject to such rules and regulations.

(b) Any officer or employee of any school district who violates any of the rules and regulations or fails to include obligation to comply with such rules and regulations in any contract executed on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of the rules and regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district.

(c) The provisions of this section shall be subject to the provisions contained in K.S.A.

8-2009a

, and amendments thereto.

KSA 8-2009a — School buses; exemptions from requirements of law and regulations; approval by state board of education

School buses; exemptions from requirements of law and regulations; approval by state board of education.

(a) Every school bus, as defined in K.S.A.

8-1461

, and amendments thereto, shall be governed by the requirements of law and rules and regulations of the state board of education applicable to design, lighting equipment, distinctive markings, special warning devices, and any other equipment which are in effect on the date any such school bus is purchased or otherwise acquired, and shall be exempt from the requirements of law and rules and regulations which become effective at any time during a period of 25 years from the date of manufacture of such school bus. The state board of education is hereby required to approve any such school bus as to design, and as to lighting equipment, special warning devices, distinctive markings, and any other equipment required by law and rules and regulations, for operation as a school bus during such exemption period upon submission of a request for such approval.

(b) The state board of education is authorized to establish the procedure to be followed when request for approval of any such school bus is submitted under this section. The approval shall be in writing and a copy of the written approval shall be carried in the school bus at all times, but failure to carry such copy of the written approval shall not affect the status of the school bus as an approved school bus. The state board of education shall maintain a list of all such school buses which have been approved by the board.

KSA 8-2010 — Designation of authorized emergency vehicles

Designation of authorized emergency vehicles.

(a) Any particular vehicle listed in subsection (b) of K.S.A.

8-2010a

, and amendments thereto, shall be designated, by the board of county commissioners in which such vehicle is located, as an authorized emergency vehicle upon the filing of an application pursuant to K.S.A.

8-2010a

, and amendments thereto and a finding that designation of such vehicle is necessary to the preservation of life or property or to the execution of emergency governmental functions. The designation shall be in writing and the written designation shall be carried in the vehicle at all times, but failure to carry the written designation shall not affect the status of the vehicle as an authorized emergency vehicle.

(b) Any vehicle designated as an authorized emergency vehicle prior to the effective date of this act, may continue to operate as an authorized emergency vehicle, as long as: (1) The ownership of such vehicle remains unchanged; and (2) the use of such vehicle for purposes for which such vehicle was designated remains unchanged, except that all future operation of such vehicle as an authorized emergency vehicle shall be in accordance with this section and such other applicable provisions of law.

(c) The following vehicles shall not be required to be designated by the board of county commissioners as authorized emergency vehicles:

(1) Fire department vehicles or police vehicles which are publicly owned;

(2) 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; and

(3) 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.

(d) Any vehicle designated under the provisions of this section, as an authorized emergency vehicle in the county in which such vehicle is located, shall be a valid designation of such vehicle in any other county and such vehicle shall be authorized to operate as an authorized emergency vehicle without being required to obtain any additional designation in any other county.

KSA 8-2010a — Designation of authorized emergency vehicle; application; vehicles which may be designated

Designation of authorized emergency vehicle; application; vehicles which may be designated.

(a) An application for the designation of a vehicle as an authorized emergency vehicle pursuant to K.S.A.

8-2010

, and amendments thereto, shall be submitted to the board of county commissioners in the county in which such vehicle is located and shall be completed and signed: (1) By the individual applicant;

(2) if a partnership, by a member of the partnership or an authorized agent; or

(3) if a corporation or municipality, by an officer or authorized agent of the corporation or municipality.

(b) The following vehicles, upon approval by the board of county commissioners, may be designated as emergency vehicles:

(1) Civil defense vehicles;

(2) emergency vehicles operated by public utilities;

(3) the privately owned vehicles of firefighters or volunteer firefighters;

(4) the privately owned vehicles of police officers; or

(5) any other vehicle, when it is determined by the board of county commissioners that such designation is necessary to the preservation of life or property or carrying out of emergency governmental functions.

KSA 8-2010b — Operation of vehicle with red light prohibited unless approved emergency vehicle

Operation of vehicle with red light prohibited unless approved emergency vehicle.

A person, partnership, association, corporation, municipality or public official shall not operate, or cause to be operated upon a public highway, road or street within this state, a motor vehicle which is required to be designated under the provisions of K.S.A.

8-2010

, and amendments thereto, with a red light, siren or both unless such vehicle has been designated as an authorized emergency vehicle pursuant to K.S.A.

8-2010

, and amendments thereto.

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

Wreckers, tow trucks or car carriers; operation of emergency lights; when.

(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.

KSA 8-2011 — Removal of traffic hazards on private property

Removal of traffic hazards on private property.

(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.

KSA 8-2012 — Rights of owners of real property

Rights of owners of real property.

Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in this act, or otherwise regulating such use as may seem best to such owner.

KSA 8-2101 — Parties to a crime established by uniform act

Parties to a crime established by uniform act.

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.

KSA 8-2102 — Offenses by persons owning or controlling vehicles

Offenses by persons owning or controlling vehicles.

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.

KSA 8-2103 — Application of act to public officers and employees

Application of act to public officers and employees.

The provisions of this act which are applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city or any other political subdivision of the state, subject to such specific exceptions as are set forth in this act.

KSA 8-2104 — When person to be taken before judge of district court; arrest at discretion of officer, when; traffic citation only in certain cases

When person to be taken before judge of district court; arrest at discretion of officer, when; traffic citation only in certain cases.

(a) When a person is stopped by a law enforcement officer for any violation of any provision of the uniform act regulating traffic on highways not amounting to a felony, the person shall be taken into custody and taken without unnecessary delay before a judge of the district court, as specified in subsection (d) of K.S.A.

8-2106

, and amendments thereto, if:

(1) Such person demands an immediate appearance before a judge; or

(2) such person is to be charged with a violation of K.S.A.

8-1567

and

8-1568

, and amendments thereto.

(b) When any person is stopped by a law enforcement officer for any violation of any provision of the uniform act regulating traffic on highways, which violation is a misdemeanor, and is not required to be taken before a judge of the district court as provided in subsection (a), the person, in the discretion of the law enforcement officer, may be taken into custody and taken without unnecessary delay before a judge of the district court, as specified in subsection (d) of K.S.A.

8-2106

, and amendments thereto.

(c) When any person is stopped by a law enforcement officer for any violation of any provision of the uniform act regulating traffic on highways, which violation is a traffic infraction, and is not required to be taken before a judge of the district court as provided in subsection (a), the person shall not be taken before a judge of the district court.

(d) When any person is stopped by a law enforcement officer and is to be charged with violation of any statute defining a traffic violation which is a felony, the person shall be taken without unnecessary delay before a judge of the district court as specified in subsection (d) of K.S.A.

8-2106

, and amendments thereto.

KSA 8-2106 — Traffic citation; procedure

Traffic citation; procedure.

(a) A law enforcement officer may prepare and deliver to a person a written traffic citation on a form approved by the division of motor vehicles, if the law enforcement officer stops the person for a violation of:

(1) The uniform act regulating traffic on highways, which violation is a misdemeanor or a traffic infraction;

(2) K.S.A.

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40-3104

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47-607
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66-1,111
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66-1,140
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66-273
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66-1314
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66-1332
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68-2104
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68-2106
or
79-34,122
(b), or K.S.A.
21-5607
(a),
21-5810
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21-5815
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21-5816

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21-5817
(a) or
21-6203
, and amendments thereto;
(3) K.S.A.
31-155
, and amendments thereto, involving transportation of bottle rockets;
(4) K.S.A.
66-1314
or
66-1328
, and amendments thereto, and any rules and regulations adopted pursuant thereto;
(5) any rules and regulations adopted pursuant to K.S.A.
2-1212
,
68-2001
or
31-146
, and amendments thereto;
(6) any rules and regulations adopted pursuant to K.S.A.
31-133
, and amendments thereto, relating to transportation of materials or fuel;
(7) K.S.A.
8-1343
through
8-1347
, and amendments thereto, relating to the child passenger safety act; or
(8) K.S.A.
8-2501
through
8-2507
, and amendments thereto, relating to the safety belt use act.

(b) The citation shall contain a notice to appear in court, the name and address of the person, the type of vehicle the person was driving, whether hazardous materials were being transported, whether an accident occurred, the state registration number of the person's vehicle, if any, a statement whether the vehicle is a commercial vehicle, whether the person is licensed to drive a commercial motor vehicle, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer and any other pertinent information.

(c) The time specified in the notice to appear shall be at least five days after the alleged violation unless the person charged with the violation demands an earlier hearing.

(d) The place specified in the notice to appear shall be before a judge of the district court within the county in which the offense is alleged to have been committed.

(e) Except in the circumstances to which K.S.A.

8-2104

(a), and amendments thereto, apply, in the discretion of the law enforcement officer, a person charged with a misdemeanor may give written promise to appear in court by signing at least one copy of the written citation prepared by the law enforcement officer, in which event the law enforcement officer shall deliver a copy of the citation to the person and shall not take the person into physical custody.

(f) When a person is charged with a traffic infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. Such notice to appear shall contain a provision that the person's failure to either pay such fine and court costs or appear at the specified time may result in suspension of the person's drivers' license as provided in K.S.A.

8-2110

, and amendments thereto. The notice to appear shall provide a space where the law enforcement officer shall enter the appropriate fine specified in the uniform fine schedule contained in K.S.A.

8-2118

, and amendments thereto, for the violation charged and court costs in the amount provided by law. If the notice to appear does not do so, the law enforcement officer shall provide a person charged with a traffic infraction a form explaining the person's right to appear and right to a trial and the person's right to pay the appropriate fine and court costs prior to the appearance date. The law enforcement officer shall provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine and court costs shall be mailed.

(g) Any officer violating any of the provisions of subsection (f) is guilty of misconduct in office and shall be subject to removal from office.

(h) A driverless-capable vehicle's registered owner shall be responsible for all applicable traffic law violations when the automated driving system is engaged. For the purposes of prosecution of traffic law violations, the owner is considered to be the operator of the vehicle when the automated driving system is engaged. A law enforcement officer shall deliver the written traffic citation to a person charged with a traffic infraction to the owner of the driverless-capable vehicle operating without a conventional human driver as such terms are defined by K.S.A.

8-2901

, and amendments thereto, by sending the citation by certified mail to the address of the owner.

KSA 8-2107 — Offenses that may require an appearance bond; driver's license deposit and procedures; license suspension for failure to appear; bond in lieu of driver's license deposit; nonresident violator compact; docket fee; authorized only by legislative enactment

Offenses that may require an appearance bond; driver's license deposit and procedures; license suspension for failure to appear; bond in lieu of driver's license deposit; nonresident violator compact; docket fee; authorized only by legislative enactment.

(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 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.

(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 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 K.S.A.

8-2118

(c), 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 moneys 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 July 1, 2019, through June 30, 2025, the supreme court may impose an additional charge, not to exceed $22 per docket fee, to fund the costs of non-judicial personnel.

KSA 8-2108 — Citation deemed lawful complaint

Citation deemed lawful complaint.

In the event the form of citation provided for in K.S.A.

8-2106

, and amendments thereto, includes information required by law and is signed by the officer preparing it, such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution for the violation specified.

KSA 8-2109 — Authority of officer at scene of accident

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.

KSA 8-2110 — Failure to comply with traffic citation; misdemeanor; suspension of driver's license; restricted driving privileges, specified circumstances, rescission; fee for mailing notice; reinstatement fee; waiver of fees and fines and assessment of costs

Failure to comply with traffic citation; misdemeanor; suspension of driver's license; restricted driving privileges, specified circumstances, rescission; fee for mailing notice; reinstatement fee; waiver of fees and fines and assessment of costs.

(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 any fine and court costs imposed as ordered by the court; 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) (A) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for any violations provided in subparagraph (C), 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 fines, court costs and any penalties as ordered by the court within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges unless such person is eligible for restricted driving privileges pursuant to subparagraph (B). If the person is eligible for restricted driving privileges, the division of vehicles shall restrict such person's driving privileges pursuant to the terms set forth in subparagraph (B). 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 unless the district or municipal court has determined pursuant to a written order that the person shall fulfill any requirements set forth by the court prior to the suspension. Failure to abide by the terms of the order shall result in the court notifying the division of vehicles that the person's license shall be suspended for the failure to comply with a traffic citation. 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 substantial compliance with the terms of the traffic citation has been furnished to the informing court unless such person is eligible for restricted driving privileges pursuant to subparagraph (B). If the person is eligible for restricted driving privileges, the division of vehicles shall notify the violator that the person's driving privileges are restricted pursuant to the terms set forth in subparagraph (B). When the court determines the person is in substantial compliance 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 restriction, suspension or suspension action.

(B) (i) When restricted driving privileges are approved pursuant to this subsection, the person's driving privileges shall be restricted to driving only under the following circumstances:

(a) In going to or returning from the person's place of employment or schooling;

(b) in the course of the person's employment;

(c) in going to or returning from an appointment with a healthcare provider or during a medical emergency;

(d) 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;

(e) in going to or returning from dropping off or picking up one or more children from school or child care;

(f) in going to or returning from purchasing groceries or fuel for their vehicle; and

(g) in going to or returning from any religious worship service held by a religious organization.

(ii) A person shall not qualify for restricted driving privileges pursuant to this subparagraph if such person has been convicted for driving with a canceled, suspended or revoked license more than three times or if such person is suspended for reasons other than a failure to comply with a traffic citation at the time of application. Restricted driving privileges approved pursuant to this subparagraph shall remain in effect for the lesser of time of either:

(a) 60 days from the date that the division of vehicles mails notice to the person of the restricted driving privileges;

(b) the person enters into an agreement with the court regarding the person's failure to comply; or

(c) the rescission of the restricted driving privileges by the division of vehicles.

(iii) The division shall rescind restricted driving privileges for any person authorized pursuant to this subparagraph if the person is found guilty of:

(a) A violation resulting in a license suspension, revocation or cancellation for reasons other than failure to comply with a traffic citation; or

(b) operating a motor vehicle in violation of restrictions provided in clause (i) two or more times.

(iv) A person operating a motor vehicle in violation of restrictions provided in clause (i) shall be guilty of operating a vehicle in violation of restrictions as provided in K.S.A.

8-291

, and amendments thereto.

(C) (i) Violations of the following sections or violations of substantially similar offenses under a city ordinance shall not provide the basis for a violation of this section: K.S.A.

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, and amendments thereto.

(ii) The provisions of this subparagraph shall be construed and applied retroactively. A person may petition the district or municipal court in which the person should have complied with the citation that led to a prior violation of this section. If the court determines that the person committed an offense that does not provide the basis for a violation of this section, as amended by this act, the court shall immediately electronically notify the division of vehicles. Upon receipt of such notification from the informing court, the division of vehicles shall terminate any restriction, suspension or suspension action that resulted from the prior violation of this section.

(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. The driver may apply and be eligible for restricted driving privileges pursuant to this paragraph if such driver has previously been approved for restricted driving privileges pursuant to paragraph (1).

(B) (i) A person whose driving privileges have been revoked solely for driving a motor vehicle on any highway as defined in K.S.A.

8-1424

, and amendments thereto, of this state at a time when such person's privilege to do so was canceled, suspended or revoked for failure to comply with a traffic citation pursuant to this section may submit to the division of vehicles a written request for restricted driving privileges. A person shall not qualify for restricted driving privileges pursuant to this section if such person has been convicted for driving with a canceled, suspended or revoked license more than three times or if such person is suspended for reasons other than a failure to comply with a traffic citation at the time of application. Restricted driving privileges approved pursuant to this subparagraph shall remain in effect unless otherwise rescinded for the lesser of time of either:

(a) The remainder of the period of time that such person's driving privileges are revoked; or

(b) three years from the date when the restricted driving privileges were approved.

(ii) The division shall rescind restricted driving privileges for any person authorized pursuant to this subparagraph if the person is found guilty of a violation resulting in a license suspension, revocation or cancellation for reasons other than failure to comply with a traffic citation.

(iii) A person operating a motor vehicle in violation of restrictions provided in subparagraph (D) shall be guilty of operating a vehicle in violation of restrictions as provided in K.S.A.

8-291

, and amendments thereto.

(C) A person whose driver's license has expired during the period when such person's driver's license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges. An* person shall not qualify for restricted driving privileges pursuant to this section unless the following conditions are met:

(i) The suspended license that expired was issued by the division of vehicles;

(ii) the suspended license resulted from the individual's failure to comply with a traffic citation pursuant to subsection (b)(1); and

(iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state.

(D) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles until the terms of the traffic citation have been substantially complied with and the court shall immediately electronically

notify the division of vehicles of such compliance. If the driver fails to substantially comply with the traffic citation, the driving privileges will be suspended by the division of vehicles until the court determines the person has substantially complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such substantial 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) in going to or returning from an appointment with a health care provider or during a medical emergency;

(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;

(v) in going to or returning from dropping off or picking up one or more children from school or child care;

(vi) in going to or returning from purchasing groceries or fuel for their vehicle; and

(vii) in going to or returning from any religious worship service held by a religious organization.

(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 $100. 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 the first $15 of such reinstatement fee to the state general fund and of the remaining amount, 29.41% of such moneys to the division of vehicles operating fund, 22.06% to the community alcoholism and intoxication programs fund created by K.S.A.

41-1126

, and amendments thereto, 7.36% to the juvenile alternatives to detention fund created by K.S.A.

79-4803

, and amendments thereto, and 41.17% to the state general fund.

(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.

(e) (1) A person who is assessed a reinstatement fee pursuant to subsection (c) may petition the court that assessed the fee at any time to waive payment of the fee, any additional charge imposed pursuant to subsection (f), or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(2) A person who is assessed a fine or court costs for a traffic citation may petition the court that assessed the fine or costs at any time to waive payment of the fine or costs, or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(3) The clerk of the district court and the clerk of the municipal court shall make forms available to any person seeking to petition the court to waive or reduce traffic fines, court costs or reinstatement fees.

(f) 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 July 1, 2019, through June 30, 2025, the supreme court may impose an additional charge, not to exceed $22 per reinstatement fee, to fund the costs of

non-judicial personnel.

(g) (1) Prior to issuing an order pursuant to this section that notifies the division of vehicles to restrict or suspend a person's driving privileges, the court shall consider:

(A) Waiver or reduction of fees, fines and court costs and allowing for payment plans for any fees, fines and court costs; and

(B) alternative requirements in lieu of restriction or suspension of driving privileges, including, but not limited to, alcohol or drug treatment or community service.

(2) Nothing in this subsection shall be construed to require the court to make written findings or written payment plan orders.

(h) (1) Any conviction for a failure to comply pursuant to this section shall not be considered by the district or municipal court or the division of vehicles in determining suspended or restricted driving privileges if such conviction is more than five years old.

(2) After the expiration of five years from the date of conviction, the division shall notify by mail any persons whose driving privileges were suspended or restricted and have not since been restored. The division shall notify the person that the person may be eligible for driving privileges as a result of the expiration of the five years from the conviction for the failure to comply.

(3) The provisions of this subsection shall be construed and applied retroactively.

(i) As used in this section, "substantial compliance" or "substantially complied" means the person has followed the orders of the court involving payments of fines, court costs and any penalties and has not failed substantially in making payments or satisfying the terms of the court order.

KSA 8-2111 — Applicability of procedures in K.S.A. 8-2101 through 8-2110

Applicability of procedures in K.S.A. 8-2101 through 8-2110.

The foregoing provisions of this article shall govern all police officers in making arrests without a warrant for violations of any provisions of article 15, 16, 17, 18 or 19 of chapter 8 of Kansas Statutes Annotated, and amendments thereto, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade. Notwithstanding the other provisions of this section, a police officer may arrest for a misdemeanor under K.S.A.

22-2401

on the basis that evidence will be irretrievably lost or that the person may cause self-injury or injury to others or damage to property.

KSA 8-2112 — Citation for illegally parked, standing or stopped vehicle

Citation for illegally parked, standing or stopped vehicle.

Whenever any motor vehicle without driver is found parked, standing or stopped in violation of this act or any ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation.

KSA 8-2113 — Same; failure to appear; notice

Same; failure to appear; notice.

If a violator of state or local restrictions on stopping, standing or parking does not appear in response to a traffic citation affixed to such motor vehicle within a period of five (5) days, the clerk of the court, shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning that in the event such letter is disregarded for a period of five (5) days a warrant of arrest will be issued.

KSA 8-2114 — Same; prosecution; presumption of ownership

Same; prosecution; presumption of ownership.

(a) In any prosecution charging a violation of any law or regulation governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle,

shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(b) The foregoing stated presumption shall apply only when the procedure as prescribed in K.S.A.

8-2112

and

8-2113

has been followed.

KSA 8-2115 — Records of traffic cases; transmittal of abstracts to division; form; effect of noncompliance; public inspection of records; notice of final disposition of appeals

Records of traffic cases; transmittal of abstracts to division; form; effect of noncompliance; public inspection of records; notice of final disposition of appeals.

(a) Every municipal judge or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law regulating the operation of vehicles on highways or for the violation of an ordinance of any city defining any offense the provisions of which are identical with provisions of this act, or fixing a limitation upon the speed of vehicles pursuant to the provisions of this act.

(b) Within 10 days after the conviction or forfeiture of bail or an appearance bond of a person upon a charge of violating any provisions of this act or other law or city ordinance regulating the operation of vehicles on highways, every judge or clerk of the court in which such conviction was had or bail or bond was forfeited shall prepare and immediately electronically forward to the division an abstract of the record of the court covering the case in which such person was so convicted or forfeited bail or bond. The abstract shall be forwarded in an electronic format approved by the division.

(c) Every court of record also shall forward a like electronic report to the division upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(d) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(e) The division shall electronically file all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours.

(f) The clerk of any court of record to which a conviction for violation of any of the laws described in subsection (a) has been appealed within 10 days of the final disposition of such appeal shall forward a notification of such final disposition to the division in an electronic format approved by the division.

KSA 8-2116 — Classification of violations; traffic infractions; misdemeanors; repeat misdemeanor offenses

Classification of violations; traffic infractions; misdemeanors; repeat misdemeanor offenses.

(a) Every person convicted of violating K.S.A.

8-2503

, and amendments thereto, or violating any of the sections listed in the uniform fine schedule in K.S.A.

8-2118

, and amendments thereto, 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.

KSA 8-2117 — Prosecution of juvenile traffic offenders; disposition

Prosecution of juvenile traffic offenders; disposition.

(a) Subject to the provisions of this section, a court of competent jurisdiction may hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court hearing the prosecution may impose any fine authorized by law for a traffic offense, including a violation of K.S.A.

8-1567

, and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A.

38-2302

, and amendments thereto, for not more than 10 days. If the child is less than 18 years of age, the child shall not be incarcerated in a jail as defined by K.S.A.

38-2302

, and amendments thereto. If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, the division of vehicles shall issue an appropriate license to the person whose license had been suspended, upon successful completion of the examination required by K.S.A.

8-241

, and amendments thereto, and upon proper application and payment of the required fee unless the child's driving privileges have been revoked, suspended or canceled for another cause and the revocation, suspension or cancellation has not expired.

(b) Instead of suspending a driver's license pursuant to this section, the court may place restrictions on the child's driver's privileges pursuant to K.S.A.

8-292

, and amendments thereto.

(c) Instead of the penalties provided in subsections (a) and (b), the court may place the child under a house arrest program, pursuant to K.S.A.

21-6609

, and amendments thereto, and sentence the child to the same sentence as an adult traffic offender under K.S.A.

8-2116

, and amendments thereto.

(d) As used in this section, "traffic offense" means a violation of the uniform act regulating traffic on highways, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated and a violation of K.S.A.

40-3104

, and amendments thereto. Traffic offenses shall include a violation of a city ordinance or county resolution which prohibits acts which would constitute a violation of the uniform act regulating traffic on highways, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated, or a violation of K.S.A.

40-3104

, and amendments thereto, and any violation of a city ordinance or county resolution which prohibits acts which are not violations of state laws and which relate to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind.

KSA 8-2118 — Uniform fine schedule for traffic infraction violations; payment by mail with plea, when; full payment required; ordinance traffic infractions; doubling of fine in road construction zones and school zones; escalating fines for unlawful passing of a school bus

Uniform fine schedule for traffic infraction violations; payment by mail with plea, when; full payment required; ordinance traffic infractions; doubling of fine in road construction zones and school zones; escalating fines for unlawful passing of a school bus.

(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 that 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

Unsafe speed for prevailing conditions

8-1557

$75

Exceeding maximum speed limit; or speeding in zone posted by the state departÂment of transportation; or speeding in locally posted zone

8-1558

to

8-1560

1-10 mph over the limit, $45

8-1560a

or

8-1560b

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;

Disobeying traffic control deÂvice

8-1507

$75

Violating traffic control signal

8-1508

$75

Violating pedestrian control sigÂnal

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 obÂstructed 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 oneway 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 restricÂtions in road construction zone

8-1531a

$45

Disobeying pedestrian traffic control device

8-1532

$45

Failure to yield to pedestrian in crosswalk; pedestrian sudÂdenly entering roadway; pasÂsing vehicle stopped for pedestrian at crosswalk

8-1533

$75

Improper pedestrian crossing

8-1534

$45

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 peÂdestrian

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 veÂhicle

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 road 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 crosÂsing

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

Unlawful riding on vehicle

8-1578a

$75

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, crossÂwalk, or crossing without sufÂficient space on other side

8-1584

$45

Improper operation of snowÂmobile 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 motorÂcycle; seats; passengers, bunÂdles

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

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

Unlawful display of license plate

8-15,110

$60

Unlawful text messaging

8-15,111

$60

Unlawful passing of a waste collection vehicle

8-15,112

$45

Unlawful operation of electric-assisted scooter

8-15,113

$45

Unlawful passing of a utility or telecommunications vehicle

8-15,114

$105

Unlawful passing of a stationary vehicle

8-15,116

$75

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 head lights

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 deÂvices

8-1730

$45

Unauthorized lights and devices on church or daycare 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 headÂlamp

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 lightÂing

8-1805

$45

Improper road-lighting equipÂment 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

Operating motorcycle with disapproved braking system

8-1809

$45

Defective horn, muffler, mirrors or tires

8-1810

$45

Unlawful statehouse parking

75-4510a

$30

Exceeding gross weight of vehicle or combination

8-1909

Pounds Overweight

up to 1000 $40

1001 to 2000 3Â¢

per pound

2001 to 5000 5Â¢

per pound

5001 to 7500 7Â¢

per pound

7501 and over 10Â¢

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 3Â¢

per pound

2001 to 5000 5Â¢

per pound

5001 to 7500 7Â¢

per pound

7501 and over 10Â¢

per pound

Failure to obtain proper regisÂtration, 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 speÂcified in of K.S.A.

66-1,130

(b)(2), 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 1

1

/

2

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 2

1

/

2

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 K.S.A.

8-1560

(a)(4), and amendments thereto.

(h) For a second violation of K.S.A.

8-1556

, and amendments thereto, within five years after a prior conviction of K.S.A.

8-1556

, and amendments thereto, such person, upon conviction, shall be fined $750 for the second violation. For a third and each succeeding violation of K.S.A.

8-1556

, and amendments thereto, within five years after two prior convictions of K.S.A.

8-1556

, and amendments thereto, such person, upon conviction, shall be fined $1,000 for the third and each succeeding violation.

KSA 8-2119 — Electronic citations

Electronic citations.

(a) As used in this section:

(1) "Electronic citation" means a charging citation, complaint or notice to appear which is prepared by a law enforcement officer in an electronic data device with intent that the data collected will be electronically filed with a court or prosecutor for prosecution of a crime as provided in subsection (a) of K.S.A.

8-2106

, and amendments thereto. The data elements collected shall conform to the requirements of the division of motor vehicles as the form of a paper citation and must be approved as provided in subsection (a) of K.S.A.

8-2106

, and amendments thereto.

(2) "Electronic citation system" means the device, database or computer software used to create, store, transmit or exchange the data included in an electronic citation.

(3) "Electronic signature" means an electronic signature having legal effect pursuant to the Kansas uniform electronic transaction act, K.S.A.

16-1601

et seq., and amendments thereto.

(b) For purposes of an electronic citation issued under this section, an electronic signature indicated by the law enforcement officer's typed name, agency and agency number has the same effect and is as sufficient as a manual signature as required in K.S.A.

8-2106

,

8-2108

or subsection (b) of

22-3201

, and amendments thereto.

(c) A notice to appear, complaint or citation as provided in K.S.A.

8-2106

, and amendments thereto, shall be deemed to be written if on a paper form or in a document printed from an electronic citation system.

(d) A person being charged by a law enforcement officer shall be deemed to have signed a citation or notice to appear as provided in K.S.A.

8-2106

and

8-2107

, and amendments thereto, if the person physically signs the paper citation or notice to appear document or, in the case of an electronic citation or notice to appear, verbally acknowledges that the person promises to appear on or before the date set at or with the designated court. To secure a verbal promise to appear, the law enforcement officer shall ask, "Do you agree to appear before the

court on or before

(date)

?" The officer shall accurately record the response of the person being charged as: Yes, no or no response.

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

KSA 8-2201 — Act not retroactive

Act not retroactive.

This act shall not have a retroactive effect and shall not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of the motor vehicle laws of this state, occurring prior to the effective date of this act.

KSA 8-2202 — Reference to prior law construed as reference to corresponding section in 1974 act

Reference to prior law construed as reference to corresponding section in 1974 act.

Whenever reference is made in any statute or rule or regulation of this state to any section or provision in article 5 of chapter 8 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto, such reference shall be deemed to be made to the corresponding section or provision in this act, and any such corresponding section or provision in this act shall be construed as a continuation of the prior section or provision. Any rule or regulation in effect on the effective date of this act, which was adopted under authority of any provision in article 5 of chapter 8 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto, shall continue in force and effect, unless the same is in conflict with the provisions of this act or until it shall be amended or repealed.

KSA 8-2203 — Uniformity of interpretation

Uniformity of interpretation.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

KSA 8-2204 — Citation of act; sections included

Citation of act; sections included.

This act shall be known and may be cited as the uniform act regulating traffic on highways. The uniform act regulating traffic on highways includes all sections located in articles 10, 14 through 22 and 25 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, K.S.A.

8-1,129

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8-1,130a

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8-1428a

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8-1560a

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8-1742a

and

8-2118

, and amendments thereto, and K.S.A.

8-2901

through

8-2910

, and amendments thereto.

KSA 8-2401 — Licensure of vehicle sales and manufacture; definitions

Licensure of vehicle sales and manufacture; definitions.

As used in this act:

(a) "Vehicle dealer" means any person who: (1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or (2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in subsection (bb); but does not include:

(A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles;

(B) public officers while performing their official duties;

(C) employees of persons enumerated in subparagraphs (A) and (B), when engaged in the specific performance of their duties as such employees;

(D) auctioneers conducting auctions for persons enumerated in subparagraphs (A), (B) or (C); or

(E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale: (i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars; (ii) vehicles which meet the statutory definition of antique vehicles; or (iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to subparagraph (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A.

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, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) "New vehicle dealer" means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to sell, exchange or transfer new motor vehicles, trucks, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) "Used vehicle dealer" means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) "Vehicle salesperson" means any person who is employed as a salesperson by a vehicle dealer to sell vehicles.

(e) "Board" means the vehicle dealer review board created by this act.

(f) "Director" means the director of vehicles, or a designee of the director.

(g) "Division" means the division of vehicles of the department of revenue.

(h) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, and amendments thereto, except that "vehicle" includes micro utility trucks, as defined in K.S.A.

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, and amendments thereto, but does not include motorized bicycles or electric-assisted bicycles, and does not include manufactured homes or mobile homes. As used in this subsection, the terms "manufactured home" and "mobile home" mean the same as defined by K.S.A.

58-4202

, and amendments thereto.

(i) "Motor vehicle" means any vehicle, other than a motorized bicycle or electric-assisted bicycle, that is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, and amendments thereto, except that "motor vehicle" includes micro utility trucks, as defined in K.S.A.

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, and amendments thereto.

(j) "Licensor" means the director or division or both.

(k) "First stage manufacturer" means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) "Second stage manufacturer" means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this state.

(m) "First stage converter" means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) "Second stage converter" means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) "Distributor" means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) "Wholesaler" means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) "Factory branch" means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) "Distributor branch" means any branch office similar to subsection (q) maintained by a distributor for the same purposes as a factory branch.

(s) "Factory representative" means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for such vehicles.

(t) "Distributor representative" means any representative similar to subsection (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle that has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee, commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of: (1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or (2) bringing buyers and sellers of vehicles together, but such term shall not include any person registered as a salvage vehicle pool or any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited, in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage vehicle dealer" means any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

(z) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and

the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) "Dealer" means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) "Insurance company" means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) "Supplemental place of business" means a business location other than that of the established place of business of the dealer which may be operated by the dealer on a continuous year-round basis and, for new vehicle dealers, is within the defined area of responsibility in their franchise agreement, and for all other dealers is within the same city or county where the established place of business of the dealer is operated.

(gg) "Salvage yard" means the place owned or leased and regularly occupied by a person, firm or corporation licensed under the provisions of this act for the principal purpose of engaging in the business of a salvage vehicle dealer. Salvage yard shall include the location where the:

(1) Products for sale are displayed and offered for sale;

(2) books and records required for the conduct of the business are maintained;

(3) records are kept in the normal daily business activity; and

(4) records are made available for inspection.

(hh) "Salvage vehicle pool" means any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

(ii) "Major component part" means any vehicle part including the front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle, cab, bed and box bearing the public vehicle identification number or engine number, if manufactured prior to 1981; or any vehicle part bearing a derivative of such number.

(jj) "Recreational motor vehicle" means a recreational vehicle as defined by K.S.A.

75-1212

(f), and amendments thereto.

(kk) "Vehicle crusher" means any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler.

(ll) "Vehicle recycler" means a person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts.

(mm) "Scrap metal recycler" means a person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

(nn) "Nonrepairable vehicle" means any motor vehicle which: (1) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (2) the owner irreversibly designates as a source of parts or scrap.

(oo) "Rebuilder" means a person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A.

8-196

, and amendments thereto, and selling such rebuilt salvage vehicles.

KSA 8-2402 — Declaration of public policy

Declaration of public policy.

It is hereby declared to be the public policy of this state to provide for fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of vehicles. The provisions of this act which are applicable to such activities shall be administered in such a manner as will continue to promote fair dealing and honesty in the vehicle industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or

advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of vehicles, so as to insure protection against irresponsible vendors and dishonest or fraudulent sales practices and to assist, provide and secure a stable, efficient, enforceable and verifiable method for the distribution of vehicles to consumers in the state of Kansas and provide a system of tracking the flow of vehicles and their parts as well as preserving supporting services for consumers purchasing or otherwise acquiring vehicles.

KSA 8-2403 — Vehicle dealers required to have licenses; exceptions; supervision by director of vehicles

Vehicle dealers required to have licenses; exceptions; supervision by director of vehicles.

(a) No person shall engage in the business of a vehicle dealer unless such person has complied with the applicable provisions of this act. The director shall issue licenses provided for by this act and shall have supervision over the licensees hereunder in respect to all the provisions of this act.

(b) This act shall not apply to:

(1) Vehicle dealers or manufacturers dealing exclusively in farm trailers or utility or boat trailers having a gross weight of 2,000 pounds or less and which are not required by law to be registered; or

(2) charitable organizations, which are exempt from federal income taxation pursuant to section 501(c)(3) and are eligible recipients of charitable contributions pursuant to section 170(c)(2) of the federal internal revenue code, selling motor vehicles at a charitable auction.

KSA 8-2404 — License required; license fees; bond required, when; place of business required, when; supplemental place of business; manual and examination for salesperson; prohibiting brokering of new and used motor vehicles; exceptions

License required; license fees; bond required, when; place of business required, when; supplemental place of business; manual and examination for salesperson; prohibiting brokering of new and used motor vehicles; exceptions.

(a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesperson shall not be required to secure a salesperson's license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salespersons' licenses shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salespersons' licenses received by the director after July 15 shall be considered as new applications. All licenses for supplemental places of business existing or issued on or after January 1, 1994, shall expire on December 31 of the calendar year for which they are granted, unless previously suspended or revoked.

(e) License fees for each calendar year, or any part thereof shall be as follows:

(1) For new vehicle dealers, $75;

(2) for distributors, $75;

(3) for wholesalers, $75;

(4) for distributor branches, $75;

(5) for used vehicle dealers, $75;

(6) for first and second stage manufacturers, $225 plus $75 for each factory branch in this state;

(7) for factory representatives, $50;

(8) for distributor representatives, $50;

(9) for brokers, $75;

(10) for lending agencies, $50;

(11) for first and second stage converters, $50;

(12) for salvage vehicle dealers, $75;

(13) for auction motor vehicle dealers, $75;

(14) for vehicle salesperson, $25;

(15) for insurance companies, $75;

(16) for vehicle crusher, $75;

(17) for vehicle recycler, $75;

(18) for scrap metal recycler, $75;

(19) for rebuilders, $75; and

(20) for salvage vehicle pool, $75.

Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one $75 fee for both licenses.

(f) Dealers may establish approved supplemental places of business within the same county of their licensure or, with respect to new vehicle dealers, within their area of responsibility as defined in their franchise agreement. Those doing so shall be required to pay a supplemental license fee of $35. In addition to any other requirements, new vehicle dealers seeking to establish supplemental places of business shall also comply with the provisions of K.S.A.

8-2430

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8-2432

, and amendments thereto. A new vehicle dealer establishing a supplemental place of business in a county other than such dealer's county of licensure but within such dealer's area of responsibility as defined in such dealer's franchise agreement shall be licensed only to do business as a new motor vehicle dealer in new motor vehicles at such supplemental place of business. Original inspections by the division of a proposed established place of business shall be made at no charge except that a $30 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office, branch or supplemental place of business and must be conspicuously displayed therein. The director shall endorse a change of address on a license without charge if: (1) The change of address of an established place of business, office, branch or supplemental place of business is within the same county; or (2) the change of address of a supplemental place of business, with respect to a new vehicle dealer, is within such dealer's area of responsibility as defined in their franchise agreement. A change of address of the established place of business, office or branch to a different county shall require a new license and payment of the required fees but such new license and fees shall not be required for a change of address of a supplemental place of business, with respect to a new vehicle dealer, to a different county but within the dealer's area of responsibility as defined in their franchise agreement.

(h) Every salesperson, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesperson shall be mailed or otherwise delivered by the

division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson, factory representative or distributor representative who terminates employment with one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a $12 transfer fee. A salesperson, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall be not less than $5,000 nor more than $20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. The amount of such bond shall be $50,000. To comply with this subsection, every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salespersons. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A.

8-2411

, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act and the Kansas judicial review act. Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. The amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of not less than $50,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (i), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool, second stage manufacturer, first stage converter, second stage converter or distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the first or second stage manufacturer or distributor of the vehicle, to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes: (1) Displaying new motor vehicles on a lot or showroom; (2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes: (1) Displaying used motor vehicles on a lot or showroom; (2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesperson's manual. Before a vehicle salesperson's license is issued, the applicant for an original license shall be required to pass a written examination based upon information in the manual. Thereafter, any salesperson licensee may be required to be re-tested at the discretion of the director based upon terms and conditions established by the director.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard and salvage control act as set forth in K.S.A.

68-2201

et seq., and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by K.S.A.

75-1212

(f), and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle that has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

(v) Nothing in this section shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

KSA 8-2405 — Insurance required of dealers; issuance by nonadmitted insurers authorized; limitations on cancellation

Insurance required of dealers; issuance by nonadmitted insurers authorized; limitations on cancellation.

No dealer's license shall be issued or renewed unless the applicant or holder of the license shall have on file with the division an insurance policy, issued by an insurance carrier authorized to transact business within the state of Kansas or issued by an eligible nonadmitted insurer pursuant to K.S.A.

40-246e

, and amendments thereto. The term of such policy shall be continuous and shall remain in full force and effect until canceled under proper notice. All policies shall be issued in the name of the holder or applicant for the vehicle dealer's license and shall provide public liability and property damage insurance for the operation of any vehicle by prospective purchasers, owned or being offered for sale by the dealer when being operated by the owner or seller, the seller's agent, servants, employees, prospective customers or other persons. The limits of liability shall correspond to the amount required by law in this state for bodily injury or death of any one person, bodily injury or death in any one accident and property damage. Such insurance, when issued by an authorized insurer, may not be cancelled unless 30 days' notice by the insurance carrier has been given in writing to the director. Upon the effective date of cancellation of any insurance policy required under this section, the license to engage in business as a dealer shall be void.

KSA 8-2406 — Dealer plates; fee; symbols on plates; use of plates

Dealer plates; fee; symbols on plates; use of plates.

(a) The annual fee for the first dealer license plate is $275, and the annual fee for additional dealer license plates shall be an amount equal to the amount required to register a passenger vehicle having a gross weight of less than 4,500 pounds, except that the annual fee for dealer license plates used by trailer dealers on trailers which they have purchased or own and are holding for resale shall be $25 for each plate. To determine the number of dealer license plates the dealer needs, the director may base the decision on the dealer's past sales, inventory and any other pertinent factors as the director may determine. After the end of the first year of licensure as a dealer, not more than one dealer license plate shall be issued to any dealer who has not reported to the division the sale of at least five motor vehicles in the preceding year. There shall be no refund of fees for dealer license plates in the event of suspension, revocation or voluntary cancellation of a license. The director is hereby authorized to designate by identifying symbols on a dealer's license plate the type of dealer's license that the person has been issued. If a dealer has an established place of business in more than one county, such dealer shall secure a separate and distinct dealer's license and dealer license plates for each established place of business.

(b) New motor vehicle dealers and used motor vehicle dealers may authorize use of dealer license plates assigned to such motor vehicle dealers as follows:

(1) The licensed motor vehicle dealer and such dealer's spouse;

(2) the sales manager and all other sales personnel when such manager and sales personnel are properly licensed in Kansas, except that no dealer license plate shall be assigned to sales personnel who are working at the established place of business of the dealer less than 20 hours per week;

(3) any employee of such motor vehicle dealer when the use thereof is directly connected to a particular business transaction of such motor vehicle dealer;

(4) the customer when operating a motor vehicle in connection with negotiations to purchase such motor vehicle or during a demonstration of such motor vehicle;

(5) any school district and any accredited nonpublic school which has entered into an agreement with a dealer to use a motor vehicle as a driver training motor vehicle, as defined in K.S.A.

72-4005

, and amendments thereto, in an approved driver training course.

(c) A wholesaler dealer may authorize the use of dealer license plates on vehicles purchased by the wholesaler for resale to a retail vehicle dealer as follows:

(1) To transport or operate a vehicle to or from a licensed retail or wholesale vehicle dealer for the purpose of buying, selling, or offering or attempting to negotiate a sale of the vehicle to a licensed vehicle dealer;

(2) to deliver a vehicle purchased from the wholesale vehicle dealer to a purchasing vehicle dealer.

(d) Salvage vehicle dealers may use dealer license plates only on vehicles which they have purchased for salvage, including dismantling, disassembling or recycling.

(e) Insurance companies may use dealer license plates only on vehicles purchased or acquired for salvage in the course of business of the insurance company.

(f) Lending agencies may use dealer license plates only on vehicles which they have repossessed or are holding for disposition due to repossession.

(g) Trailer dealers may use dealer license plates only on trailers which they have purchased or own and are holding for resale.

(h) Brokers are not entitled to be assigned or to use any dealer license plates.

(i) Except as provided above, dealer license plates shall be used only in accordance with the provisions of K.S.A.

8-136

, and amendments thereto. This subsection (i) does not apply to K.S.A.

8-2425

, and amendments thereto, or full-privilege license plates or dealer-hauler full-privilege trailer license plates issued thereunder.

KSA 8-2408 — Dealer requirements; reports; records, availability for inspection; disposition of business; exceptions

Dealer requirements; reports; records, availability for inspection; disposition of business; exceptions.

Except as hereinafter provided, every person licensed as a dealer under provisions of this act shall:

(a) On or before the 25

th

day of each month, file a monthly report, on a form prescribed and furnished by the division of vehicles, listing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of new or used vehicles, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vehicle, and such other information as the division may require.

(b) Salvage vehicle dealers, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler and salvage vehicle pool shall, in addition to their monthly sales report for used vehicles, if applicable, on or before the 25

th

day of each month file a monthly report on a form prescribed and furnished by the division, listing all vehicles for which the major component part containing the vehicle identification number or engine number if manufactured prior to 1981, has been disposed of or sold. The certificate of title or transfer certificate for all vehicles listed must accompany the monthly report.

(c) Make available during regular business hours to any employee of the division or any member of law enforcement for the purpose of investigation or inspection, all records concerning vehicles purchased, sold or exchanged during the preceding 12 months, including certificates of title on all vehicles owned by the dealership, except those titles surrendered

pursuant to subsection (b).

(d) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer plates assigned to the purchaser of the business.

(e) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(f) Dealers, licensed as brokers must in addition to the requirements of subsection (a) include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the vehicle and whether the seller or the purchaser paid the broker's fee or commission.

(g) Lending agencies licensed under this act, which sell two or less repossessed vehicles a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such vehicles.

KSA 8-2409 — Temporary vehicle registration permits; cost; display; operation under laden conditions

Temporary vehicle registration permits; cost; display; operation under laden conditions.

(a) Any dealer may purchase from the division of vehicles sixty-day temporary registration permits, valid for 60 days at a cost of $3 each. Such dealer shall have completed the application and permit as required by the division. Such registration shall not extend the date when registration fees are due, but shall be valid registration for a period of 60 days from date of issuance. The dealer upon presentation of evidence of ownership in the applicant and evidence that the sales tax has been paid, if due, shall issue a sticker or paper registration as determined by the division. No dealer, or county treasurer, as authorized by K.S.A.

8-143

, and amendments thereto, shall issue more than one sixty-day temporary registration permit to the purchaser of a vehicle.

(b) The division of vehicles may deny any dealer the authority to purchase sixty-day temporary permits if the vehicle dealer is delinquent in monthly sales reports to the division for two months or more or if the vehicle dealer is found to have issued more than one sixty-day permit to the purchaser of a vehicle.

(c) The temporary registration authorized by this section shall entitle a truck, truck tractor or any combination of truck or truck tractor and any type of trailer or semitrailer to be operated under laden conditions.

KSA 8-2410 — Denial, suspension or revocation of license; grounds; notice and hearing; licensee responsibility for agents; appeals; prohibited acts

Denial, suspension or revocation of license; grounds; notice and hearing; licensee responsibility for agents; appeals; prohibited acts.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

(1) Proof of financial unfitness of the applicant;

(2) material false statement in an application for a license;

(3) filing a materially false or fraudulent tax return as certified by the director of taxation;

(4) negligently failing to comply with any applicable provision of this act or any applicable rule or regulation adopted pursuant thereto;

(5) knowingly defrauding any retail buyer to the buyer's damage;

(6) negligently failing to perform any written agreement with any buyer;

(7) failure or refusal to furnish and keep in force any required bond;

(8) knowingly making a fraudulent sale or transaction;

(9) knowingly engaging in false or misleading advertising;

(10) willful misrepresentation, circumvention or concealment, through a subterfuge or device, of any material particulars, or the nature thereof, required by law to be stated or furnished to the retail buyer;

(11) negligent use of fraudulent devices, methods or practices in contravention of law with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(12) knowingly violating any law relating to the sale, distribution or financing of vehicles;

(13) being a first or second stage manufacturer of vehicles, factory branch, distributor, distributor or factory representative, officer, agent or any representative thereof, who has:

(A) Required any new vehicle dealer to order or accept delivery of any new motor vehicle, part or accessory of such part, equipment or any other commodity not required by law, or not necessary for the repair or service, or both, of a new motor vehicle which was not ordered by the new vehicle dealer;

(B) unfairly, without due regard to the equities of the vehicle dealer, and without just provocation, canceled, terminated or failed to renew a franchise agreement with any new vehicle dealer; or

(C) induced, or has attempted to induce, by coercion, intimidation or discrimination, any vehicle dealer to involuntarily enter into any franchise agreement with such first or second stage manufacturer, factory branch, distributor, or any representative thereof, or to do any other act to a vehicle dealer which may be deemed a violation of this act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a franchise agreement existing between such parties;

(14) being a first or second stage manufacturer, or distributor who for the protection of the buying public fails to specify in writing the delivery and preparation obligations of its vehicle dealers prior to delivery of new vehicles to new vehicle dealers. A copy of such writing shall be filed with the division by every licensed first or second stage manufacturer of vehicles and the contents thereof shall constitute the vehicle dealer's only responsibility for product liability as between the vehicle dealer and the first or second stage manufacturer. Any mechanical, body or parts defects arising from any express or implied warranties of the first or second stage manufacturer shall constitute the product or warranty liability of the first or second stage manufacturer. The first or second stage manufacturer shall reasonably compensate any authorized vehicle dealer for the performance of delivery and preparation obligation;

(15) being a first or second stage manufacturer of new vehicles, factory branch or distributor who fails to supply a new vehicle dealer with a reasonable quantity of new vehicles, parts and accessories, in accordance with the franchise agreement. It shall not be deemed a violation of this act if such failure is attributable to factors reasonably beyond the control of such first or second stage manufacturer, factory branch or distributor;

(16) knowingly used or permitted the use of dealer plates contrary to law;

(17) has failed or refused to permit an agent of the division, during the licensee's regular business hours, to examine or inspect such dealer's records pertaining to titles and purchase and sale of vehicles;

(18) has failed to notify the division within 10 days of dealer's plates that have been lost, stolen, mutilated or destroyed;

(19) has failed or refused to surrender their dealer's license or dealer's plates to the division or its agent upon demand;

(20) has demonstrated that such person is not of good character and reputation in the community in which the dealer resides;

(21) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a dealer or salesperson;

(22) has cross-titled a title to any purchaser of any vehicle. Cross-titling shall include, but not by way of limitation, a dealer or broker or the authorized agent of either selling or causing to be sold, exchanged or transferred any vehicle and not showing a complete chain of title on the papers necessary for the issuance of title for the purchaser. The selling dealer's name must appear on the assigned first or second stage manufacturer's certificate of origin or reassigned certificate of title;

(23) has changed the location of such person's established place of business or supplemental place of business prior to approval of such change by the division;

(24) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(25) doing business as a vehicle dealer other than at the dealer's established or supplemental place of business, with the exception that dealers selling new recreational vehicles may engage in business at other than their established or supplemental place of business for a period not to exceed 15 days;

(26) any violation of K.S.A.

8-126

et seq., and amendments thereto, in connection with such person's operation as a dealer;

(27) any violation of K.S.A.

8-116

, and amendments thereto;

(28) any violation of K.S.A.

21-5835

, and amendments thereto;

(29) any violation of K.S.A.

79-1019

,

79-3294

et seq., or

79-3601

et seq., and amendments thereto;

(30) failure to provide adequate proof of ownership for motor vehicles in the dealer's possession;

(31) being a first or second stage manufacturer who fails to provide the director of property valuation all information necessary for vehicle identification number identification and determination of vehicle classification at least 90 days prior to release for sale of any new make, model or series of vehicles; or

(32) displaying motor vehicles at a location other than at the dealer's established place of business or supplemental place of business without obtaining the authorization required in K.S.A.

8-2435

, and amendments thereto.

(b) In addition to the provisions of subsection (a), and notwithstanding the terms and conditions of any franchise agreement, including any policy, bulletin, practice or guideline with respect thereto or performance thereunder, no first or second stage manufacturer of vehicles, factory branch, distributor, distributor or factory representative, officer or agent or any representative thereof, or any other person may do or cause to be done any of the following acts or practices referenced in this subsection, all of which are also declared to be a violation of the vehicle dealers and manufacturers licensing act, and amendments thereto:

(1) Through the use of a written instrument or otherwise, unreasonably fail or refuse to offer to its same line-make new vehicle dealers all models manufactured for that line-make, or unreasonably require a dealer to:

(A) Pay any extra fee;

(B) purchase unreasonable advertising displays or other materials; or

(C) remodel, renovate or recondition the dealer's existing facilities as a prerequisite to receiving a model or series of vehicles. The provisions of this subsection shall not apply to manufacturers of recreational vehicles;

(2) require a change in the capital structure of the new vehicle dealership, or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer and in accordance with uniformly applied criteria;

(3) discriminate unreasonably among competing dealers of the same line-make in the sale of vehicles or availability of incentive programs or sales promotion plans or other similar programs, unless justified by obsolescence;

(4) unless required by subpoena or as otherwise compelled by law:

(A) Require a new vehicle dealer to release, convey or otherwise provide customer information if to do so is unlawful, or if the customer objects in writing to doing so, unless the information is necessary for the first or second stage manufacturer of vehicles, factory branch or distributor to meet its obligations to consumers or the new vehicle dealer, including vehicle recalls or other requirements imposed by state or federal law; or

(B) release to any unaffiliated third party any customer information which has been provided by the dealer to the manufacturer;

(5) unless the parties have reached a voluntary agreement where separate and adequate consideration has been offered and accepted in exchange for altering or foregoing the following limitations, through the use of written instrument, or otherwise:

(A) Prohibit or prevent a dealer from acquiring, adding or maintaining a sales or service operation for another line-make at the same or expanded facility at which the dealership is located if the prohibition or prevention of such arrangements would be unreasonable in light of all existing circumstances including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(B) require a dealer to establish or maintain exclusive facilities, personnel or display space if the imposition of the requirement would be unreasonable in light of all existing circumstances, including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(C) to require a dealer to build or relocate and build new facilities, or make a material alteration, expansion or addition to any dealership facility, unless the requirement is reasonable in light of all existing conditions, including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(6) through the use of written instrument, or otherwise, require, coerce or force a dealer to underutilize its facilities by requiring the dealer to exclude or remove operations for the display, sale or service of any vehicle for which the dealer has a franchise agreement, except that in light of all existing circumstances the dealer must comply with reasonable facilities requirements. The requirement for a dealer to meet reasonable facilities requirements shall not include any requirement that a dealer establish or maintain exclusive facilities.

In the event a dealer decides to add an additional franchise agreement to sell another line-make of new vehicles of a different first or second stage manufacturer or distributor from that currently sold in its existing facility, it shall be a rebuttable presumption that the decision to do so is reasonable. Any dealer adding a franchise agreement for an existing facility shall provide 60 days written notice of its intent to those other parties to franchise agreements it may have. The other party must respond to such notice within 60 days by requesting a hearing before the director in accordance with K.S.A.

8-2411

, and amendments thereto. Consent shall be deemed to have been given approving the addition of the line-make if no hearing is timely requested. A party objecting to the addition shall have the burden to overcome such presumption by a preponderance of the evidence;

(7) (A) through the use of written instrument, or otherwise, directly or indirectly condition the awarding of a franchise agreement to a prospective dealer, the addition of a line-make or franchise agreement to an existing dealer, the renewal of a franchise agreement, the approval of a dealer or facility relocation, the acquisition of a franchise agreement or the approval of a sale or transfer of a franchise agreement or other arrangement on the willingness of a dealer or a prospective dealer to enter into a site control agreement or exclusive use agreement as defined in this subsection;

(B) as used in this paragraph, "site control agreement" and "exclusive use agreement" include any agreement by or required by the first or second stage manufacturer of vehicles, factory branch or distributor ("manufacturer parties" in this paragraph) that has the effect of either:

(i) Requiring that the dealer establish or maintain exclusive dealership facilities in violation of the dealer and manufacturers licensing act;

(ii) restricting the ability of the dealer, or the ability of the dealer's lessor in the event the dealership facility is being leased, to transfer, sell, lease or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease or other similar agreement; or

(iii) which gives control of the premises to a designated party. "Site control agreement" and "exclusive use agreement" also include manufacturer parties restricting the ability of a dealer to transfer, sell or lease the dealership premises by right of first refusal to purchase or lease, option to purchase, or option to lease, except as otherwise allowed by K.S.A.

8-2416

, and amendments thereto, except that voluntary agreements where separate and adequate consideration has been offered and accepted are excluded;

(8) through the use of written instrument, or otherwise, require adherence to a performance standard or standards which are not applied uniformly to other similarly situated dealers. In addition to any other requirements by law, the following shall apply:

(A) A performance standard, sales objective or program for measuring dealer performance that may have a material effect on a dealer, including the dealer's right to payment under any incentive or reimbursement program and the application of the standard, sales objective or program by a manufacturer, distributor or factory branch shall be fair, reasonable, equitable and based on accurate information;

(B) a dealer that claims that the application of a performance standard, sales objective or program for measuring dealership performance does not meet the standards listed in subparagraph (A) may request a hearing before the director pursuant to K.S.A.

8-2411

, and amendments thereto; and

(C) a first or second stage manufacturer of vehicles, factory branch or distributor has the burden of proving by a preponderance of the evidence that the performance standard, sales objective or program for measuring dealership information complies with this subsection;

(9) in addition to any other provisions of law, a franchise agreement or other contract offered to a dealer by a first or second stage manufacturer of vehicles, factory branch or distributor may not contain any provision requiring a dealer to pay the attorney's fees of the first or second stage manufacturer of vehicles, factory branch or distributor related to disputes between the parties.

(c) The director may deny the application for the license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(d) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its salespersons or representatives while acting as its agent.

(e) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the Kansas judicial review act.

(f) The revocation or suspension of a first or second stage manufacturer's or distributor's license may be limited to one or more municipalities or counties or any other defined trade area.

KSA 8-2411 — Violations; hearing; penalties; appeals

Violations; hearing; penalties; appeals.

(a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than $50 nor more than $1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation, except that in addition to any civil penalty imposed pursuant to this subsection, the director shall suspend or revoke the license of any person who is found to have violated the provisions of K.S.A.

79-3601

et seq., and amendments thereto, by the failure to file returns and remit sales tax as required pursuant to K.S.A.

79-3607

, and amendments thereto, or the provisions of K.S.A.

79-3294

et seq., and amendments thereto, by the failure to file returns and remit withholding tax as required pursuant to K.S.A.

79-3298

, and amendments thereto, for three consecutive months.

(c) Any party aggrieved by the decision of the director may appeal the same to the district court in accordance with the provisions of the Kansas judicial review act.

KSA 8-2412 — Dealer review board; membership; meetings; compensation and expenses; secretary; attachment to department of revenue

Dealer review board; membership; meetings; compensation and expenses; secretary; attachment to department of revenue.

(a) The governor shall appoint eight members to serve on the dealer review board with the individual terms of office for each appointee to run as follows: One new vehicle dealer, one used vehicle dealer and one salvage vehicle dealer, each to serve for three consecutive years; one new vehicle dealer, one used vehicle dealer, and two additional members both of whom shall be appointed from the public at large, each to serve for two consecutive years; and one representative of a first or second stage manufacturer to serve for a period of one year. Upon the expiration of their respective terms, board members shall be appointed by the governor to serve for three consecutive years.

(b) The board shall elect a chairperson from among its members. The chairperson shall serve for a period of one year. The board shall elect successors each subsequent year.

(c) Any proceeding conducted by the board shall be construed to be a meeting of the board under this section for each day the proceeding is conducted. To constitute a meeting of the board within the meaning of this section, a quorum of the board must be present and participating. Four members of the board shall constitute a quorum. All final orders shall be in writing and shall be signed by the chairperson and approved by the board.

(d) Members of the board attending meetings of such board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A.

75-3223

, and amendments thereto. In no event shall any member be paid compensation or allowances for more than 15 days in any calendar year.

(e) Meetings of the board may be called by the director, the chairperson of the board or any three members of the board, after first giving notice, in writing, at least 10 days prior to such meeting. The notice of any meeting of the board shall state the time and place of such meeting which special meeting may be held at any place within the state of Kansas. Additionally, such notice of the meeting shall state the purpose thereof.

(f) The director of vehicles may either appoint or designate a secretary for the board. The secretary shall perform, among other things, the following duties: Prepare the agenda for the meetings of the board; prepare notice of all meetings and cause the same to be mailed to all board members; take minutes of all meetings of the board and thereafter cause copies thereof to be distributed to all board members; arrange for meeting places within the state of Kansas at the direction of the chairperson; prepare vouchers for each board member to submit for expense of attendance at meetings; and, such other duties as requested by the board.

(g) The board shall be attached to the department of revenue and shall be within the department of revenue as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of revenue. The division shall serve as the administrative and enforcement agency of the board in all respects and shall perform such services and duties as it may be legally called upon to perform. In the event the board fails to perform any of its official duties within the time prescribed herein, the division may perform such duties and certify its action to the board for review.

KSA 8-2413 — Injunctions; jurisdiction of courts; mediation

Injunctions; jurisdiction of courts; mediation.

(a) Upon application of the board, the director or any person having any interest in the subject matter, the district courts of this state may enjoin any person from violating any of the provisions of this act or any order or rule and regulation issued or adopted pursuant thereto.

(b) Notwithstanding any other statute, law or rule of court, any first or second stage manufacturer or distributor or new vehicle dealer which has entered a franchise agreement with the other under which a dispute has arisen with respect to the conduct of business or the business relationship between the parties shall participate in the mediation of the dispute upon the request of any party to the matter. In the event mediation is requested, any time frame applicable for taking action under the dealers and manufacturers licensing act shall be deemed stayed or tolled, as the case may be until the mediation is completed. The mediation shall be nonbinding, unless the parties reach agreement resolving the dispute.

KSA 8-2414 — Cancellation, termination or nonrenewal of franchise agreements between dealers and manufacturers or distributors; cause; hearing; burden of proof; compensation upon termination; effect of noncompliance by manufacturer or distributor

Cancellation, termination or nonrenewal of franchise agreements between dealers and manufacturers or distributors; cause; hearing; burden of proof; compensation upon termination; effect of noncompliance by manufacturer or distributor.

(a) No franchise agreement entered into between a vehicle dealer and a first or second stage manufacturer or distributor may be cancelled, terminated or not renewed by the first or second stage manufacturer or distributor unless 90 days notice has been given to the vehicle dealer and the director, which notice must state in full the reasons and causes for the cancellation, termination or nonrenewal of such franchise agreement, except that in the event of a showing of fraud, insolvency or failure to perform in the ordinary course of business, a notice of not less than 15 days may be approved by the director, with notice thereof to such vehicle dealer and upon written application by such first or second stage manufacturer or distributor. A notice required under this subsection shall be given by certified mail and the period of time given in the notice prior to cancellation, termination or nonrenewal shall be computed from the date of mailing thereof.

(b) A vehicle dealer, within a period of time equal to that provided for in the notice filed pursuant to subsection (a), may file a complaint with the director against a first or second stage manufacturer or distributor challenging the reasons and causes given for the proposed cancellation, termination or nonrenewal of the franchise agreement. Upon a complaint being filed, the director shall promptly set the matter for public hearing, in accordance with K.S.A.

8-2411

, and amendments thereto, for the purpose of determining whether there has been a violation of K.S.A.

8-2410

, and amendments thereto, or whether good cause exists for cancellation, termination or nonrenewal of the franchise agreement in accordance with the dealers and manufacturers licensing act. Notwithstanding the provisions of K.S.A.

8-2411

, and amendments thereto, the hearing may be set for a time which is not less than the number of days provided in the notice given pursuant to subsection (a), from the date the director gives notice thereof.

(c) The franchise agreement shall remain in full force and effect pending the determination by the director of the issues involved as provided by this act. If the director determines that the first or second stage manufacturer or distributor is acting in violation of this act or that good cause does not exist for the proposed action, the director shall order for the franchise agreement to be kept in full force and effect.

(d) The burden of proof shall be on the first or second stage manufacturer or distributor to show by a preponderance of the evidence that it did not act arbitrarily or unreasonably and that good cause did exist for the proposed cancellation,

termination or nonrenewal of the franchise agreement. The director shall order that the franchise agreement may be cancelled, terminated or not renewed if the director finds, after a hearing that the licensed vehicle dealer is acting in violation of this act or that the judgment of the first or second stage manufacturer or distributor is with good cause and the vehicle dealer's default is material.

(e) (1) In the event of cancellation, termination or nonrenewal of a franchise agreement, good cause as used in this section shall mean the failure of the new vehicle dealer to effectively carry out the performance provisions of the franchise agreement if all of the following have occurred:

(A) The new vehicle dealer was given notice by the first or second stage manufacturer or distributor of the failure prior to the notice of cancellation, termination or nonrenewal as required by subsection (a);

(B) the notification stated that the notice of failure of performance was provided pursuant to this article;

(C) the new vehicle dealer was afforded a reasonable opportunity to carry out the franchise agreement; and

(D) the failure continued for more than one year after the date notification was given.

(2) In the event of cancellation, termination or nonrenewal of a franchise agreement, good cause shall not exist where there has been a violation by the first or second stage manufacturer or distributor of K.S.A.

8-2410

, and amendments thereto, or any other provision of the dealers and manufacturers licensing act. Additionally, notwithstanding any agreement, the following alone shall not constitute good cause for the termination, cancellation or nonrenewal of a franchise agreement:

(A) A change in ownership of the new vehicle dealer's dealership. This subparagraph does not authorize any change in ownership which would have the effect of a sale or an assignment of the franchise agreement or a change in the principal management of the dealership without the first or second stage manufacturer's or distributor's prior written consent;

(B) the refusal of the new vehicle dealer to purchase or accept delivery of any new motor vehicles, parts, accessories or any other commodity or services not ordered by the new vehicle dealer;

(C) the fact that the new vehicle dealer owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of new motor vehicles, or that the new vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the first or second stage manufacturer or distributor;

(D) the fact that the new vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new vehicle dealer's spouse, son or daughter, except that the sale or transfer shall not have the effect of a sale or an assignment of the franchise agreement without the first or second stage manufacturer's or distributor's prior written consent or approved as allowed by K.S.A.

8-2416

, and amendments thereto.

(f) (1) In event of cancellation, termination or nonrenewal of a franchise agreement, whether voluntary or involuntary, the first or second stage manufacturer or distributor shall pay the new vehicle dealer, at a minimum:

(A) Dealer net acquisition cost for any new, undamaged and unsold new motor vehicle inventory purchased from the first or second stage manufacturer or distributor within 12 months prior to the receipt of notice of termination, cancellation or nonrenewal, provided the new motor vehicle has less than 500 miles registered on the odometer, not including mileage incurred in delivery to the new vehicle dealer or in transporting the vehicle between dealers for sale or delivery, plus any cost to the new vehicle dealer for returning the vehicle inventory to the first or second stage manufacturer or distributor;

(B) the dealer price listed in the current list or catalog or, if unavailable, the list or catalog actually utilized within the 12 months previous to termination, cancellation or nonrenewal, as the case may be, for any new, unused and undamaged parts, supplies, and accessories acquired from a first or second stage manufacturer, or distributor, or a source approved or recommended by it, less applicable allowances specified in advance of dealer purchase, plus 5% of the catalog or list price, as the case may be, for the cost of packing and returning the parts, supplies and accessories to the first or second stage manufacturer or distributor. Parts, supplies or accessories which are reconditioned or subject to reconditioning or rebuilding or other return in the ordinary course of business which are considered to be core parts in the trade practice and usage of the industry shall be valued for payment purposes at their core value, the price listed in the catalog or list

referenced above or the amount paid for expedited return of core parts, whichever is higher;

(C) fair market value for furnishings required to be purchased by the first or second stage manufacturer or distributor and signs which bear the trademark or trade name of the first or second stage manufacturer or distributor which were required or recommended to be purchased or leased from the first or second stage manufacturer or distributor, or their approved sources;

(D) dealer cost for special tools and equipment required to be purchased or leased by the first or second stage manufacturer or distributor within three years of the date of termination, cancellation or nonrenewal;

(E) dealer cost for computers and data processing systems which are in usable condition and were leased or purchased within three years of the date of termination, cancellation or nonrenewal of the franchise agreement up to an amount equal to the cost of meeting the minimum standards and requirements for the dealer to participate in promotional or incentive programs or perform the franchise agreement;

(F) the cost of transporting, handling, packing and loading of signs, special tools, equipment and furnishings.

(2) Upon termination, cancellation or nonrenewal of a franchise agreement by the first or second stage manufacturer or distributor, the first or second stage manufacturer or distributor shall also pay to the new vehicle dealer a sum equal to the current fair rental value of its established place of business for a period of one year from the effective date of termination, cancellation or nonrenewal, or the remainder of the lease, whichever is less. If the new vehicle dealer owns the dealership facilities, the first or second stage manufacturer or distributor shall pay the new vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for one year or until the facilities are leased or sold, whichever is less. The rental payment required under this subsection is only required to the extent that the established place of business was being used for activities under the franchise agreement and only to the extent such facilities were not leased for unrelated purposes. The first or second stage manufacturer or distributor shall not be required to make the payment set forth under this subsection if the basis of the cancellation, termination or nonrenewal of such franchise agreement under this act is due to conviction of the dealer of a felony or any crime involving moral turpitude, or if the dealer has been adjudged guilty of the violation of any law of any state or the United States in connection with such person's operation as a dealer.

(3) To the extent the franchise agreement provides for payment or reimbursement to the new vehicle dealer in excess of that specified in this section, the provisions of the franchise agreement shall control.

(4) The first or second stage manufacturer or distributor shall pay the new vehicle dealer the sums specified in this subsection within 90 days after the tender of the property, subject to the new vehicle dealer providing evidence of good and clear title upon return of the property to the first or second stage manufacturer or distributor.

(5) Nothing in this subsection shall preclude or prohibit the first or second stage manufacturer or distributor or vehicle dealer from agreeing to other terms for additional payment or reimbursement, except that such terms shall include, at a minimum, the payment or reimbursement requirements contained in this subsection.

(6) The provisions of this subsection shall not apply to voluntary termination by dealers of recreational vehicles or to where the new vehicle dealer has voluntarily terminated its franchise agreement in conjunction with the sale of the business.

(g) Failure of the first or second stage manufacturer or distributor to give proper notice or maintain the franchise agreement in full force and effect pending determination by the director pursuant to this act, or to abide by the final order of the director, shall be cause for the director to refuse to issue a license to a replacement vehicle dealer or to a dealership which would be conducting business in the same trade area and selling the same make of vehicles where the vehicle dealer in question was engaged in business.

KSA 8-2415 — Correction of warranty defects; compensation to dealer; promotional allowances or incentive payments; claim for reimbursement from dealer

Correction of warranty defects; compensation to dealer; promotional allowances or incentive payments; claim for reimbursement from dealer.

(a) A first or second stage manufacturer or distributor shall pay reasonable compensation to any authorized new vehicle dealer who performs work to rectify warranty defects in the first or second stage manufacturer's or distributor's product.

(b) A first or second stage manufacturer or distributor shall pay any authorized new vehicle dealer all promotional allowances or other incentive payments submitted by the dealer as provided by the applicable provisions of such

programs subject to the applicable requirements of this act.

(c) (1) (A) A first or second stage manufacturer or distributor shall specify in writing to each of the first or second stage manufacturer's or distributor's dealers operating in this state the dealer's obligations for preparation, delivery and warranty services related to the first or second stage manufacturer's or distributor's products.

(B) The first or second stage manufacturer or distributor shall compensate the dealer for the warranty services that the first or second stage manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles of the first or second stage manufacturer or distributor and all parts and components authorized by the manufacturer to be installed in or manufactured for installation in such motor vehicles.

(2) The first or second stage manufacturer or distributor shall provide to the dealer a schedule of compensation that specifies reasonable compensation that the first or second stage manufacturer or distributor will pay to the dealer for such warranty services, including for parts, labor and diagnostics.

(A) In determining the schedule of compensation for parts, the first or second stage manufacturer or distributor may multiply the price paid by the dealer for parts, including all shipping costs and other charges, by the sum of one and the dealer's average percentage markup. The dealer's average percentage markup is calculated by subtracting one from the result of dividing the total amounts charged by the dealer for parts used in warranty-like repairs by the total cost to the dealer for the parts in the retail service orders submitted pursuant to subparagraph (C).

(B) In determining the schedule of compensation for labor-related warranty services, the first or second stage manufacturer or distributor may calculate the dealer's retail labor rate by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to subparagraph (C).

(C) (i) The dealer may establish its average percentage markup for parts or its labor rate by submitting to the first or second stage manufacturer or distributor copies of 100 sequential retail service orders paid by the dealer's customers, or all of the dealer's retail service orders paid by the dealer's customers in a 90-day period, whichever is less, for services provided within the previous 180-day period. The first or second stage manufacturer or distributor shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.

(ii) Within 30 days of receiving the dealer's submission, the first or second stage manufacturer or distributor may choose to audit the submitted orders. The first or second stage manufacturer or distributor shall then approve or deny the establishment of the dealer's average percentage markup or labor rate. If the first or second stage manufacturer or distributor approves the establishment of the dealer's average percentage markup or labor rate, the markup or rate calculated under this subparagraph shall go into effect 45 days after the date of the first or second stage manufacturer's or distributor's approval. If the first or second stage manufacturer or distributor denies the establishment of the dealer's average percentage markup or labor rate, the dealer may file a complaint with the director of vehicles, and a hearing shall be held as provided by K.S.A.

8-2411

, and amendments thereto. The first or second stage manufacturer or distributor shall have the burden of proof to establish that the first or second stage manufacturer's or distributor's denial was reasonable. If the director of vehicles finds that the denial was not reasonable, the denial shall be deemed a violation of this section and the director of vehicles shall then determine the dealer's average percentage markup or labor rate for purposes of calculating a reasonable schedule of compensation. In making such a determination, the director of vehicles shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.

(iii) A first or second stage manufacturer or distributor shall not require a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the dealer, including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.

(iv) A dealer shall not request a change in the dealer's average percentage markup or labor rate more than once in any one-year period.

(3) The compensation to the dealer for warranty parts and labor shall not be less than the rates charged by the dealer for like parts and services to retail customers, provided the rates are reasonable.

(d) A first or second stage manufacturer or distributor shall not require unreasonable proof to establish compensation under this section, nor act unreasonably to delay payments or adjustments in the rate or charge for particular warranty work, promotional allowances or other incentive payments as circumstances or changes may justify or require such adjustments. A claim for compensation shall not be divided or the amount to be reimbursed reduced if the new vehicle dealer has reasonably substantiated the claim. A new vehicle dealer's failure to comply with the specific requirements of processing a claim may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents reasonable documentation or other evidence to substantiate the claim. If the claim is for warranty work, whether or not it includes parts, repairs or services, then the amount of compensation for the claims shall not be reduced or disallowed on the grounds the dealer failed to submit the claim fewer than 60 days after the dealer completed the work underlying the claim.

(e) A claim made by a new motor vehicle dealer for compensation under this section shall be either approved or disapproved within 30 days after the claim is submitted to the first or second stage manufacturer or distributor in the manner and on the forms the first or second stage manufacturer or distributor reasonably prescribes. An approved claim shall be paid within 30 days after its approval. If a claim is not specifically disapproved in writing or by electronic transmission within 30 days after the date on which the first or second stage manufacturer or distributor receives it, the claim shall be considered to be approved and payment shall follow within 30 days. A first or second stage manufacturer or distributor retains the right to audit claims for warranty work for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. A first or second stage manufacturer or distributor retains the right to audit claims for promotional allowances or other incentive payments submitted by the dealer for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. If there is evidence of fraud, this subsection does not limit the right of the manufacturer to audit for longer periods and chargeback for any fraudulent claim, subject to the limitation period under K.S.A.

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(a)(3), and amendments thereto, in addition to any other available remedy. A claim for reimbursement by the first or second stage manufacturer or distributor of sums due following an audit must be presented to the dealer within 90 days of the audit of the item subject to the claim. A first or second stage manufacturer or distributor may not setoff or otherwise take control over funds owned, or under the control of the new vehicle dealer, or which are in an account designated for the new vehicle dealer when such action is based upon the findings of an audit or other claim with respect thereto until a final decision is issued with respect to any challenge or appeal by either party of any such audit or claim. This section may be enforced pursuant to K.S.A.

8-2411

, and amendments thereto.

KSA 8-2416 — Sale, transfer or assignment of dealership, notice and limitations; disapproval procedure; duties of manufacturer or distributor; appointment of successor

Sale, transfer or assignment of dealership, notice and limitations; disapproval procedure; duties of manufacturer or distributor; appointment of successor.

(a) A vehicle dealer shall not transfer, assign or sell a franchise agreement or interest in a dealership to another person unless the dealer first gives written notice to the first or second stage manufacturer or distributor of the dealer's decision to make such transfer, assignment or sale. The dealer shall provide the first or second stage manufacturer or distributor with any completed application forms and related information generally utilized by the first or second stage manufacturer or distributor to conduct its review of prospective new vehicle dealers, and a copy of all agreements regarding the proposed transfer, assignment or sale.

(b) The first or second stage manufacturer or distributor shall send a letter by certified mail to the dealer within 60 days of receipt of the information specified in subsection (a). The letter shall indicate any disapproval of the transfer, assignment or sale and shall specifically set forth the reasons for the disapproval. If the first or second stage manufacturer or distributor does not respond by letter within the 60-day period, its consent to the proposed transfer, assignment or sale is deemed to have been granted. A first or second stage manufacturer or distributor shall not arbitrarily or unreasonably withhold approval of the transfer, assignment or sale of a franchise agreement or an interest in a dealership. The first or second stage manufacturer or distributor may not approve or reject only a part of an agreement for the transfer,

assignment or sale, but must accept or reject the whole agreement. If the first or second stage manufacturer or distributor rejects an agreement, it may indicate changes to the agreement which would cause it to accept the proposed agreement. An agreement may not be rejected merely because it provides provisions which operate in the future, an option to undertake or refrain from an action, or because it is to operate over an extended period of time or as an installment agreement.

(c) Within 90 days after receipt of a notice of disapproval as provided in subsection (b), the new vehicle dealer may file a complaint with the director with respect to the first or second stage manufacturer or distributor's failure to approve the proposed transfer, assignment or sale. When such a complaint has been filed, the director shall inform the first or second stage manufacturer or distributor that a timely complaint has been filed and a hearing is required in accordance with the provisions of K.S.A.

8-2411

, and amendments thereto, to determine whether good cause exists to disapprove the transfer, assignment or sale. A disapproval shall not be final until the director or the director's designee makes a final determination as to good cause.

(d) A first or second stage manufacturer or distributor shall not fail or refuse to approve the transfer, assignment or sale of the business and assets of a new vehicle dealer, or refuse to continue the franchise agreement with the prospective transferee after the holding of a hearing on the complaint if the director or the director's designee determines that good cause does not exist for the first or second stage manufacturer or distributor to fail or refuse to approve such transfer, assignment or sale. The burden of proof shall be on the first or second stage manufacturer or distributor to show by a preponderance of the evidence that the disapproval of the transfer, assignment or sale was with good cause and the refusal is not unjust, unfair, inequitable or otherwise in violation of the dealers and manufacturers licensing act. Material factors to be considered may include, but are not limited to:

(1) Whether the basic financial and facility requirements of the franchise agreement will be met by the proposed transfer, assignment or sale;

(2) whether the proposed purchaser, transferee or assignee is capable of operating, managing and supervising such business; and

(3) the extent to which the refusal to approve will have a substantial and adverse effect upon the dealer's investment or return on investment.

(e) The first or second stage manufacturer or distributor shall have a right of first refusal to acquire the new vehicle dealer's assets or ownership in the event of a proposed change of all or substantially all of the dealer's ownership, or the transfer of all or substantially all of the new vehicle dealer's assets, if all of the following are met:

(1) The first or second stage manufacturer or distributor notifies the dealer in writing within the 60-day limit established under subsection (b) of its intent to exercise its right of first refusal;

(2) the exercise of the right of first refusal will result in the dealer and dealer's owners receiving consideration, terms and conditions that either are the same as or greater than that which they have contracted to receive in connection with the proposed change of all or substantially all of the dealer's ownership, or the transfer of all or substantially all of the new vehicle dealer's assets;

(3) the proposed change of all or substantially all of the dealership's ownership or the transfer of all or substantially all of the new vehicle dealer's assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to a designated family member or members, including the spouse, child or grandchild, spouse of a child or grandchild, brother, sister or parent of the dealer owner, or one or more dealer owners, or to a qualified manager, or to a partnership or corporation controlled by any such person; or to a trust arrangement established or to be established for the purpose of allowing the new vehicle dealer to continue to qualify as such a dealer, so long as the new vehicle dealer continues to qualify as such pursuant to the first or second stage manufacturer or distributor's standards, or provides for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or its principal owner or owners; and

(4) except as otherwise provided in this subsection, the first or second stage manufacturer or distributor agrees to pay the reasonable expenses, including reasonable attorney fees, which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed owner or transferee prior to the first or second stage manufacturer or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed change of all or substantially all of the dealer ownership, or the transfer of all or substantially all of the new

vehicle dealer's assets. No payment of expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days of the dealer's receipt of the first or second stage manufacturer or distributor's written request for such an accounting. Such an expense accounting may be requested by a first or second stage manufacturer or distributor before exercising its right of first refusal.

(f) A new vehicle dealer and its owners may appoint by trust, will or any other valid written instrument a successor to the owner's interest in the franchise agreement upon the owner's death or incapacity, subject to the following procedures:

(1) Unless the first or second stage manufacturer or distributor has good cause to refuse to approve the succession, the successor may succeed to the ownership of the new vehicle dealer under the existing franchise agreement if:

(A) Within 90 days of the owner's death or incapacity, the successor gives written notice of the successor's intent to succeed to ownership of the new vehicle dealer and its franchise agreement; and

(B) the successor agrees to be bound by all the terms and conditions of the franchise agreement with the prior new vehicle dealer.

(2) Upon request, the successor shall promptly provide the first or second stage manufacturer or distributor evidence of the successorship appointment, as well as personal and financial information reasonably necessary to determine whether the succession should be approved by the first or second stage manufacturer or distributor.

(3) If a first or second stage manufacturer or distributor believes that good cause exists to refuse to approve the intended succession under subsection (f)(1), then the first or second stage manufacturer or distributor shall serve the new vehicle dealer and named successor written notice of refusal to approve the intended succession within 60 days of its receipt of the notice of the intended succession, or within 60 days of receiving the information requested under paragraph (f)(2), whichever is later. The notice must contain specific grounds for the refusal to approve the succession. In the event of such a refusal the new vehicle dealer or successor may file a complaint as provided under subsection (c), and the matter shall then proceed to hearing in the manner and on the same basis as the disapproval of a transfer, assignment or sale.

(4) If notice of refusal to approve the intended succession is not served within 60 days upon the intended successor, the successor may continue the franchise agreement and the successor shall thereby be deemed approved by the first or second stage manufacturer or distributor.

(g) It shall be a violation of this act for a first or second stage manufacturer or distributor, or anyone on their behalf, to exercise a right of first refusal or other right to acquire the business of the new vehicle dealer or a franchise agreement as a means to influence the consideration or other terms offered by a person in connection with the acquisition of the business or franchise agreement or to influence a person to refrain from entering into, or to withdraw from, negotiations for the acquisition of the business or franchise agreement.

KSA 8-2417 — Jurisdiction over licensees; service of process in secretary of state; limitation of rights

Jurisdiction over licensees; service of process in secretary of state; limitation of rights.

(a) The obtaining of a license hereunder shall bring the applicant under the jurisdiction of the state of Kansas, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the secretary of the state of Kansas as agent for receipt of service of process.

(b) No franchise agreement or other agreement between the parties to a franchise agreement may limit, waive or substitute the party's rights, duties or obligations under this act absent separate and additional, adequate consideration, nor compel a party to consent to jurisdiction or governance by the law of another state or territory outside Kansas, or to forego any right to trial by jury.

KSA 8-2418 — Disposition of moneys

Disposition of moneys.

(a) The director shall remit all moneys received by or for the director from fees, charges or penalties under the provisions of this act 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 state highway fund, except as provided in subsection (b).

(b) On and after July 1, 2002, $25 of each license fee collected under subsections (e) and (f) of K.S.A.

8-2404

, and amendments thereto, except that $10 of each license fee collected under paragraph (14) of subsection (e) and subsection (h) of K.S.A.

8-2404

, and amendments thereto, shall be remitted to the state treasurer who shall credit such amounts to the vehicle dealers and manufacturers fee fund.

KSA 8-2419 — Liability of manufacturers and distributors for defects in equipment; indemnification for damages; when

Liability of manufacturers and distributors for defects in equipment; indemnification for damages; when.

(a) All first or second stage manufacturers and distributors shall be liable for the full period of the warranty of the vehicle for all defects in any equipment attached to any vehicle at the factory and all defects in any equipment produced by or advertised as an accessory to a vehicle manufactured by such first or second stage manufacturer which is added at the dealership whether such equipment is added to a new or to a used vehicle so long as such equipment has been advertised as being either an "accessory" or an "option."

(b) All first stage manufacturers and second stage manufacturers and distributors shall, upon demand:

(1) Indemnify any existing or former licensee or party to a franchise agreement and the licensee or party's successors and assigns from any and all damages sustained and attorney's fees and other expenses reasonably incurred by the licensee or party that result from or relate to any claim made or asserted by a third party against the licensee or party to the extent the claim results from any of the following:

(A) The condition, characteristics, manufacture, assembly or design of any vehicle, parts, accessories, tools or equipment or the selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(B) service systems, procedures or methods the franchisor required or recommended the licensee or party to use if the licensee or party properly uses the system, procedure or method;

(C) improper use or disclosure by a manufacturer or distributor of nonpublic personal information obtained from a licensee or party concerning any consumer, customer or employee of the licensee or party; and

(D) any act or omission of the manufacturer or distributor for which the licensee or party would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of and without regard to a prior termination or expiration of the franchise.

(2) This subsection does not limit in any way the existing rights, remedies or recourses available to any licensee, party or other person.

KSA 8-2420 — Act supplemental to vehicle registration laws

Act supplemental to vehicle registration laws.

This act is supplementary to the vehicle registration laws of Kansas, and nothing herein shall be construed as abridging or amending such laws.

KSA 8-2421 — Severability

Severability.

If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act, and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

KSA 8-2422 — Citation of act

Citation of act.

This act may be cited as the vehicle dealers and manufacturers licensing act.

KSA 8-2423 — Rules and regulations

Rules and regulations.

The secretary of revenue may adopt such rules and regulations as are necessary for the administration of this act. Prior to hearing or adoption of rules and regulations under this section the secretary shall submit copies thereof to the dealers review board for its review and comment.

KSA 8-2425 — Full-privilege license plates; dealer-hauler full-privilege trailer license plates; fees; use

Full-privilege license plates; dealer-hauler full-privilege trailer license plates; fees; use.

(a) When a first dealer license plate has been issued under K.S.A.

8-2406

, and amendments thereto, the secretary of revenue may issue full-privilege license plates or dealer-hauler full-privilege trailer license plates, in accordance with the provisions of this section, to a licensed manufacturer of or licensed dealer in vehicles. In no calendar year shall the secretary issue in excess of 10 of each type of such license plates to any licensed manufacturer or dealer.

(b) The annual fee for each: (1) Full-privilege license plate shall be $350.50; and (2) dealer-hauler full-privilege trailer license plate shall be $350.50.

(c) The secretary shall, upon application provided by the secretary and payment of the fee required in subsection (b), issue to the applicant the appropriate full-privilege license plate, which shall expire on the January 31 next following its issuance, except that the dealer shall have until and including the last day of February of each year within which to make application for renewal.

(d) Subject to subsection (e), a full-privilege license plate may be used in lieu of regular vehicle registration and license plate. A full-privilege license plate may be used on passenger cars or trucks. A full-privilege license plate may be transferred from one vehicle to another owned or in inventory of such manufacturer or dealer and may be assigned for use by any person, at the discretion of the manufacturer or dealer to whom it is issued. The person to whom a full-privilege license plate is assigned for use shall be only a person who is: (1) A member of the immediate family of the licensed manufacturer of or licensed dealer in vehicles; (2) a corporate officer of the licensed manufacturer of or licensed dealer in vehicles; or (3) an employee of the licensed manufacturer of or licensed dealer in vehicles.

(e) A full-privilege license plate shall not be used on a lease or rental vehicle. A full-privilege license plate shall not permit any vehicle to be operated or moved upon a highway to haul commodities weighing in excess of two tons. A full-privilege license plate shall not be used on a wrecker or tow truck when providing wrecker or towing service as defined by K.S.A.

66-1329

, and amendments thereto.

(f) A dealer-hauler full-privilege trailer license plate may be used by a trailer manufacturer or trailer dealer in lieu of a regular trailer registration and license plate. A dealer-hauler full-privilege trailer license plate may be used only on trailers. A dealer-hauler full-privilege trailer license plate may be transferred from one trailer to another owned or in inventory of the trailer manufacturer or trailer dealer to whom issued. A dealer-hauler full-privilege trailer license plate may be used by a trailer manufacturer or trailer dealer to haul nonhighway equipment, as defined in rules and regulations, for either demonstration purposes or delivery, if the weight of the trailer and nonhighway equipment does not exceed 85,500 pounds. The dealer-hauler full-privilege trailer license plate shall expire on the January 31 next following its issuance, except that the dealer shall have until and including the last day of February of each year within which to make application for renewal.

(g) Fees received under this section shall be divided equally between the county treasurer in which the licensed manufacturer or dealer has its established place of business and the secretary of revenue. Amounts allotted to the secretary of revenue shall be remitted 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 vehicle dealers and manufacturers fee fund which fund is hereby created in the state treasury. Expenditures from the vehicle dealers and manufacturers fee fund shall be made on vouchers approved by the secretary of revenue, or a person designated by the secretary, for enforcement of the vehicle dealers and manufacturers licensing act in accordance with appropriations therefor. Amounts allotted to the county treasurers shall be credited to the county treasurers' vehicle licensing fee fund which fund is hereby created in the state treasury. Amounts due each county

treasurer shall be paid quarterly from such fund upon vouchers approved by the secretary of revenue or a person designated by the secretary. Amounts received by each county treasurer shall be deposited, appropriated and used as provided by K.S.A.

8-145

, and amendments thereto.

(h) The provisions of K.S.A.

8-136

and

8-2406

, and amendments thereto, shall not apply to full-privilege license plates or dealer-hauler full-privilege trailer license plates or the use thereof.

KSA 8-2426 — Same; unlawful acts; penalties

Same; unlawful acts; penalties.

Violation of K.S.A.

8-2406

, and amendments thereto, or K.S.A.

8-2425

, and amendments thereto, is unlawful, and any person violating any provision thereof shall be subject to civil penalty of not less than $350 and not to exceed $1,000, as determined by the presiding officer from the office of administrative hearings after notice and hearing in accordance with the provisions of the Kansas administrative procedure act. The provisions of this section shall not affect the authority of the secretary of revenue or any officer of the department of revenue in enforcing any provision of the vehicle dealers and manufacturers licensing act, of which K.S.A.

8-2425

, and amendments thereto, and this section shall be a part.

KSA 8-2428 — Dealer review board; duties

Dealer review board; duties.

(a) The dealer review board created by K.S.A.

8-2412

, and amendments thereto, shall:

(1) Confer with the director on matters related to regulations relating to improved vehicle dealer practices;

(2) serve to make suggestions and recommendations for changes in current law relating to vehicle sales and trade;

(3) act as a resource for vehicle industry problems; and

(4) provide expertise to uncover operating problems created by current law, while balancing problems against the greater public interest.

(b) The provisions of this section shall not require any action prior to adoption of any rules and regulations by the secretary of revenue.

KSA 8-2429 — Interstate dealer licensing compact

Interstate dealer licensing compact.

The director of vehicles is hereby authorized to enter into an interstate dealer licensing compact with party states to facilitate the conveyance or exchange of information concerning violations or convictions of civil or criminal offenses committed by nonresident dealers in a party state.

KSA 8-2430 — Establishment of additional or relocation of existing new vehicle dealer; procedure; relevant market area

Establishment of additional or relocation of existing new vehicle dealer; procedure; relevant market area.

(a) Any licensee, or proposed licensee, who proposes to establish an additional new vehicle dealer for new motor vehicles, including a supplemental place of business for new motor vehicles, or permit the relocation of an existing new vehicle dealer in new motor vehicles to a location within the relevant market area where the same line-make vehicle is already presently represented by a new vehicle dealer or dealers in new motor vehicles of that same line-make shall give written notice of its intention by certified mail to the director of vehicles and shall establish good cause for adding or relocating the new vehicle dealer. The notice required hereunder shall state:

(1) The specific location at which the additional or relocated new vehicle dealer in new motor vehicles will be established;

(2) the date on or after which the licensee, or proposed licensee, intends to be engaged in business as a new vehicle dealer in new motor vehicles at the proposed location;

(3) the identity of all new vehicle dealers in new motor vehicles who are franchised to sell the same line-make vehicle from licensed locations whose relevant market areas include the location where the additional or relocated dealer is proposed to be located;

(4) the names and addresses of the new vehicle dealer-operator and principal investors in the proposed new vehicle dealer's business; and

(5) a short and plain statement of the evidence the licensee, or proposed licensee, intends to rely upon in meeting the burden of proof for establishing good cause for an additional new vehicle dealer for new motor vehicles or permit relocation of an existing new vehicle dealer in new motor vehicles within a relevant market area where the same line-make of vehicle is presently represented by a new vehicle dealer.

Immediately upon receipt of such notice the director shall cause a notice to be published in the Kansas register. The published notice shall state that a petition or complaint by any dealer with standing to protest pursuant to subsection (c) must be filed with the director not more than 30 days from the date of publication of the notice in the Kansas register. The published notice shall describe and identify the proposed new vehicle dealer and dealership sought to be licensed, and the director shall cause a copy of the notice to be mailed to those dealers identified in the notice under paragraph (3) of this subsection.

(b) (1) An application for a new vehicle dealer license to act as a vehicle dealer in new motor vehicles in any city or county shall not be granted when the licensee, or proposed licensee, seeking to establish an additional new vehicle dealer, including a supplemental place of business for new motor vehicles, or relocate an existing new vehicle dealer in the same line-make of vehicles fails to comply with the requirements of this act, or when:

(A) A timely protest is filed by a presently existing new vehicle dealer in new motor vehicles with standing to protest as defined in subsection (c); and

(B) the director has held a hearing and determined that good cause has not been established for permitting the addition or relocation of such new vehicle dealer. The burden of proof in establishing good cause to permit an additional new vehicle dealer in new motor vehicles or to permit the relocation of an existing new vehicle dealer in new motor vehicles shall be on the licensee, or proposed licensee, seeking to establish or relocate a new vehicle dealer and shall be by a preponderance of the evidence presented;

(2) in determining whether good cause has been established for an additional new vehicle dealer or the relocation of an existing new vehicle dealer for the same line-make of vehicle as provided herein, the director shall take into consideration the existing circumstances, including, but not limited to:

(A) Permanency of the investment of both the existing and proposed new vehicle dealers;

(B) growth or decline in population and new car registrations in the relevant market area;

(C) effect on the consuming public in the relevant market area;

(D) whether it is injurious or beneficial to the public welfare for an additional new vehicle dealer to be established;

(E) whether the new vehicle dealers of the same line-make vehicles in that relevant market area are providing adequate competition and convenient customer care for the vehicles of the line-make in the market area which shall include the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel;

(F) whether the establishment of an additional new vehicle dealer would increase competition and whether such increased competition would be in the public interest;

(G) the effect and denial of relocation will have on a relocating dealer; and

(H) the effect the new vehicle dealer addition or relocation which is proposed will have on the existing dealer or dealers.

The application for a new vehicle dealer license shall not be denied after the applicant meets the requirements of this section if the applicant otherwise meets the requirements of the vehicle dealers and manufacturers licensing act K.S.A.

8-2401

, et seq., and amendments thereto.

(c) An existing new vehicle dealer in new motor vehicles shall have standing to protest the proposed addition or relocation of a new vehicle dealer in new motor vehicles where such existing new vehicle dealer in new motor vehicles has a franchise agreement for the same line-make vehicle as that which is to be sold or offered for sale or transfer by the proposed additional or relocated new vehicle dealer and is physically located such that the protesting dealer's relevant market area, as defined in subsection (e), includes the location where the additional or relocated dealer is proposed to be located.

(d) The director shall not issue a license for the proposed additional or relocated new vehicle dealer until a final decision is rendered determining good cause exists for establishing an additional new vehicle dealer or relocating a new vehicle dealer and that the application for the new vehicle dealer's license should be granted.

(e) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases shall have the following meanings:

(1) "Line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same; and

(2) "relevant market area" means the area within:

(A) A radius of 10 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's principal location is in a county having a population of 30,000 or more persons;

(B) a radius of 15 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's principal location is in a county having a population of less than 30,000 persons; or

(C) the area of responsibility defined in the franchise agreement of the existing dealer, whichever is greater.

(f) No person, entity, licensee or their agents or employees, shall require the relocation, cancellation or termination of an existing dealer or otherwise take any action to penalize any dealer who exercises the rights provided under this section, or undertake such action for the purpose of preventing or avoiding the exercise by a dealer of the rights provided under this section. No franchise agreement made, entered or renewed after the effective date of this act shall contain provisions which avoid or circumvent the requirements of this act.

(g) A dealer's license may be denied, suspended or revoked, or the renewal of a dealer's license may be refused by the director for the dealer's failure to comply with this section or for otherwise violating its provisions.

(h) Any licensee, or proposed licensee, aggrieved by a final order of the director may appeal as provided in subsection (d) of K.S.A.

8-2410

, and amendments thereto.

KSA 8-2431 — Same; exemption for manufacturers with dispute resolution procedures

Same; exemption for manufacturers with dispute resolution procedures.

The provisions of K.S.A.

8-2430

, and amendments thereto, shall not apply to any proposed establishment of an additional new motor vehicle dealer, including a supplemental place of business, or relocation of an existing new motor vehicle dealer, as the case may be, if a manufacturer, distributor or factory branch provides a dispute resolution mechanism for the establishment of an additional new motor vehicle dealer or supplemental place of business or for relocating a new motor vehicle dealer which meets the following criteria:

(a) The decision makers under the dispute resolution mechanism shall either be:

(1) Independent and not employed by, or affiliated with the manufacturer, distributor, factory branch or dealers if there is no specific process reached by prior agreement between the protesting dealer and the manufacturer, distributor or factory branch; or

(2) an individual or panel selected by a process mutually agreeable to the protesting dealer and the manufacturer, distributor or factory branch under the terms of the franchise agreement between them.

(b) There is a standard for deciding such cases under the terms of the dispute resolution process which allows a protesting dealer to include evidence on impact upon the existing dealers in addition to any other factors expressly or implicitly considered under the mechanism.

KSA 8-2432 — Same; act part of vehicle dealers and manufacturers licensing act

Same; act part of vehicle dealers and manufacturers licensing act.

This act shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2433 — Temporary permit for vehicle salesperson

Temporary permit for vehicle salesperson.

(a) Whenever application for a license as a vehicle salesperson has been made, a temporary permit may be granted by the director, effective with the application date for the salesperson license provided the salesperson is under direct supervision whenever any sale for a vehicle is conducted. The temporary permit shall be valid until such time as the application is approved or denied by the director but in no case shall such temporary license be valid for a period exceeding 45 days.

(b) The director shall not grant to any person more than one temporary salesperson's license, as provided in subsection (a), during any twelve-month period commencing with the date on which the person made application for licensing as a salesperson and such temporary permit was granted.

(c) This section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2434 — Selling motor vehicles without a license; penalty

Selling motor vehicles without a license; penalty.

It shall be unlawful and constitute a misdemeanor, punishable by a fine not to exceed $2,500, for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool or salesperson without a license issued by the director. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.

KSA 8-2435 — Display of motor vehicles at a location other than dealer's place of business; permit; temporary display show license

Display of motor vehicles at a location other than dealer's place of business; permit; temporary display show license.

(a) (1) Upon proper application, on a form approved by the division of vehicles, the director of vehicles may authorize the display of new motor vehicles of a new vehicle dealer at a location other than the established or supplemental place of business of a motor vehicle dealer provided that the requirements of K.S.A.

8-2404

(i) and (n) and

8-2405

, and amendments thereto, are satisfied by the motor vehicle dealer. A fee in the amount of $15 shall be paid by an applicant for each application. No sales transactions, leases or test drives may occur at such display locations.

(2) (A) Upon proper application on a form approved by the division of vehicles, the director of vehicles may issue a license known as a temporary display show license to a sponsor of such display show that is responsible for organizing and operating the display show under such terms and conditions as the director may reasonably require. A fee in the amount of $100 shall be paid by the sponsor applying for each application and each participant displaying vehicles shall pay a fee of $35 to the sponsor. The sponsor shall remit all fees to the director. New vehicle dealers, first stage manufacturers, second stage manufacturers, first stage converters, second stage converters and distributors may attend and participate

in the display of new motor vehicles under this subparagraph and may display vehicles without regard to geographical territorial assignment or relevant market area, as defined in K.S.A.

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, and amendments thereto. New motor vehicle dealers participating in a display show may do so without the approval of any first stage manufacturer, second stage manufacturer, first stage converter, second stage converter or distributor who may not bar or treat such new vehicle dealer adversely for participating in a display show. No sales or lease transactions may occur at a display show, but test drives for purposes other than the sale or lease of a vehicle may be made to demonstrate the vehicle and its features.

(B) For purposes of this paragraph, "display show" means a display of new motor vehicles that does not fall under the description set forth in subsection (a)(1) or K.S.A.

8-2444

(a), and amendments thereto.

(b) Authorization granted by the director under subsection (a)(1) shall be granted only to motor vehicle dealers licensed by the director and to no other person, natural or otherwise. The authorization shall be for a period not to exceed 15 consecutive days unless otherwise authorized by the director of vehicles. A sponsor under subsection (a)(2) is not required to be a licensed new vehicle dealer, but participating new vehicle dealers must be licensed motor vehicle dealers or the participant must be a first stage manufacturer, second stage manufacturer, first stage converter, second stage converter or distributor for such manufacturer or converter. Such type of participant is not required to be licensed to participate.

(c) Authorization to display under this section shall not be granted for events for which a temporary trade show license under K.S.A.

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, and amendments thereto, would be required.

(d) The director may deny an application for a license under this section if the director:

(1) Has probable cause to believe that the applicant's request for a license should be made under the provisions of K.S.A.

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, and amendments thereto; or

(2) the request for a license under this section is being made to avoid compliance with the provisions of K.S.A.

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, and amendments thereto.

(e) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2436 — Salvage vehicle pools; requirements

Salvage vehicle pools; requirements.

(a) A salvage vehicle pool shall be licensed in accordance with the provisions of this act.

(b) A salvage vehicle pool shall have available on the premises a certificate of title or a facsimile or photocopy of the complete title of a salvage vehicle sold by the salvage vehicle pool.

(c) The provisions of this section shall be part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2437 — Application of act

Application of act.

(a) Any licensee receiving or renewing its license after the effective date of this act in all respects agrees to be bound by its provisions and shall comply with it, and no franchise agreement made, entered or renewed after the effective date of this act shall avoid or circumvent the requirements of this act, or violate its provisions, and no franchise agreement shall be performed after the date the licensee's license is issued or renewed in such a manner that the licensee avoids, circumvents or otherwise does not conform or comply with the requirements of this act. Notwithstanding the effective date of any franchise agreement, all licenses and renewals thereof are issued subject to all provisions of the dealers and

manufacturers licensing act and any regulations in effect upon the date of issuance, as well as all future provisions of this act and any regulations which may become effective during the term of the license.

(b) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2438 — Ownership and operation of new vehicle dealership by certain entities prohibited; exceptions

Ownership and operation of new vehicle dealership by certain entities prohibited; exceptions.

(a) Except as provided by this section, and notwithstanding any other provisions of the vehicle dealers and manufacturers licensing act, with respect to motor vehicles, a first stage manufacturer of vehicles or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may not directly or indirectly:

(1) Own an interest in a new vehicle dealer or dealership;

(2) operate a new vehicle dealer or dealership; or

(3) act in the capacity of a new vehicle dealer or dealership, or otherwise sell new vehicles at retail.

(b) A first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative may own an interest in a franchised dealer or dealership, or otherwise control a dealership, for a period not to exceed 12 months from the date the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, acquires the dealership if:

(1) The person from whom the dealer or dealership was acquired was * new vehicle dealer; and

(2) the dealership is for sale by the first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, at a reasonable price and on reasonable terms and conditions.

(c) On a showing of good cause by a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, the director may extend the time limit set forth in subsection (b) one time for a period of not to exceed 12 months.

(d) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under-represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may temporarily own an interest in a new vehicle dealer or dealership if the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative's participation in the new vehicle dealer or dealership is in a bona fide relationship with a new vehicle dealer who:

(1) Has made a significant investment in the new vehicle dealer or dealership, which is subject to loss;

(2) has an ownership interest in the new vehicle dealer or dealership; and

(3) operates the new vehicle dealer or dealership under a plan to acquire full ownership of the new vehicle dealer or dealership within a reasonable time and under reasonable terms and conditions.

(e) A first stage manufacturer of vehicles or a second stage manufacturer of vehicles may own a minority interest in an entity that owns and operates a new vehicle dealer, licensed under the dealers and manufacturer's licensing act, of the line-make manufactured by the first or second stage manufacturer if all of the new vehicle dealers owned and operated by the entity in this state are new vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000: (1) There were not more than two new vehicle dealers of that line-make licensed as new vehicle dealers in this state; and (2) at the time the manufacturer first acquires an ownership interest or assumes operation or control, the distance between any new vehicle dealer owned and operated by an entity in which the manufacturer has an ownership interest and the nearest unaffiliated new vehicle dealer of the same line-make is not less than 100 miles.

(f) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases:

(1) "Dealership" means any physical premises, equipment, and business facilities on or with which a new vehicle dealer operates its business, including the sale or repair of motor vehicles. Dealership includes premises or facilities at which a

person engages in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise agreement or a motor vehicle manufacturer's warranty; and

(2) "line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same.

(g) The provisions of this section shall not apply to a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative as to only those dealers or dealerships which are already owned by such first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, on the effective date of this act.

KSA 8-2439 — Delivery of motor vehicles to persons in state; who authorized to deliver

Delivery of motor vehicles to persons in state; who authorized to deliver.

(a) In addition to any other restrictions or requirements imposed by law, no first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor or factory representative may deliver a motor vehicle in this state to a person in this state, unless such motor vehicle is delivered to the person by a vehicle dealer licensed to do business in the state of Kansas pursuant to the dealers and manufacturers licensing act and as provided in this section. Unless otherwise provided by law, all new motor vehicles shall be delivered as required by this section by a new vehicle dealer who is a party to a franchise agreement for the same line-make vehicle as that to be delivered and in the case of used motor vehicles, then by a new vehicle dealer or used vehicle dealer. As used in this section, the term "line-make vehicle" shall have the same meaning as provided in K.S.A.

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, and amendments thereto.

(b) The requirements of this section shall not apply to:

(1) A person to whom the provisions of subsection (v) of K.S.A.

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, and amendments thereto, apply;

(2) motor vehicles delivered by one licensed motor vehicle dealer to another within the scope of such license, including those delivered by first stage manufacturers and second stage manufacturers to each other;

(3) deliveries of motor vehicles, including those which are used, to new vehicle dealers for resale in this state by such new vehicle dealer;

(4) deliveries of used motor vehicles to auction motor vehicle dealers, used vehicle dealers and salvage vehicle dealers for resale in this state; and

(5) (A) deliveries of motor vehicles to first stage converters and second stage converters for the construction and sale of motor vehicles produced by such licensee; or

(B) the resulting motor vehicles so constructed and produced by such licensee if it has not historically relied primarily upon franchise agreements with new vehicle dealers for the retail sale in this state of a material portion of the motor vehicles it produces and does not primarily utilize or rely upon franchise agreements between itself and new vehicle dealers for the retail sale in this state of new motor vehicles produced by such first or second stage convertor.

KSA 8-2440 — Transactions executed outside state; when lemon law applicable

Transactions executed outside state; when lemon law applicable.

If a transaction for the sale of a new motor vehicle which does not take place in the state of Kansas requires or allows delivery in the state of Kansas, then such new motor vehicle shall be deemed to have been sold in this state for purposes of meeting the definition set forth in subsection (a)(2) of K.S.A.

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, and amendments thereto, upon delivery of such motor vehicle within the state of Kansas to a consumer as defined in subsection (a)(1) of K.S.A.

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, and amendments thereto, and the new motor vehicle shall thereafter be subject to the provisions of K.S.A.

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and

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, and amendments thereto.

KSA 8-2441 — Aiding or abetting violations of act prohibited

Aiding or abetting violations of act prohibited.

No dealer may aid or abet a person in violating the dealers and manufacturers licensing act.

KSA 8-2442 — Severability

Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

KSA 8-2443 — Act supplemental to vehicle dealers and manufacturers licensing act

Act supplemental to vehicle dealers and manufacturers licensing act.

This act shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2444 — Temporary trade show license; requirements; fees

Temporary trade show license; requirements; fees.

(a) Upon proper application on a form approved by the division of vehicles, the director of vehicles may issue a license known as a temporary trade show license. A fee in the amount of $50 shall be paid by an applicant for each trade show license. Such license shall only allow the display of new trucks, truck tractors or semitrailers as defined by K.S.A.

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, and amendments thereto, or new recreational motor vehicles, at a location other than the established or supplemental place of business of the dealer. If trucks or truck tractors are displayed at such trade show, only trucks or truck tractors with a gross weight rating of 26,000 pounds or more shall be displayed at such trade shows. No sales transactions may occur under such temporary trade show license or at any such authorized display location.

(b) The following shall apply to the issuance of a temporary trade show license:

(1) New vehicle dealers in each particular same line-make of truck, truck tractor, semitrailer or recreational motor vehicle whose relevant market area, as defined by K.S.A.

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, and amendments thereto, includes the proposed site of the trade show display, shall be invited to attend and to participate in the trade show display;

(2) the trade show shall not exceed four consecutive days;

(3) each dealer has received the prior approval of the first stage manufacturer, second stage manufacturer, first stage converter or second stage converter for each line-make of truck, truck tractor, semitrailer or recreational vehicle to be displayed and the fact the event will be a trade show has been disclosed at the time of seeking such approval;

(4) if the applicant is not a Kansas licensee, then such applicant must be licensed in a state which permits vehicle dealers licensed in Kansas who sell trucks, truck tractors, semitrailers and recreational vehicles to participate in vehicle shows in such state pursuant to conditions substantially equivalent or less than the conditions which are imposed on dealers from such state who participate in vehicle shows in Kansas;

(5) if less than 50 vehicle dealers participate as exhibitors at such trade shows, then at least 50% of the participating vehicle dealers shall be as licensed motor vehicle dealers in this state;

(6) no more than two trade show licenses shall be issued per participant per county per year;

(7) the requirements of subsections (i) and (n) of K.S.A.

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, and amendments thereto, and K.S.A.

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, and amendments thereto, shall be satisfied by each motor vehicle dealer;

(8) a disclaimer that the trucks, truck tractors, semitrailers or recreational motor vehicles are for display purposes only and not for sale shall be placed on such vehicles in a clear and conspicuous manner to be prescribed by the director; and

(9) such other provisions of the dealers and manufacturers licensing act, K.S.A.

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et seq., and amendments thereto, designated applicable by the director of vehicles.

(c) Any dealer displaying at any such trade show shall be licensed in this or another state as a vehicle dealer under the laws of this or another jurisdiction and shall pay a fee of $35.

(d) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2445 — Franchise agreements; prohibiting manufacturers from engaging in certain activities

Franchise agreements; prohibiting manufacturers from engaging in certain activities.

(a) As used in this section:

(1) "Manufacturer" means a first or second stage manufacturer of vehicles, factory branch, distributor or factory representative, officer or agent or any representative thereof;

(2) "substantial reimbursement" means an amount equal to or greater than the cost of the savings that would result if the dealer were to utilize a vendor of the dealer's own selection instead of using the vendor identified by the manufacturer; and

(3) "goods" does not include moveable displays, brochures and promotional materials containing material subject to the intellectual property rights of the manufacturer.

(b) Notwithstanding the terms and conditions of any franchise agreement, including any policy, bulletin, practice or guideline with respect thereto or performance thereunder, and in addition to the other provisions of the vehicle dealers and manufacturers licensing act, K.S.A.

8-2401

et seq., and amendments thereto:

(1) No manufacturer shall coerce or require any vehicle dealer to construct improvements to facilities or install new signs or other franchise or image elements that replace or substantially alter improvements, signs or franchise or image elements completed within the past 10 years that were required and approved by the manufacturer or one of its contractors or affiliates. For the purposes of this subsection, the term "substantially alter" does not include routine maintenance, including, but not limited to, interior painting that is reasonably necessary to keep a dealer facility in attractive condition.

(2) The 10-year period set forth under this section shall begin to run for a vehicle dealer, including that dealer's successors and assigns, on the date that the manufacturer gave final written approval of the facility, facility improvements or installation of signs or other franchise or image elements or the date that the dealer receives a certificate of occupancy, whichever is later.

(3) (A) No manufacturer shall require a vehicle dealer to purchase goods or services to make improvements to the dealer's facilities from a vendor selected, identified or designated by the manufacturer or one of its contractors or affiliates by agreement, program, incentive provision or bulletin or otherwise without allowing or making available to the dealer the option to obtain goods or services of substantially similar kind, quality and overall design from a vendor chosen by the dealer and approved by the manufacturer, except that approval by the manufacturer shall not be unreasonably withheld and the dealer's option to select a vendor shall not be available if the manufacturer provides substantial reimbursement for the goods or services offered.

(B) This section is not intended to prohibit a manufacturer from requiring changes or updates to signs that contain the manufacturer brand, logo or other intellectual property protected by federal intellectual property law more frequently than

every 10 years, provided the manufacturer offers the dealer compensation for the sign or pays for the sign if sign changes are required more than every five years.

(4) A manufacturer shall not use sales or service performance criteria for the purpose of canceling, terminating or non-renewing a franchise agreement or otherwise rely upon such criteria for purposes related to K.S.A.

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or

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, and amendments thereto, that fail to meet the requirements of this subsection. A standard measuring sales or service performance of any new vehicle dealer of the manufacturer shall not use criteria that:

(A) Are unfair, unreasonable, arbitrary or inequitable; or

(B) do not consider the relevant and material local and state or regional criteria, including prevailing economic conditions affecting the sales or service performance of a vehicle dealer or any relevant and material data and facts presented by the dealer in writing. Relevant and material criteria, data or facts include, but are not limited to: (i) Those motor vehicle dealerships of comparable size and comparable markets; (ii) demographics in the new vehicle dealer's area; (iii) geographic and market characteristics in the new vehicle dealer's area; (iv) the proximity of other new vehicle dealers of the same line and make; (v) the proximity of motor vehicle manufacturing facilities; (vi) the buying patterns and consumer preferences of motor vehicle purchases; and (vii) customer drive time and distance. If such performance measurement criteria are based in whole or in part on a survey, that survey must be based on a statistically significant and valid random sample or must survey a majority of new vehicle retail sales and warranty service customers of the dealer if the survey is one measuring customer satisfaction of the dealer's sales or service operations. A manufacturer, contractor or common entity or an affiliate that enforces against any vehicle dealer any such performance measurement criteria shall, upon the request of the dealer, describe in writing to the dealer, in detail, how the performance measurement criteria were calculated and uniformly applied and shall also provide any data upon which it relied in reaching the performance standard and applying it to the dealer.

(c) This section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2446 — Recall repairs; compensation by manufacturer

Recall repairs; compensation by manufacturer.

(a) As used in this section:

(1) "Manufacturer" means a first or second stage manufacturer of vehicles, factory branch, distributor or factory representative, officer or agent or any representative thereof or any other person acting on their behalf;

(2) "stop-sale order" means a notification or its equivalent issued by a manufacturer to its franchised new vehicle dealer stating that certain motor vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance or a federal emissions recall; and

(3) "do-not-drive order" means a notification or its equivalent issued by the national highway traffic safety administration that prohibits the sale or operation of certain motor vehicles held in inventory due to a federal safety recall for a defect or non-compliance or a federal emissions recall.

(b) (1) A manufacturer shall compensate its new vehicle dealers for all labor and parts required to perform recall repairs. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a vehicle dealer authorized to sell and service new vehicles of the same line-make within 30 days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a stop-sale or do-not-drive order on the vehicle, then the manufacturer shall compensate the dealer at the prorated rate of at least 1% of the value of the vehicle per month beginning on the date that is 30 days after the date on which the stop-sale or do-not-drive order was provided to the dealer until the earlier of either:

(A) The date the recall or remedy parts are made available; or

(B) the date the dealer sells, trades or otherwise disposes of the affected used motor vehicle.

(2) The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third party guide for the year, make and model of the recalled vehicle.

(3) In the alternative, a manufacturer may compensate its new vehicle dealers subject to a stop-sale or do-not-drive order under a national recall compensation program, provided that the compensation under the program is equal to or greater than that provided under this subsection, or the manufacturer and dealer otherwise agree.

(c) This section shall apply only to used vehicles subject to safety or emissions recalls pursuant to, and recalled in accordance with, federal law as well as rules and regulations adopted thereunder where a stop-sale or do-not-drive order has been issued and repair parts or remedy parts remain unavailable for 30 days or longer. Furthermore, this section shall apply only to new vehicle dealers holding an affected used vehicle for sale:

(1) In inventory at the time the stop-sale or do-not-drive order was issued; or

(2) that was taken into the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the stop-sale or do-not-drive order was issued; and

(3) that are a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(d) It shall be a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to a new vehicle dealer, or otherwise retaliate, whether through a chargeback, removal of the individual dealer from an incentive program or reduction in the amount owed under an incentive program or any other means, solely because the new vehicle dealer has made or submitted a claim for reimbursement under this section. This subsection shall not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the state.

(e) A manufacturer may direct the manner and method in which a vehicle dealer must demonstrate the inventory status and identification of the affected used vehicle to determine eligibility under this section, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

(f) Nothing in this section shall require a manufacturer to provide total compensation to a vehicle dealer for any single unit that would exceed the total average trade-in value of the affected used motor vehicle as originally determined under subsection (b).

(g) Any remedy provided to a vehicle dealer under this section is exclusive and may not be combined with any other state or federal recall compensation remedy. It shall not be deemed to supersede or otherwise replace the provisions of K.S.A.

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, and amendments thereto.

(h) This section shall be a part of and supplement to the vehicle dealers and manufacturers licensing act.

KSA 8-2447 — Exemption from certain provisions of act for dealers and manufacturers of certain trailers

Exemption from certain provisions of act for dealers and manufacturers of certain trailers.

(a) Except as provided in subsection (b), the provisions of K.S.A.

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and

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, and amendments thereto, shall not apply to dealers and manufacturers of trailers, as defined in K.S.A.

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, and amendments thereto.

(b) The provisions of subsection (a) shall not apply to:

(1) Dealers and manufacturers of semitrailers or travel trailers, as those terms are defined in K.S.A.

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, and amendments thereto; and

(2) a dealer in the sale or exchange of any other type of vehicle other than trailers.

(c) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

KSA 8-2501 — Safety belt use act; citation

Safety belt use act; citation.

This act may be cited as the safety belt use act.

KSA 8-2502 — Same; "passenger car" defined

Same; "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.

KSA 8-2503 — Same; wearing of seat belt required; exceptions; educational program; evaluation of effectiveness of act; enforcement

Same; wearing of seat belt required; exceptions; educational program; evaluation of effectiveness of act; enforcement.

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

(1) Each occupant of either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an autocycle, 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 either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an autocycle, 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. Â§ 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.

KSA 8-2504 — Same; fines; violation not reported to department of revenue; failure to use seat belt not admissible to determine negligence or damages

Same; fines; violation not reported to department of revenue; failure to use seat belt not admissible to determine negligence or damages.

(a) (1) Persons violating K.S.A.

8-2503

(a)(1), and amendments thereto, shall be fined $30 and no court costs; and

(2) persons violating K.S.A.

8-2503

(a)(2), and amendments thereto, shall be fined $60 and no court costs.

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(d) The provisions of this section shall be applicable and uniform throughout the state and no city, county, subdivision or local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of this section.

KSA 8-2505 — Same; act does not affect requirement of crash protection under federal law

Same; act does not affect requirement of crash protection under federal law.

The passage of this act shall not be interpreted to obviate the requirement of occupant crash protection as contained in 49 C.F.R. Â§ 571.208, as authorized by 15 U.S.C. Â§ 1392.

KSA 8-2506 — Same; severability of act

Same; severability of act.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

KSA 8-2507 — Same; manufacturer warranty on safety belts; "motor vehicle" defined

Same; manufacturer warranty on safety belts; "motor vehicle" defined.

(a) From and after the effective date of this act, a manufacturer of a motor vehicle sold in this state which is equipped with safety belts in compliance with federal motor vehicle safety standard no. 208, shall provide for a ten-year warranty on such safety belts.

(b) As used in this section, "motor vehicle" means a new motor vehicle which is sold in this state, and which is registered for a gross weight of 12,000 pounds or less, and does not include the customized parts of motor vehicles which have been added or modified by second stage manufacturers, first stage converters or second stage converters as defined in K.S.A.

8-2401

, and amendments thereto.

KSA 8-2601 — Definitions

Definitions.

As used in K.S.A. 8-2601 through

8-2611

, and amendments thereto:

(a) "Director" means the director of vehicles, or a designee of the director;

(b) "division" means the division of vehicles of the department of revenue;

(c) "person" means every natural person, firm, partnership, association or corporation;

(d) "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon or public highway and is required to have a certificate of title of ownership issued pursuant to article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(e) "vehicle dealer" shall have the meaning ascribed to it in K.S.A.

8-2401

, and amendments thereto;

(f) "vehicle title service agent" means any person who acts as an agent for a fee in making application for or obtaining:

(1) A certificate of title of ownership of a vehicle;

(2) registration for or the license plate or plates for a vehicle;

(3) renewing the registration of a vehicle;

(4) temporary registrations for a licensed Kansas vehicle dealer;

(5) title assignment addendums for a licensed Kansas vehicle dealer; or

(6) sales tax receipt books for a licensed Kansas vehicle dealer.

"Vehicle title service agent" shall not include any person who is licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto, or any person who engages as a vehicle title service agent only for commercial vehicles, as defined under K.S.A.

8-1,100

, and amendments thereto.

KSA 8-2602 — Complying with provisions of act

Complying with provisions of act.

No person shall engage in the business of a vehicle title service agent unless such person has complied with the provisions of this act. The director shall issue licenses provided by this act and shall have supervision over the licensees in respect to all the provisions of this act.

KSA 8-2603 — License required; application; requirements; bonding

License required; application; requirements; bonding.

(a) No vehicle title service agent shall engage in business in this state without obtaining a license as required by this act.

(b) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The application shall contain the name of the applicant, the address where business is to be conducted, the resident's address, if the applicant is an individual, the names and resident addresses of the partners of the applicant, if a partnership, the names and resident addresses of the principal officers of the applicant and the state of its incorporation, if a corporation. Every application under this section shall be verified by the applicant.

(c) All licenses shall be granted or refused within 30 days after the application is received by the director. If the division issues a license to an applicant, the applicant shall be authorized to engage in the business only at the address specified in the application. All licenses shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted. Applications for renewals received by the director after February 15 shall be considered as new applications. The license fees for each calendar year, or any part thereof, shall be $75.

(d) A vehicle title service agent license is only valid to the person to which it is issued and cannot be transferred. Any purchaser or transferee of a vehicle title service agency must make application for a new vehicle title service license as provided by this act.

(e) The applicant or licensee shall furnish and maintain a bond in the amount of $25,000, in such form and with such sureties as the director approves, conditioned upon the applicant or licensee complying with all the requirements for the lawful obtaining or receiving of certificates of title for vehicles and as indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for suspension or revocation of such person's license. Every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and

shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A.

8-2606

, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (f), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A.

77-501

through

77-549

, and amendments thereto,) and the Kansas judicial review act (K.S.A.

77-601

through

77-627

, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(f) An applicant or licensee may elect to satisfy the bonding requirements of subsection (e) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. The amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of $25,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (e), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

KSA 8-2604 — Title service agents; log required

Title service agents; log required.

(a) Every licensee shall maintain for three years, a log containing a record entry of the date of each application, the name of the person for whom the title services were performed, the name of the owner, the vehicle identification number for each vehicle and if the service is performed for an individual, photo identification of the owner.

(b) Any record kept pursuant to subsection (a) shall be open to inspection by any authorized agent of the division of vehicles, member of the Kansas highway patrol or any authorized law enforcement officer during reasonable business hours.

KSA 8-2605 — Denial, suspension or revocation of license; grounds

Denial, suspension or revocation of license; grounds.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

(1) Material false statement in an application for a license;

(2) negligently failing to comply with any provision of this act or any rule and regulation adopted pursuant to this act;

(3) failure or refusal to furnish and keep in force any required bond;

(4) failure to comply with the laws of this state relating to certificates of title of vehicles;

(5) has failed or refused to permit inspection of the licensee's records as provided under subsection (b) of K.S.A.

8-2604

, and amendments thereto, during the licensee's regular business hours;

(6) has failed or refused to surrender their license to the division or its agent upon demand;

(7) has demonstrated that such person is not of good character and reputation in the community in which the licensee resides;

(8) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a vehicle title service agent;

(9) has changed the location of such person's established place of business prior to approval of such change by the division;

(10) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(11) has failed to prominently display license; or

(12) has failed to comply with applicable Kansas tax laws.

(b) The director may deny the application for the license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its representatives while acting as its agent.

(d) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the Kansas judicial review act.

KSA 8-2606 — Hearing for violation of act; penalty

Hearing for violation of act; penalty.

(a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than $100 nor more than $2,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

(c) Any party aggrieved by the decision of the director may appeal the same to the district court in accordance with the provisions of the Kansas judicial review act.

KSA 8-2607 — Injunction; jurisdiction of courts

Injunction; jurisdiction of courts.

Upon application of the director or any person having any interest in the subject matter, the district courts of this state may enjoin any person from violating any of the provisions of this act or any order or rule and regulation issued or adopted pursuant thereto.

KSA 8-2608 — Service of process; secretary of state

Service of process; secretary of state.

The obtaining of a license hereunder shall bring the applicant under the jurisdiction of the state of Kansas, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the secretary of the state of Kansas as agent for receipt of service of process.

KSA 8-2609 — Disposition of moneys

Disposition of moneys.

The director shall remit all moneys received by or for the director from fees, charges or penalties under the provisions of this act 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 vehicle dealers and manufacturers fee fund.

KSA 8-2610 — Rules and regulations

Rules and regulations.

The secretary of revenue may adopt such rules and regulations as are necessary for the administration of this act.

KSA 8-2611 — Citation of act

Citation of act.

The provisions of K.S.A.

8-2601

through 8-2611, and amendments thereto, may be cited as the vehicle title service agent licensing act.

KSA 8-2701 — Kansas transportation network company services act

Kansas transportation network company services act.

This act shall be known and may be cited as the Kansas transportation network company services act.

KSA 8-2702 — Same; definitions

Same; definitions.

Except as otherwise provided, as used in the Kansas transportation network company services act:

(a) "Act" means the Kansas transportation network company services act.

(b) "Digital network" means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(c) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(1) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine or for-hire vehicle.

(d) "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A "prearranged ride" does not include transportation provided using a taxi, limousine or other for-hire vehicle.

(e) "Transportation network company" or "TNC" means a corporation, partnership, sole proprietorship or other entity operating in Kansas that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to

control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(f) "Transportation network company driver" or "driver" means an individual who:

(1) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceeds the individual's cost to provide the ride.

(g) "Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(h) "Vehicle owner" means the owner of a personal vehicle.

KSA 8-2703 — Same; not motor carrier, taxicab or for-hire vehicle

Same; not motor carrier, taxicab or for-hire vehicle.

Transportation network companies or drivers shall not be considered motor carriers, private motor carriers or public motor carriers of passengers as those terms are defined in 49 C.F.R. Â§ 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission and K.S.A.

66-1,108

, and amendments thereto, nor determined to provide taxicab or for-hire vehicle service so long as such TNC or driver meets the requirements of this act. In addition, a driver shall not be required to register the personal vehicle such driver uses for prearranged rides as a commercial or for-hire vehicle.

KSA 8-2704 — Same; agent required

Same; agent required.

The TNC must maintain an agent for service of process in the state of Kansas.

KSA 8-2705 — Same; fares

Same; fares.

A TNC may charge a fare for the services provided to riders, provided that, if a fare is charged, the TNC shall disclose to riders the fare calculation method on its digital network. The TNC shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the driver's personal vehicle.

KSA 8-2706 — Same; identification

Same; identification.

The TNC's digital network shall display a picture of the driver, and the license plate number of the personal vehicle utilized for providing the prearranged ride before the rider enters the driver's vehicle.

KSA 8-2707 — Same; electronic receipts

Same; electronic receipts.

Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the rider that lists:

(a) The origin and destination of the trip;

(b) the total time and distance of the trip; and

(c) an itemization of the total fare paid, if any.

KSA 8-2708 — Same; insurance; requirements; additional insured parties; proof of insurance

Same; insurance; requirements; additional insured parties; proof of insurance.

(a) A transportation network company driver or vehicle owner or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver

and covers the driver while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

(b) (1) The following automobile insurance requirements shall apply while a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(A) Primary automobile liability insurance in the amount of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage; and

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A.

40-284

and

40-3107

(f), and amendments thereto.

(2) The coverage requirements of this subsection (b) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(c) (1) The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(A) Primary automobile liability insurance that provides at least $1,000,000 for death, bodily injury and property damage; and

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A.

40-284

and

40-3107

(f), and amendments thereto.

(2) The coverage requirements of this subsection (c) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(d) If insurance maintained by the driver or vehicle owner in subsection (b) or (c) has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend such claim.

(e) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(f) A transportation network company that contracts with the board of education of a school district to provide transportation services pursuant to K.S.A.

8-2721

, and amendments thereto, shall name such school district as an additional insured party on such transportation networks company's automobile insurance policy.

(g) Insurance required by this section may be placed with an insurer licensed under K.S.A.

40-208

or

40-209

, and amendments thereto, or with a surplus lines insurer eligible under K.S.A.

40-246b

, and amendments thereto.

(h) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a personal vehicle under the Kansas automobile injury reparations act, K.S.A.

40-3101

et seq., and amendments thereto.

(i) A transportation network company driver shall carry proof of coverage satisfying subsections (b) and (c) with such driver at all times during such driver's use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request pursuant to K.S.A.

8-173

, and amendments thereto. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers and investigating police officers, whether such driver was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

KSA 8-2709 — Same; mandatory disclosures

Same; mandatory disclosures.

The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

(a) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(b) the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

KSA 8-2710 — Same; automobile insurers; exclusions

Same; automobile insurers; exclusions.

(a) Insurers that write automobile insurance in Kansas may exclude any and all coverage afforded under the driver's or vehicle owner's insurance policy for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) personal injury protection coverage as defined in K.S.A.

40-3107

(f), and amendments thereto;

(3) uninsured and underinsured motorist coverage;

(4) medical payments coverage;

(5) comprehensive physical damage coverage; and

(6) collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under the Kansas automobile injury reparations act, K.S.A.

40-3101

et seq., and amendments thereto. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is

engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

(b) Nothing in this section shall be deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle, if such insurer chooses to do so by contract or endorsement.

(c) Automobile insurers that exclude coverage as permitted in subsection (a) shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this act shall be deemed to invalidate or limit an exclusion contained in a policy.

(d) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as permitted in subsection (a) shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of K.S.A.

8-2708

, and amendments thereto, at the time of loss.

(e) In a claims coverage investigation, transportation network companies and any insurer potentially providing coverage under K.S.A.

8-2708

, and amendments thereto, shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under K.S.A.

8-2708

, and amendments thereto.

KSA 8-2711 — Same; zero tolerance policy for drugs or alcohol usage

Same; zero tolerance policy for drugs or alcohol usage.

(a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a driver is providing a prearranged ride or is logged into the TNC's digital network but is not providing a prearranged ride, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such driver's access to the TNC's digital network and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider complaint is received by the TNC.

KSA 8-2712 — Same; employment requirements

Same; employment requirements.

Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

(a) Require the individual to submit an application to the TNC, which includes information regarding the applicant's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC; and

(b) obtain and review a driving history research report for such individual.

KSA 8-2713 — Same; vehicle equipment requirements

Same; vehicle equipment requirements.

The TNC shall require that any personal vehicle that a driver will use to provide a prearranged ride meets the equipment requirements applicable to private personal vehicles under article 17 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

KSA 8-2714 — Same; only prearranged rides

Same; only prearranged rides.

A driver shall only provide prearranged rides and shall not solicit or accept street hails.

KSA 8-2715 — Same; payment

Same; payment.

The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify drivers of such policy. Drivers shall not solicit or accept cash payments from riders. Any payment for prearranged rides shall be made only electronically using the TNC's digital network.

KSA 8-2716 — Same; non-discrimination policy

Same; non-discrimination policy.

(a) The TNC shall adopt a policy of non-discrimination with respect to riders and potential riders and notify drivers of such policy.

(b) Drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders.

(c) Drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

KSA 8-2717 — Same; records

Same; records.

A TNC shall maintain:

(a) Individual trip records for at least one year from the date each trip was provided; and

(b) driver records at least until the one-year anniversary of the date on which a TNC driver's activation on the digital network has ended.

KSA 8-2718 — Same; nondisclosure of personally identifiable information

Same; nondisclosure of personally identifiable information.

A TNC shall not disclose a rider's personally identifiable information to a third party unless: (a) The rider consents or disclosure is required by a legal obligation; or (b) disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a TNC shall be permitted to share a rider's name or telephone number with the driver providing prearranged rides to such rider in order to facilitate correct identification of the rider by the driver, or to facilitate communication between the rider and the driver.

KSA 8-2719 — Same; mandatory insurance disclosure

Same; mandatory insurance disclosure.

(a) A TNC shall disclose prominently, with a separate acknowledgment of acceptance, to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

"If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder. If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law."

(b) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

(c) If the vehicle used by a transportation network driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the transportation network driver shall ensure that comprehensive and collision insurance that covers the periods when the transportation network driver is logged on to a TNC's digital network but not engaged in a prearranged ride and when the transportation network driver is engaged in a prearranged ride is in effect.

(d) This section shall take effect on and after January 1, 2016.

KSA 8-2720 — Same; driver requirements

Same; driver requirements.

(a) Consistent with the limitations of K.S.A.

50-704

, and amendments thereto, the TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has been convicted of:

(A) Any person felony as described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(B) any sex offense as described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A.

21-6419

through

21-6422

, and amendments thereto;

(C) identity theft, as described in K.S.A.

21-4018

, prior to its repeal, or K.S.A.

21-6107

, and amendments thereto;

(D) any attempt, conspiracy or solicitation of any crime described in this paragraph; or

(E) a crime under the law of another jurisdiction which is substantially the same as the crimes described in this paragraph;

(2) is registered on the national sex offender registry, the Kansas offender registry or any similar registry of any other jurisdiction;

(3) has had a combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;

(4) has had a traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving or driving on a suspended license;

(5) has been convicted, adjudicated or placed on diversion, within the past seven years, of:

(A) Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;

(B) any crime involving controlled substances, as described in K.S.A. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) theft, as described in K.S.A.

21-3701

, prior to its repeal, or K.S.A.

21-5801

, and amendments thereto;

(D) any crime involving fraud, dishonesty or deceit, as described by the Kansas criminal code;

(E) any attempt, conspiracy or solicitation of any crime described in this subsection; or

(F) a violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described in this subsection;

(6) does not possess a valid driver's license;

(7) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

(8) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

(9) is not at least 19 years of age.

(b) The provisions of this section shall be a part of and supplemental to the Kansas transportation network company services act.

KSA 8-2721 — Same; contracts with boards of education to transport students; requirements

Same; contracts with boards of education to transport students; requirements.

(a) The board of education of a school district may contract with a transportation network company to transport eight persons or fewer to and from school or school-related activities, where appropriate, as the contract with the transportation network company may establish.

(b) In addition to the requirements of this act for transportation network companies and transportation network company drivers, the board of education of a school district may establish additional requirements in the contract with the transportation network company. The department of education, in consultation with a transportation network company that will provide services pursuant to this section, may issue guidance to school districts contracting with a transportation network company to provide transportation services.

(c) Transportation network companies shall:

(1) Require transportation network company drivers providing services pursuant to this section to undergo a criminal history record check pursuant to K.S.A.

75-712i

, and amendments thereto; and

(2) obtain and review a driving history research report for each transportation network company driver providing services pursuant to this section.

(d) A transportation network company that provides transportation services pursuant to this section shall provide an annual safety report to the state board of education for any safety incidents that occurred in the previous calendar year.

(e) A transportation network company shall name as an additional insured on such transportation network company's insurance policy any school district that contracts with such transportation network company to provide transportation services pursuant to this section.

(f) The Kansas transportation network company services act and the contract between the board of education of a school district and the transportation network company shall exclusively govern the services provided pursuant to this section, and all rules and regulations of the state board of education concerning the transportation of students shall not apply.

(g) The board of education of a school district that contracts for school transportation services pursuant to this section shall:

(1) Provide notice to the parent or guardian of a student that such student will be riding with a transportation network company;

(2) provide an annual disclaimer to the parent or guardian of a student that may be transported by a transportation network company that the school district uses transportation network company services for school transportation purposes and that the relationship between the school district and the transportation network company is governed by a contract and not the rules and regulations of the state board of education;

(3) permit the parent or guardian of a student to not allow such student to ride with a transportation network company; and

(4) maintain insurance coverage or endorsement for students transported by a transportation network company that covers the students as though the students were in the care, custody and control of the school district even when being transported by a transportation network company.

(h) This section shall be a part of and supplemental to the Kansas transportation network company services act.

KSA 8-2722 — Conditions for drivers to be independent contractors; limitation of provisions

Conditions for drivers to be independent contractors; limitation of provisions.

(a) All transportation network company drivers shall be independent contractors and not employees of the transportation network company if all of the following conditions are met:

(1) The transportation network company does not prescribe specific hours that a transportation network company driver shall be logged into the transportation network company's digital network;

(2) the transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital networks from other transportation network companies;

(3) the transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(4) the transportation network company and the transportation network company driver agree in writing that the driver is an independent contractor with respect to the transportation network company.

(b) The provisions of this section shall be limited to the relationship between transportation network companies and transportation network company drivers.

(c) This act shall be a part of and supplemental to the Kansas transportation network company services act.

KSA 8-2801 — Peer-to-peer vehicle sharing program act; citation

Peer-to-peer vehicle sharing program act; citation.

K.S.A. 8-2801 through

8-2813

, and amendments thereto, shall be known and may be cited as the peer-to-peer vehicle sharing program act.

KSA 8-2802 — Same; definitions

Same; definitions.

As used in this act:

(a) "Act" means the peer-to-peer vehicle sharing program act.

(b) "Peer-to-peer vehicle sharing" means the authorized use of a shared vehicle by an individual other than the shared vehicle's owner through a peer-to-peer vehicle sharing program. "Peer-to-peer vehicle sharing" does not include:

(1) The rental or lease of a motor vehicle for purposes of K.S.A.

79-5117

, and amendments thereto;

(2) the use of a vehicle for demonstrations purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(c) "Peer-to-peer vehicle sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer vehicle sharing program" does not include:

(1) A rental car company;

(2) a lessor, as defined in K.S.A.

50-656

, and amendments thereto;

(3) a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(4) the use of a vehicle for demonstration purposes; or

(5) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(d) "Vehicle sharing program agreement" means the terms and conditions applicable to a shared vehicle owner, a shared vehicle driver and a peer-to-peer vehicle sharing program that govern the use of a shared vehicle through a peer-to-peer vehicle sharing program. "Vehicle sharing program agreement" does not include:

(1) A rental agreement, as defined in K.S.A.

50-656

, and amendments thereto;

(2) the use of a vehicle for demonstration purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a used or new vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(e) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer vehicle sharing program. "Shared vehicle" does not include:

(1) A rental vehicle, as defined in K.S.A.

50-656

, and amendments thereto;

(2) a vehicle that is used for demonstration purposes; or

(3) a lease, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(f) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a vehicle sharing program agreement. "Shared vehicle driver" does not include:

(1) A lessee, as defined in K.S.A.

50-656

, and amendments thereto;

(2) the operator of a vehicle that is used for demonstration purposes; or

(3) the operator of a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(g) (1) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer vehicle sharing program.

(2) "Shared vehicle owner" does not include:

(A) A lessor, as defined in K.S.A.

50-656

, and amendments thereto;

(B) an owner of a vehicle that is used for demonstration purposes; or

(C) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A.

8-2401

et seq., and amendments thereto.

(3) A "shared vehicle owner" is not a rental car company, a leasing company or any similar term, under any statute or rule and regulation.

(h) "Vehicle sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the vehicle sharing start time, if applicable, as documented by the governing vehicle sharing program agreement.

(i) "Vehicle sharing period" means the period of time that commences with the vehicle sharing delivery period or, if there is no vehicle sharing delivery period, that commences with the vehicle sharing start time and, in either case, that ends at the vehicle sharing termination time.

(j) "Vehicle sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer vehicle sharing program.

(k) "Vehicle sharing termination time" means the earliest of the following events:

(1) The expiration of the agreed-upon period of time established for the use of a shared vehicle according to the terms of the vehicle sharing program agreement if the shared vehicle is delivered to the location agreed upon in the vehicle sharing program agreement;

(2) when the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer vehicle sharing program and such alternatively agreed upon location is incorporated into the vehicle sharing program agreement; or

(3) when the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

KSA 8-2803 — Same; liability for bodily injury and property damage; primary liability; requirements for motor vehicle insurance

Same; liability for bodily injury and property damage; primary liability; requirements for motor vehicle insurance.

(a) Except as provided in subsection (b), a peer-to-peer vehicle sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and underinsured motorist or personal injury protection losses during the vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing program agreement that shall not be less than those set forth in K.S.A.

40-3107

, and amendments thereto.

(b) Notwithstanding the definition of "vehicle sharing termination time" as defined in K.S.A.

8-2802

, and amendments thereto, the assumption of liability under subsection (a) shall not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission of fact to the peer-to-peer vehicle sharing program before the vehicle sharing period in which the loss occurred; or

(2) acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the vehicle sharing program agreement.

(c) Notwithstanding the definition of "vehicle sharing termination time" as defined in K.S.A.

8-2802

, and amendments thereto, the assumption of liability under subsection (a) shall apply to bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties as required by K.S.A.

40-3107

, and amendments thereto.

(d) A peer-to-peer vehicle sharing program shall ensure that, during each vehicle sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts not less than the minimum amounts set forth in K.S.A.

40-3107

, and amendments thereto, and the policy:

(1) Recognizes that the vehicle insured under the policy has been made available as a shared vehicle and is used through a peer-to-peer vehicle sharing program; or

(2) does not exclude use of the vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by a:

(1) Shared vehicle owner;

(2) shared vehicle driver;

(3) peer-to-peer vehicle sharing program;

(4) shared vehicle owner and a peer-to-peer vehicle sharing program; or

(5) shared vehicle driver and a peer-to-peer vehicle sharing program.

(f) The insurance described under subsection (e) that satisfies the insurance requirement of subsection (d) shall be primary during each vehicle sharing period. In the event that a claim occurs in another state with insurance policy coverage amounts that exceed the minimum amounts set forth in K.S.A.

40-3107

, and amendments thereto, during the vehicle sharing period, the coverage maintained under subsection (e) shall satisfy the difference in minimum coverage amounts up to the applicable policy limits.

(g) The insurer or peer-to-peer vehicle sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under subsections (d) and (e) and:

(1) A dispute exists as to who was in control of the shared vehicle at the time of the loss or a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by K.S.A.

8-2802

(k), and amendments thereto; and

(2) the peer-to-peer vehicle sharing program does not have available, did not retain or fails to provide the information required under K.S.A.

8-2806

, and amendments thereto.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer vehicle sharing program shall provide the coverage required by subsection (d) beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances described in subsection (b).

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer vehicle sharing program shall not be dependent on another motor vehicle insurer first denying a claim nor shall another motor vehicle insurance policy be required to first deny a claim.

(j) Nothing in this section shall be construed to:

(1) Limit the liability of the peer-to-peer vehicle sharing program for any act or omission of the peer-to-peer vehicle sharing program itself that results in injury to any person as a result of the use of a shared vehicle through the peer-to-peer vehicle sharing program; or

(2) limit the ability of the peer-to-peer vehicle sharing program to contractually seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement.

KSA 8-2804 — Same; lien against shared vehicle; notification requirements

Same; lien against shared vehicle; notification requirements.

Between the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program and the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the program, the program shall notify the shared vehicle owner that if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer vehicle sharing program, including use without physical damage coverage, could violate the terms of the contract with the lienholder.

KSA 8-2805 — Same; motor vehicle liability insurance exclusions allowed

Same; motor vehicle liability insurance exclusions allowed.

(a) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) personal injury protection coverage as defined in K.S.A.

40-3103

, and amendments thereto;

(3) uninsured and underinsured motorist coverage;

(4) medical benefits coverage as defined in K.S.A.

40-3103

, and amendments thereto;

(5) comprehensive physical damage coverage; and

(6) collision physical damage coverage.

(b) Nothing in this section invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use, that excludes coverage for motor vehicles made available for rent, sharing, hire or any business use.

(c) Nothing in this section invalidates, limits or restricts an insurer's ability under existing law to underwrite any insurance policy or to cancel and non-renew insurance policies.

KSA 8-2806 — Same; peer-to-peer vehicle sharing program required to keep and furnish records

Same; peer-to-peer vehicle sharing program required to keep and furnish records.

A peer-to-peer vehicle sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, vehicle sharing period pick up and drop off locations, fees paid by the shared vehicle driver and revenues received by the shared vehicle owner. The program shall provide such information upon request to the shared vehicle owner, the shared vehicle owner's insurer or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation or litigation. The peer-to-peer vehicle sharing program shall retain such records for a period of time not less than the applicable personal injury statute of limitations.

KSA 8-2807 — Same; peer-to-peer vehicle sharing program and shared vehicle owner exempt from vicarious liability

Same; peer-to-peer vehicle sharing program and shared vehicle owner exempt from vicarious liability.

A peer-to-peer vehicle sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C. Â§ 30106 and under any state or local law that imposes liability based solely on vehicle ownership.

KSA 8-2808 — Same; motor vehicle insurer recovery against peer-to-peer vehicle sharing program; when

Same; motor vehicle insurer recovery against peer-to-peer vehicle sharing program; when.

A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer vehicle sharing program if

the claim is:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the vehicle sharing period; and

(2) excluded under the terms of its policy.

KSA 8-2809 — Same; peer-to-peer vehicle sharing program insurable interest in shared vehicle

Same; peer-to-peer vehicle sharing program insurable interest in shared vehicle.

(a) Notwithstanding any other law, statute, rule or regulation to the contrary, a peer-to-peer vehicle sharing program shall have an insurable interest in a shared vehicle during the vehicle sharing period.

(b) Nothing in this section shall be construed to require that a peer-to-peer vehicle sharing program maintain the coverage mandated by K.S.A.

8-2803

, and amendments thereto.

(c) A peer-to-peer vehicle sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(1) Liabilities assumed by the peer-to-peer vehicle sharing program under a peer-to-peer vehicle sharing program agreement;

(2) any liability of the shared vehicle owner;

(3) damage or loss to the shared motor vehicle; or

(4) any liability of the shared vehicle driver.

KSA 8-2810 — Same; required disclosures in vehicle sharing program agreement; emergency telephone number

Same; required disclosures in vehicle sharing program agreement; emergency telephone number.

(a) Every vehicle sharing program agreement made in the state of Kansas shall disclose the following information to the shared vehicle owner and the shared vehicle driver, as appropriate:

(1) Any right of the peer-to-peer vehicle sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement;

(2) a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer vehicle sharing program;

(3) the peer-to-peer vehicle sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each vehicle sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the vehicle sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) the daily rate, fees and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle; and

(6) if there are conditions under which a shared vehicle driver must maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to reserve a shared motor vehicle.

(b) Every vehicle sharing program agreement made in the state of Kansas shall also provide an emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.

KSA 8-2811 — Same; requirements for driver to enter peer-to-peer vehicle sharing program agreement; recordkeeping requirements

Same; requirements for driver to enter peer-to-peer vehicle sharing program agreement; recordkeeping requirements.

(a) A peer-to-peer vehicle sharing program shall not enter into a peer-to-peer vehicle sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver's license issued by the state of Kansas that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) is a nonresident who:

(A) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(B) is at least the legal age required of a resident to drive in the state of Kansas; or

(3) otherwise is specifically authorized by the state of Kansas to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer vehicle sharing program shall maintain a record of the name, address, driver's license number and place of issuance of the driver's license of the shared vehicle driver and every other person, if any, who will also drive the shared vehicle.

KSA 8-2812 — Same; peer-to-peer vehicle sharing program solely responsible for installed equipment; indemnity

Same; peer-to-peer vehicle sharing program solely responsible for installed equipment; indemnity.

A peer-to-peer vehicle sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment, that is installed in or on the shared vehicle to monitor or facilitate the vehicle sharing transaction, and shall agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the vehicle sharing period not caused by the shared vehicle owner. The peer-to-peer vehicle sharing program shall have the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

KSA 8-2813 — Same; safety recalls; responsibilities of peer-to-peer vehicle sharing program and vehicle owner; vehicle disqualified from vehicle sharing

Same; safety recalls; responsibilities of peer-to-peer vehicle sharing program and vehicle owner; vehicle disqualified from vehicle sharing.

(a) After the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program but before the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the peer-to-peer vehicle sharing program, the peer-to-peer vehicle sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls for which repairs correcting the safety recalls have not been made; and

(2) notify the shared vehicle owner of the requirements under subsection (b).

(b) (1) If a vehicle owner has received an actual notice of a safety recall on the owner's vehicle, the owner may not make such vehicle available as a shared vehicle on a peer-to-peer vehicle sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is available on the peer-to-peer vehicle sharing program, the shared vehicle owner shall remove the shared vehicle from the peer-to-peer vehicle sharing program as soon as practicable after receiving the notice of the safety recall and shall not replace such vehicle on the peer-to-peer vehicle sharing program until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used and is in the possession of a shared vehicle driver, as soon as practicable after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer vehicle sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

KSA 8-2901 — Driverless-capable vehicles; definitions

Driverless-capable vehicles; definitions.

As used in K.S.A. 8-2901 through

8-2910

, and amendments thereto, unless the context otherwise requires:

(a) "ADS-equipped vehicle" means a motor vehicle equipped with an automated driving system.

(b) "Automated driving system" means the hardware and software collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the system is limited to a specific operational design domain, if any.

(c) "Conventional human driver" means a natural person who manually controls the in-vehicle accelerating, braking, steering and transmission gear selection input devices in order to operate a motor vehicle.

(d) "Driverless-capable vehicle" means an ADS-equipped vehicle capable of performing the entire dynamic driving task within the automated driving system's operational design domain, if any, including, but not limited to, achievement of a minimal risk condition without intervention or supervision by a conventional human driver.

(e) (1) "Dynamic driving task" means all real-time operational and tactical functions required to operate a motor vehicle on a highway in traffic within an automated driving system's specific operational design domain, if any.

(2) "Dynamic driving task" does not include any strategic function such as trip scheduling or the selection of destinations and waypoints.

(f) "Minimal risk condition" means a reasonably safe state to which an automated driving system brings an ADS-equipped vehicle upon experiencing a performance-relevant failure of the system that renders the system unable to perform the entire dynamic driving task, including, but not limited to, removing the vehicle to the nearest shoulder if the vehicle is capable of doing so, bringing the vehicle to a complete stop and activating the vehicle's emergency signal lamps.

(g) "On-demand driverless-capable vehicle network" means a transportation network company as defined in K.S.A.

8-2702

, and amendments thereto, that uses a software application or other digital means to dispatch driverless-capable vehicles for the purposes of transporting persons or goods, including, but not limited to, transportation for hire and public transportation.

(h) "Operational design domain" means a set of operating conditions under which a given automated driving system feature is specifically designed to function. "Operational design domain" includes, but is not limited to, environmental, geographical and time-of-day restrictions or the requisite presence or absence of certain traffic or roadway characteristics.

(i) "Transportation for hire" means all transportation of property or passengers made available by a person for compensation.

KSA 8-2902 — Same; operation of driverless-capable vehicle; conditions

Same; operation of driverless-capable vehicle; conditions.

(a) A driverless-capable vehicle may operate on the public highways of this state without a conventional human driver with the automated driving system engaged if the vehicle meets all of the following conditions:

(1) The vehicle is capable of achieving a minimal risk condition if a malfunction of the automated driving system occurs that renders the system unable to perform the entire dynamic driving task within the system's intended operational design domain, if any;

(2) while in driverless operation, the vehicle is capable of operating in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state that govern the performance of the dynamic driving task;

(3) when required by federal law, the vehicle bears the required manufacturer's certification label indicating that at the time of manufacture the vehicle has been certified to be in compliance with all applicable federal motor vehicle safety standards, including any reference to any exception granted by the national highway traffic safety administration; and

(4) the driverless-capable vehicle cannot exceed 34,000 pounds on tandem axles. The provisions of this paragraph shall expire and have no effect on and after July 1, 2025; and

(5) a conventional human driver shall be required to be physically present in every driverless-capable vehicle placed into service in Kansas for the 12 consecutive months from the date that such entity places a driverless-capable vehicle into service in this state. The provisions of this paragraph shall not apply to a person who operates a:

(A) Vehicle that is not designed, intended or marketed for human occupancy; or

(B) dedicated driverless-capable vehicle that lacks manual controls for operation by a conventional human driver.

(b) Prior to operating a driverless-capable vehicle on the public roads of this state without a conventional human driver, the owner of such driverless-capable vehicle shall submit a law enforcement interaction plan to the Kansas highway patrol that describes:

(1) How to communicate with a fleet support specialist who is available during the times the vehicle is in operation, and on which side of the vehicle contact information of the fleet support specialist is readily visible;

(2) information regarding safety considerations for first responders in dealing with a driverless-capable vehicle as the result of collision or fire;

(3) how to recognize whether the driverless-capable vehicle is in autonomous mode; and

(4) any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with the operation of the driverless-capable vehicle.

(c) (1) The operation of an ADS-equipped vehicle capable of performing the entire dynamic driving task within the automated driving system's operational design domain on the public highways of this state while a conventional human driver is present and expected to respond to a request to intervene, shall be lawful. During such operation, the conventional human driver shall possess a valid driver's license pursuant to K.S.A.

8-234b

, and amendments thereto, and shall be subject to the required insurance, self-insurance or other financial security required pursuant to K.S.A.

40-3104

, and amendments thereto. The conventional human driver shall operate the ADS-equipped vehicle according to the manufacturer's requirements and specifications and shall regain manual control of the vehicle when prompted by the automated driving system.

(2) An automated driving system, while engaged, shall be designed to operate within the system's operational design domain in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state that govern the performance of the dynamic driving task.

(d) Except as provided in this section, the motor vehicle laws of this state shall not be construed to require a conventional human driver to operate a driverless-capable vehicle that is being operated by an automated driving system. The automated driving system, while engaged, shall be deemed to fulfill any physical acts required of a conventional human driver to perform the dynamic driving task.

(e) K.S.A.

8-2901

through

8-2910

, and amendments thereto, shall not be construed to modify the responsibilities of a conventional human driver that operates a system-equipped vehicle when the automated driving system is not engaged.

KSA 8-2903 — Same; required insurance and proof of insurance

Same; required insurance and proof of insurance.

Before an ADS-equipped vehicle is allowed to operate on the public highways of this state, the owner shall obtain insurance, self-insurance or other financial security coverage for the vehicle. An ADS-equipped vehicle shall not operate on the highways of this state unless insurance, self-insurance or other financial security coverage is in effect for the vehicle and unless proof of coverage is carried in the vehicle pursuant * K.S.A.

40-3104

, and amendments thereto.

KSA 8-2904 — Same; requirements in the event of a vehicle accident

Same; requirements in the event of a vehicle accident.

In the event of an accident that would otherwise be subject to K.S.A.

8-1602

through

8-1606

and

8-1609

, and amendments thereto, such provisions shall not apply to a driverless-capable vehicle operating without a conventional human driver if the vehicle remains at the scene or in the immediate vicinity of the accident until law enforcement arrives or vehicle registration and insurance information is provided to the parties affected by the accident, and either:

(a) The vehicle owner, or a person acting on behalf of the vehicle owner, promptly contacts the applicable law enforcement agency to report the accident; or

(b) for a vehicle that has the capability of promptly alerting a law enforcement agency or emergency services, the vehicle alerts a law enforcement agency or emergency services to the accident.

KSA 8-2905 — Same; operation of a driverless-capable vehicle network

Same; operation of a driverless-capable vehicle network.

A person may operate an on-demand driverless-capable vehicle network, with the exception that any provision of K.S.A.

8-2701

et seq., and amendments thereto, that only applies to a conventional human driver would not apply to the operation of a driverless-capable vehicle with the automated driving system engaged on an on-demand driverless-capable vehicle network. An on-demand driverless-capable vehicle network may be used to facilitate the transportation of persons or goods, including, but not limited to, transportation for hire and public transportation. An on-demand driverless-capable vehicle network may connect passengers to driverless-capable vehicles either exclusively or as part of a digital network that also connects passengers to conventional human drivers who provide transportation services, pursuant to K.S.A.

8-2701

et seq., and amendments thereto, or any other applicable laws, in vehicles that are not driverless-capable vehicles.

KSA 8-2906 — Same; regulation of automated driving systems and ADS-equipped vehicles

Same; regulation of automated driving systems and ADS-equipped vehicles.

(a) (1) Automated driving systems and ADS-equipped vehicles shall be governed by:

(A) K.S.A.

8-2901

through

8-2910

, and amendments thereto; and

(B) all applicable traffic and motor vehicle safety laws.

(2) Automated driving systems and ADS-equipped vehicles shall be regulated exclusively by the Kansas highway patrol. Violations of state and local traffic laws are enforceable as if the vehicle has a licensed human driver on board.

(3) The superintendent of the highway patrol may adopt such rules and regulations necessary to carry out the provisions of K.S.A.

8-2901

through

8-2910

, and amendments thereto.

(b) A political subdivision of the state shall not impose requirements, including, but not limited to, performance standards specific to the operation of ADS-equipped vehicles, automated driving systems or on-demand driverless-capable vehicle networks that are in addition to the requirements set forth pursuant to K.S.A.

8-2901

through

8-2910

, and amendments thereto. A political subdivision of the state shall not impose a tax on ADS-equipped vehicles, automated driving systems or on-demand driverless-capable vehicle networks if such tax relates specifically to the operation of ADS-equipped vehicles, automated driving systems or on-demand driverless-capable vehicle networks.

KSA 8-2907 — Same; registration and titling of driverless-capable vehicles

Same; registration and titling of driverless-capable vehicles.

(a) A driverless-capable vehicle shall be properly registered in accordance with K.S.A.

8-127

, and amendments thereto. If a driverless-capable vehicle is registered in this state, the vehicle shall be identified on the registration as a fully autonomous vehicle.

(b) A driverless-capable vehicle shall be properly titled in accordance with K.S.A.

8-135

, and amendments thereto. If a driverless-capable vehicle is titled in this state, the vehicle shall be identified on the title as a driverless-capable vehicle.

KSA 8-2908 — Same; operation of driverless-capable vehicles as commercial motor vehicles

Same; operation of driverless-capable vehicles as commercial motor vehicles.

A driverless-capable vehicle that is also a commercial motor vehicle pursuant to K.S.A.

8-143m

, and amendments thereto, may operate pursuant to state laws governing the operation of commercial motor vehicles, except that:

(a) Any provision that reasonably only applies to a conventional human driver does not apply to such a vehicle operating with the automated driving system engaged; and

(b) such a vehicle shall not carry hazardous materials as defined in K.S.A.

48-904

, and amendments thereto. The provisions of this subsection do not apply to transporting articles and substances prepared in accordance with 49 C.F.R. Â§ 172.315 or that otherwise do not require placarding pursuant to the federal hazardous materials regulations provided in 49 C.F.R. parts 100 through 110. The provision of this subsection shall expire on January 1, 2025.

KSA 8-2909 — Same; application of uniform act regulating traffic on highways

Same; application of uniform act regulating traffic on highways.

The uniform act regulating traffic on highways, to the extent practicable, shall be interpreted and applied for the use of a driverless-capable vehicle. Such provisions shall not require any additional provisions, including, but not limited to, operation by a conventional human driver seated in the vehicle.

KSA 8-2910 — Same; application of motor vehicle equipment laws

Same; application of motor vehicle equipment laws.

A driverless-capable vehicle that is designed to be operated exclusively by the automated driving system for all trips is not subject to motor vehicle equipment laws or regulations of this state that:

(1) Support motor vehicle operation by a conventional human driver seated in the vehicle, including, but not limited to, mirrors, windshields and windshield wipers; and

(2) are not relevant for an automated driving system.

KSA 8-2911 — Autonomous vehicle advisory committee; membership; duties

Autonomous vehicle advisory committee; membership; duties.

(a) There is created the autonomous vehicle advisory committee that will include the following members:

(1) Two members of the senate to be appointed by the president of the senate;

(2) one member of the senate to be appointed by the minority leader of the senate;

(3) two members of the house of representatives to be appointed by the speaker of the house of representatives;

(4) one member of the house of representatives to be appointed by the minority leader of the house of representatives;

(5) the director of vehicles or the director's designee;

(6) the secretary of transportation or the secretary's designee;

(7) the superintendent of the highway patrol or the superintendent's designee;

(8) two members appointed by the governor from labor organizations;

(9) two members appointed by the chairperson of the state corporation commission;

(10) one member appointed by the Kansas league of municipalities;

(11) one member appointed by the Kansas association of counties;

(12) one member appointed by the governor from the light-duty motor vehicle manufacturers;

(13) one member appointed by the governor from the original equipment manufacturers;

(14) one member appointed by the governor from the original equipment manufacturers trade association;

(15) one member appointed by the governor from the heavy-duty motor vehicle manufacturers;

(16) one member appointed by the governor from the automated driving system developers;

(17) one member appointed by the governor from the automated driving system developers trade association;

(18) one member appointed by the governor from the automated driving system manufacturers;

(19) one member appointed by the governor from the on-demand transportation network companies;

(20) one member appointed by the Kansas sheriffs' association;

(21) one member appointed by the Kansas state troopers association;

(22) one member appointed by ABATE of Kansas;

(23) one member appointed by the foundation for traffic safety; and

(24) one member appointed by the Kansas public transit association.

(b) The speaker of the house of representatives shall select one member of the autonomous vehicle advisory committee who is a member of the house of representatives to serve as chairperson of the advisory committee during even-numbered calendar years. The president of the senate shall select one member of the autonomous vehicle advisory committee who is a member of the senate to serve as chairperson of the advisory committee during odd-numbered calendar years.

(c) Members of the autonomous vehicle advisory committee shall serve without compensation.

(d) The autonomous vehicle advisory committee may meet in an open meeting at any time upon the call of the chairperson.

(e) On or before July 1, 2023, and each July 1 thereafter, the autonomous vehicle advisory committee shall submit to the governor, president of the senate and speaker of the house of representatives a report of activities and any recommendations regarding the use or regulation of autonomous motor vehicles in this state.

(f) The provisions of this section shall expire on July 1, 2027.

Chapter 21 — Crimes and Punishments

KSA 21-922 — City ordinances for suppression of gambling places

City ordinances for suppression of gambling places.

Cities of the first, second and third class may provide by ordinance for the suppression of common nuisances as hereinbefore defined, and for the search of premises where such nuisances are kept or maintained, and for the seizure and destruction of all gambling tables, gambling devices and other property used or kept in maintaining such nuisances, and for the payment and collection of attorney's fees in such cases.

KSA 21-1213 — Unlawful sale, purchase or injection of certain animal vaccines

Unlawful sale, purchase or injection of certain animal vaccines.

(a) It shall be unlawful:

(1) For any person, except an accredited veterinarian, to inject into any animal any live brucella abortus vaccine;

(2) for any person, except a licensed veterinarian or a person acting under the direct supervision of a licensed veterinarian, to inject any animal rabies vaccine into an animal;

(3) for any person, except a licensed veterinarian, to purchase any animal rabies vaccine;

(4) for any person to sell or offer for sale any animal rabies vaccine to any person except a licensed veterinarian;

(5) for any person to sell or offer for sale animal rabies vaccine to another unless the vendor is: (A) A manufacturer thereof; or (B) a licensed veterinarian; or

(6) for any person, except an accredited veterinarian, to purchase any live brucella abortus vaccine;

(7) for any person to sell or offer for sale any live brucella abortus vaccine to any person except an accredited veterinarian; or

(8) for any person to sell or offer for sale the live brucella abortus vaccine to another unless the vendor is: (A) A manufacturer thereof; or (B) an accredited veterinarian.

(b) As used in this section:

(1) "Direct supervision" means that an employee of a veterinarian or a student at a school of veterinary medicine shall be in personal contact with a veterinarian for each individual case.

(2) "Licensed veterinarian" has the meaning provided by K.S.A.

47-816

, and amendments thereto.

(3) "Accredited veterinarian" means a veterinarian approved by the deputy administrator of veterinary services, animal and plant health inspection services, United States department of agriculture, in accordance with provisions of part 160 and 161, title 9, code of federal regulations. The veterinarian is accredited to perform certain functions of federal and cooperative state-federal programs. The accredited veterinarian is authorized to perform specified activities under the cooperative state-federal brucellosis eradication program.

KSA 21-1214 — Same; penalties

Same; penalties.

Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than twenty-five ($25) nor more than five hundred dollars ($500), or shall be imprisoned in the county jail for not more than six (6) months, or by both such fine and imprisonment.

KSA 21-1801 — Prohibition of prize fighting and wrestling matches; exceptions; penalties

Prohibition of prize fighting and wrestling matches; exceptions; penalties.

(a) Except as provided in subsection (b), no person shall send or cause to be sent, publish or otherwise make known any challenge to fight what is commonly known as a prize fight, or engage in any public boxing, sparring or wrestling match, exhibition or contest with or without gloves of any kind, for any prize, reward or compensation, or at which any admission

fee is charged or received, either directly or indirectly, or go into training preparatory to such fight, exhibition, match or contest, or act as trainer for any person or persons contemplating participation in such fight, exhibition or contest, or act as aider, abettor, backer, umpire, trainer, second, surgeon, assistant, reporter or attendant at such fight, exhibition, match or contest, or in any preparation for the same, nor shall any owner or lessee of any grounds, lots, building, hall or structure of any kind permit the same to be used for such fight, exhibition, match or contest.

(b) The provisions of subsection (a) shall not apply to any fight, exhibition, match or contest conducted under a license issued by the athletic commission pursuant to the Kansas professional regulated sports act, and amendments thereto, sanctioned by the national association of intercollegiate athletics, national collegiate athletic association, amateur athletic union of the United States, golden gloves association of America or national junior college athletic association or conducted under the control of the Kansas state high school activities association.

(c) Any violation of the provisions of this section is a class A nonperson misdemeanor.

KSA 21-1802 — Procedure upon arrest of person about to commit offense; inquiry; bond of accused

Procedure upon arrest of person about to commit offense; inquiry; bond of accused.

Any judge having power to issue warrants in criminal cases, to whom it shall be made to appear by affidavit or complaint that there is reasonable ground to believe that any offense specified in K.S.A.

21-1801

is about to be committed within the jurisdiction of such judge, or by any person or persons being within such jurisdiction, shall issue a warrant to the sheriff, marshal or other proper officer for the arrest of the person or persons about to commit such offense. Upon any person or persons being arrested and brought before such judge by virtue of such warrant, such judge shall inquire into the matter, and if it appears that there is reasonable ground to believe that the person or persons so arrested are about to commit any offense defined in K.S.A.

21-1801

, the person or persons so arrested shall be required to give a bond to the state of Kansas in a sum not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), with good and sufficient surety, conditioned that the person or persons so arrested will not, for one (1) year thereafter, commit any such offense.

KSA 21-1803 — Duty of officers when offense about to be committed under K.S.A. 21-1801; penalty for failure

Duty of officers when offense about to be committed under K.S.A.

21-1801

; penalty for failure.

When any sheriff, marshal or other police officer has reason to believe or has knowledge of facts sufficient to induce the belief that any person within the municipality over which the jurisdiction of such sheriff, marshal or other police officer extends is about to commit any offense defined in K.S.A.

21-1801

, he shall forthwith arrest such person, and take him before any judge mentioned in K.S.A.

21-1802

, as amended, and give notice to the county or district attorney for the county in which such offense is about to be committed, who shall immediately attend before such officer, and, upon the proper affidavit or complaint being filed, prosecute such cause; and the subsequent proceedings in such cause shall be the same as those provided in K.S.A.

21-1802

, as amended. The failure or neglect of any sheriff, marshal or other police officer to perform any duty imposed upon him by the provisions of this act shall work a forfeiture of his office, and it shall be the duty of the county or district attorney for such county to cause such forfeiture to be adjudged and such officer removed from his office, by a proper civil action brought for that purpose in the district court of such county.

KSA 21-2501 — Fingerprinting and palm printing of suspects; disposition of impressions

Fingerprinting and palm printing of suspects; disposition of impressions.

(a) It is hereby made the duty of every sheriff, police department or countywide law enforcement agency in the state, immediately to cause two sets of fingerprint impressions and one set of palm print impressions to be made of a person who is arrested if the person:

(1) Is wanted for the commission of a felony. On or after July 1, 1993, fingerprints and palm prints shall be taken if the person is wanted for the commission of a felony or a class A or B misdemeanor or assault as defined in K.S.A.

21-3408

*, and amendments thereto, or a violation of a county resolution which would be the equivalent of a class A or B misdemeanor or assault as defined in K.S.A.

21-3408

*, and amendments thereto, under state law;

(2) is believed to be a fugitive from justice;

(3) may be in the possession at the time of arrest of any goods or property reasonably believed to have been stolen by the person;

(4) is in possession of firearms or other concealed weapons, burglary tools, high explosives or other appliances believed to be used solely for criminal purposes;

(5) is wanted for any offense which involves sexual conduct prohibited by law or for violation of K.S.A.

21-5701

through

21-5717

, and amendments thereto; or

(6) is suspected of being or known to be a habitual criminal or violator of the intoxicating liquor law.

(b) The court shall ensure, upon the offender's first appearance, or in any event before final disposition of a felony or an A or B misdemeanor or a violation of a county resolution which prohibits an act which is prohibited by a class A or B misdemeanor, that the offender has been processed, fingerprinted and palm printed.

(c) Impressions taken pursuant to this section shall be made on the forms provided by the department of justice of the United States or the Kansas bureau of investigation. The sheriff, police department or countywide law enforcement agency shall cause the impressions to be forwarded to the Kansas bureau of investigation at Topeka, Kansas, which shall forward one set of the impressions to the federal bureau of investigation, department of justice, at Washington, D.C. A comprehensive description of the person arrested and such other data and information as to the identification of such person as the department of justice and bureau of investigation require shall accompany the impressions.

(d) A sheriff, police department or countywide law enforcement agency may take and retain for its own use copies of such impressions of a person specified in subsection (a), together with a comprehensive description and such other data and information as necessary to properly identify such person.

(e) Except as provided in subsection (a)(1), this section shall not be construed to include violators of any county resolution or municipal ordinance.

KSA 21-2501a — Maintenance of records of felony and misdemeanor offenses by law enforcement agencies; reporting of meth lab seizures or dump sites, theft of anhydrous ammonia; reports to bureau of investigation; form

Maintenance of records of felony and misdemeanor offenses by law enforcement agencies; reporting of meth lab seizures or dump sites, theft of anhydrous ammonia; reports to bureau of investigation; form.

(a) All law enforcement agencies having responsibility for law enforcement in any political subdivision of this state, on forms approved by the attorney general, shall maintain a permanent record of all felony and misdemeanor offenses reported or known to have been committed within their respective jurisdictions.

(b) All law enforcement agencies having the responsibility of maintaining a permanent record of offenses shall file with the Kansas bureau of investigation, on a form approved by the attorney general, a report on each offense for which a permanent record is required within 72 hours after such offense is reported or known to have been committed.

(c) It is hereby made the duty of every sheriff, police department or countywide law enforcement agency in the state to report within 30 days, on forms approved by the attorney general, any methamphetamine laboratory seizures or dump sites and any theft or attempted theft of anhydrous ammonia that occurs in such agency's jurisdiction.

KSA 21-2502 — University of Kansas and state departments to assist law enforcement officers and coroners

University of Kansas and state departments to assist law enforcement officers and coroners.

It shall be the duty of the university of Kansas, the secretary of health and environment, and all other state departments and institutions, free of charge or reward, to cooperate with the law-enforcement officers of the state, and with the coroners, and to render to them such service and assistance relative to microanalysis, handwriting, toxicology, chemistry, photography, medicine, ballistics and all other sciences and matters relating to or that would aid in controlling crime, disease and the detection, apprehension, identification and prosecution of criminals.

KSA 21-2503 — Fingerprint records admissible in evidence

Fingerprint records admissible in evidence.

A photostatic copy of the fingerprint impression of any person convicted of a felony or misdemeanor that has been filed and kept according to law, and duly certified as a true and correct copy by the director or other person having charge of such records, shall be admissible in evidence and received in evidence in any subsequent prosecution of that person for the purpose of identification where otherwise competent.

KSA 21-2505 — Same; nonperformance of duties; penalty

Same; nonperformance of duties; penalty.

Neglect or refusal of any officer to furnish the information or perform any other act or duty required of the officer under K.S.A.

21-2501

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21-2501a

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21-2502

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21-2503

or

21-2504

, and amendments thereto, is a class A nonperson misdemeanor and, upon conviction thereof, the officer shall forfeit the officer's office.

KSA 21-2506 — Same; construction of act

Same; construction of act.

It is hereby declared that this act is for the public safety, peace and welfare of the state, is remedial in nature, shall be construed liberally, and in case any part thereof shall be declared unconstitutional it shall not in any way affect any other part hereof.

KSA 21-2511 — Collection of biological samples, fingerprints and other identifiers from certain persons; Kansas bureau of investigation, powers and duties; expungement of sample and profile record; failure to provide sample, penalties; other unlawful acts

Collection of biological samples, fingerprints and other identifiers from certain persons; Kansas bureau of investigation, powers and duties; expungement of sample and profile record; failure to provide sample, penalties; other unlawful acts.

(a) On and after May 2, 1991, any person required to register as an offender pursuant to the Kansas offender registration act, any adult arrested or charged or juvenile placed in custody for or charged with the commission of any of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to

the Kansas bureau of investigation in accordance with the provisions of this section:

(1) Any felony;

(2) 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;

(3) K.S.A.

21-3508

, prior to its repeal, or K.S.A.

21-5513

, and amendments thereto, when committed in the presence of a person 16 or more years of age;

(4) K.S.A.

21-4310

, prior to its repeal, or K.S.A.

21-6412

, and amendments thereto;

(5) K.S.A.

21-3424

, prior to its repeal, or K.S.A.

21-5411

, and amendments thereto, when the victim is less than 18 years of age;

(6) K.S.A.

21-3507

, prior to its repeal, or K.S.A.

21-5511

, and amendments thereto, when one of the parties involved is less than 18 years of age;

(7) subsection (b)(1) of K.S.A.

21-3513

, prior to its repeal, when one of the parties involved is less than 18 years of age;

(8) K.S.A.

21-3515

, prior to its repeal, when one of the parties involved is less than 18 years of age, or K.S.A.

21-6421

, and amendments thereto, when the offender is less than 18 years of age;

(9) K.S.A.

21-3517

, prior to its repeal, or subsection (a) of K.S.A.

21-5505

, and amendments thereto; or

(10) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.

21-3301

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21-3302

or

21-3303

, prior to their repeal, or K.S.A.

21-5301

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21-5302

or

21-5303

, and amendments thereto, of any such offenses provided in this subsection.

(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons required to submit a sample under the provisions of this section.

(c) Any person required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure, or as soon as practicable.

(d) Any person convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to submit a sample prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of samples shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.

(e) Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be established that a sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency shall not be required to take the sample.

(f) (1) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the sample and the profile record of such person.

(2) If a conviction against a person who is required to submit such sample is overturned, expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation, upon petition by such person, shall expunge both the sample and the profile record of such person.

(g) The Kansas bureau of investigation shall provide all kits, supplies and instructions necessary for the collection of biological samples. The collection of samples shall be performed in a medically approved manner. No person assisting in the collection of samples pursuant to the provisions of this section shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. Such samples shall be forwarded to the Kansas bureau of investigation and the bureau shall analyze such samples to the extent allowed by funding available for this purpose.

(h) (1) Samples and profile records shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing profile records. The DNA database established by this section shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system. The Kansas bureau of investigation shall participate in the federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

(2) Profile records obtained pursuant to this section shall be confidential and shall be released only to authorized criminal justice agencies. Such records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, but not limited to, identification of missing persons.

(3) The Kansas bureau of investigation shall be the state central repository for all profile records and samples obtained pursuant to this section. No profile records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index system guidelines established by the federal bureau of investigation.

(i) (1) The Kansas bureau of investigation shall promulgate rules and regulations for:

(A) The form and manner of the collection and maintenance of samples;

(B) a procedure which allows defendants to petition to expunge and destroy the samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial, expungement or overturned conviction; and

(C) any other procedures for the operation of this section.

(2) Such rules and regulations also shall require compliance with national quality assurance standards to ensure that profile records satisfy standards of acceptance of such records into the national DNA index system.

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken pursuant to such rules and regulations.

(j) The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions or requirements imposed by the bureau.

(k) In the event that a person's sample is lost, was not properly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.

(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.

(m) Any person who is subject to the requirements of this section, and who, after receiving notification of the requirement to provide a sample, knowingly refuses to provide such sample, shall be guilty of a class A nonperson misdemeanor.

(n) (1) Any person who, by virtue of employment or official position, has possession of, or access to, samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall not disseminate such samples or records except in strict accordance with applicable laws.

(2) A criminal justice agency shall not request profile records from the Kansas bureau of investigation or another criminal justice agency unless such agency has a legitimate need for such records in accordance with subsection (h)(2).

(3) In addition to any other remedy or penalty authorized by law, any person who knowingly violates or causes a violation of this subsection shall be guilty of a class A nonperson misdemeanor. If such person is employed or licensed by a state or local government agency, a conviction for violation of this subsection shall constitute good cause to terminate such person's employment or to revoke or suspend such person's license.

(o) Any person who, without authorization, knowingly obtains samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall be guilty of a class A nonperson misdemeanor.

(p) As used in this section:

(1) "DNA" means deoxyribonucleic acid;

(2) "profile record" means the identifying information of the laboratory and laboratory personnel performing the DNA analysis, the sample identification number and data related to the reliability and maintainability of a DNA profile;

(3) "DNA profile" means a set of DNA identification characteristics that permit the DNA of one person to be distinguishable from the DNA of another person; and

(4) "biological sample" means a body tissue, fluid or other bodily sample, usually a blood or buccal sample, of an individual on which DNA analysis can be carried out.

KSA 21-2512 — Forensic DNA testing; limits thereof

Forensic DNA testing; limits thereof.

(a) Notwithstanding any other provision of law, a person in state custody, at any time after conviction for 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, or for rape as defined by K.S.A.

21-3502

, prior to its repeal, or K.S.A.

21-5503

, and amendments thereto, may petition the court that entered the judgment for forensic DNA testing (deoxyribonucleic acid testing) of any biological material that:

(1) Is related to the investigation or prosecution that resulted in the conviction;

(2) is in the actual or constructive possession of the state; and

(3) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(b) (1) The court shall notify the prosecuting attorney of a petition made under subsection (a) and shall afford the prosecuting attorney an opportunity to respond.

(2) Upon receiving notice of a petition made under subsection (a), the prosecuting attorney shall take such steps as are necessary to ensure that any remaining biological material that was secured in connection with the case is preserved pending the completion of proceedings under this section.

(c) The court shall order DNA testing pursuant to a petition made under subsection (a) upon a determination that testing may produce noncumulative, exculpatory evidence relevant to the claim of the petitioner that the petitioner was wrongfully convicted or sentenced.

(d) The cost of DNA testing ordered under subsection (c) shall be borne by the state or the petitioner, as the court may order in the interests of justice, if it is shown that the petitioner is not indigent and possesses the means to pay.

(e) The court may at any time appoint counsel for an indigent applicant under this section.

(f) (1) Except as provided in subsection (f)(3), if the results of DNA testing conducted under this section are unfavorable to the petitioner, the court:

(A) Shall dismiss the petition; and

(B) in the case of a petitioner who is not indigent, may assess the petitioner for the cost of such testing.

(2) If the results of DNA testing conducted under this section are favorable to the petitioner and are of such materiality that a reasonable probability exists that the new evidence would result in a different outcome at a trial or sentencing, the court shall:

(A) Order a hearing, notwithstanding any provision of law that would bar such a hearing; and

(B) enter any order that serves the interests of justice, including, but not limited to, an order:

(i) Vacating and setting aside the judgment;

(ii) discharging the petitioner if the petitioner is in custody;

(iii) resentencing the petitioner; or

(iv) granting a new trial.

(3) If the results of DNA testing conducted under this section are inconclusive, the court may order a hearing to determine whether there is a substantial question of innocence. If the petitioner proves by a preponderance of the evidence that there is a substantial question of innocence, the court shall proceed as provided in subsection (f)(2).

(g) Nothing in this section shall be construed to limit the circumstances under which a person may obtain DNA testing or other postconviction relief under any other provision of law.

KSA 21-2801 — Trading stamps or similar devices redeemable in merchandise or other thing of value prohibited

Trading stamps or similar devices redeemable in merchandise or other thing of value prohibited.

On or after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to use, issue or distribute, or for any person, firm, association or corporation to furnish to any other person, firm, association or corporation to use, issue or distribute, in, with, or for the sale of goods, wares or merchandise, any stamps, coupons, tickets, certificates, cards, or other similar devices, which shall entitle the purchaser receiving the same with the sale of goods, wares, or merchandise to procure from any person, firm, association or corporation, any goods, wares, merchandise or anything of value upon the production of any number of such stamps, coupons, tickets, certificates, cards or other similar devices. On and after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to redeem any stamps, coupons, tickets, certificates, cards, or other similar devices, the use, issuance, distribution or furnishing of which is made unlawful by the proceeding provisions of this section.

KSA 21-2802 — Trading stamps or similar devices redeemable in cash or other thing of value prohibited

Trading stamps or similar devices redeemable in cash or other thing of value prohibited.

On and after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to use, issue or distribute, or for any person, firm, association or corporation to furnish to any other person, firm, association, or corporation to use, issue or distribute, in, with, or for the sale of any goods, wares or merchandise, any stamps, coupons, tickets, certificates, cards or other similar devices which shall entitle the purchaser receiving the same with the sale of goods, wares, or merchandise to procure from any person, firm, association, or corporation, any cash or any other thing of value upon the production of any number of said stamps, coupons, tickets, certificates, cards, or other similar devices. On and after April 16, 1958, it shall be unlawful for any person, firm, association, or corporation to redeem any stamps, coupons, tickets, certificates, cards, or other similar devices, the use, issuance, distribution or furnishing of which is made unlawful by the preceding provisions of this section.

KSA 21-2803 — Trading stamp act inapplicable to certain coupons and similar devices

Trading stamp act inapplicable to certain coupons and similar devices.

This act shall not apply to any coupon, ticket, certificate, card or other similar device which is issued, distributed, furnished or redeemed:

(a) By a manufacturer or packer, when such coupon, ticket, certificate, card or other similar device is redeemable:

(1) Without or with accompanying cash, for any product of the manufacturer or packer or for one specified and particular product not manufactured or packed by the manufacturer or packer; or

(2) by the manufacturer or packer in cash.

(b) By a retailer, when such coupon, ticket, certificate, card or other similar device is redeemable by the retailer, with or without accompanying cash, for any product which the retailer normally sells in its usual course of business.

(c) By a person, firm, association or corporation, when such coupon, ticket, certificate, card or other similar device is redeemable, with or without accompanying cash, for air travel, hotel, motel and similar accommodations, vehicle rental or other travel or recreational services.

KSA 21-2804 — Penalties

Penalties.

Any person, firm, association or corporation violating either K.S.A.

21-2801

or

21-2802

shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars ($100) for each day said person, firm or corporation is in violation of either of said sections, or be imprisoned in the county jail for not less than sixty (60) days, or by both such fine and imprisonment, at the discretion of the court: Provided, That whenever a corporation shall violate any provision of either K.S.A.

21-2801

or

21-2802

, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation: And provided further, That a corporation and its different officers, agents and servants may each be prosecuted separately for violation of any provision of either K.S.A.

21-2801

or

21-2802

, and the acquittal or conviction of one such officer, agent or servant shall not abate the prosecution of the others. Violators of any provision of either K.S.A.

21-2801

or

21-2802

may also be enjoined or ousted from the continuing of such violation by proceedings brought by the county attorney of the proper county, or by the attorney general, regardless of whether criminal proceedings have been instituted.

KSA 21-2804a — Same; penalties for violations of K.S.A. 21-2801, 21-2802

Same; penalties for violations of K.S.A.

21-2801

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21-2802

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Persons violating K.S.A.

21-2801

or

21-2802

shall upon conviction be subject to the penalties prescribed by K.S.A.

21-2804

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KSA 21-2805 — Invalidity of part

Invalidity of part.

If any sentence, clause, provision or section of this act shall be held unconstitutional, such decision shall not affect the validity or the constitutionality of any other sentence, clause, provision or section herein contained and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without the sentence, clause, provision or section so held unconstitutional.

KSA 21-5101 — Title

Title.

This code is called and may be cited as the Kansas criminal code.

KSA 21-5102 — Crimes defined; classes of crimes

Crimes defined; classes of crimes.

A crime is an act or omission defined by law and for which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized. Crimes are classified as felonies, misdemeanors, traffic infractions and cigarette or tobacco infractions.

(a) A felony is a crime punishable by death or by imprisonment in any state correctional institution or a crime which is defined as a felony by law.

(b) A traffic infraction is a violation of any of the statutory provisions listed in subsection (c) of K.S.A.

8-2118

, and amendments thereto.

(c) A cigarette or tobacco infraction is a violation of K.S.A.

21-6109

through

21-6114

and

21-6116

and subsection (m) or (n) of K.S.A.

79-3321

, and amendments thereto.

(d) All other crimes are misdemeanors.

KSA 21-5103 — Scope and application

Scope and application.

(a) No conduct constitutes a crime against the state of Kansas unless it is made criminal in this code or in another statute of this state, but where a crime is denounced by any statute of this state, but not defined, the definition of such crime at common law shall be applied.

(b) Unless expressly stated otherwise, or the context otherwise requires, the provisions of this code apply to crimes created by statute other than in this code.

(c) This code does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

(d) This code has no application to crimes committed prior to July 1, 2011. A crime is committed prior to the effective date of the code if any of the essential elements of the crime as then defined occurred before that date. Prosecutions for prior crimes shall be governed, prosecuted and punished under the laws existing at the time such crimes were committed.

KSA 21-5104 — Severability; invalidity of part of code

Severability; invalidity of part of code.

The provisions of the Kansas criminal code are severable. If any provision of this code or any part thereof and any amendment thereto is held invalid or unconstitutional or its application to any person or circumstance is held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of the code without such invalid or unconstitutional provision.

KSA 21-5105 — Civil remedies preserved

Civil remedies preserved.

This code does not bar, suspend or otherwise affect any civil right or remedy, authorized by law to be enforced in a civil action, based on conduct which this code makes punishable. The civil injury caused by criminal conduct is not merged in the crime.

KSA 21-5106 — Jurisdictional application

Jurisdictional application.

(a) A person is subject to prosecution and punishment under the law of this state if:

(1) The person commits a crime wholly or partly within this state;

(2) being outside the state, the person counsels, aids, abets or conspires with another to commit a crime within this state; or

(3) being outside the state, the person commits an act which constitutes an attempt to commit a crime within this state.

(b) A crime is committed partly within this state if:

(1) An act which is a constituent and material element of the offense;

(2) an act which is a substantial and integral part of an overall continuing criminal plan; or

(3) the proximate result of such act, occurs within the state.

(c) If the body of a homicide victim is found within the state, a person who is charged with committing the homicide is subject to prosecution and punishment under the laws of this state for commission of the homicide.

(d) A crime which is based on an omission to perform a duty imposed by the law of this state, is committed within the state, regardless of the location of the person omitting to perform such duty at the time of the omission.

(e) It is not a defense that the person's conduct is also a crime under the laws of another state or of the United States or of another country.

(f) This state includes the land and water and the air space above such land and water with respect to which the state has legislative jurisdiction.

(g) Jurisdiction is a question of law to be determined by the court by the preponderance of the evidence.

(h) As used in this section, "proximate result" means any logical effect or consequence of such act regardless of whether the statute governing the charged offense considers the specific effect or consequence of such act.

KSA 21-5107 — Time limitations for commencement of prosecution

Time limitations for commencement of prosecution.

(a) (1) A prosecution for any of the following crimes may be commenced at any time:

(A) Rape as defined in K.S.A.

21-3502

, prior to its repeal, or K.S.A.

21-5503

, and amendments thereto;

(B) aggravated criminal sodomy as defined in K.S.A.

21-3506

, prior to its repeal, or K.S.A.

21-5504

(b), and amendments thereto;

(C) murder as described in K.S.A.

21-3401

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21-3402

or

21-3439

, prior to their repeal, or K.S.A.

21-5401

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21-5402

or

21-5403

, and amendments thereto;

(D) terrorism as defined in K.S.A.

21-3449

, prior to its repeal, or K.S.A.

21-5421

, and amendments thereto; or

(E) illegal use of weapons of mass destruction as defined in K.S.A.

21-3450

, prior to its repeal, or K.S.A.

21-5422

, and amendments thereto.

(2) A prosecution for childhood sexual abuse may be commenced at any time. As used in this paragraph, "childhood sexual abuse" means any of the following crimes when the victim is under 18 years of age:

(A) Indecent liberties with a child as defined in K.S.A.

21-3503

, prior to its repeal, or K.S.A.

21-5506

(a), and amendments thereto;

(B) aggravated indecent liberties with a child as defined in K.S.A.

21-3504

, prior to its repeal, or K.S.A.

21-5506

(b), and amendments thereto;

(C) criminal sodomy as defined in K.S.A.

21-3505

(a)(2) and (a)(3), prior to its repeal, or K.S.A.

21-5504

(a)(3) and (a)(4), and amendments thereto;

(D) enticement of a child as defined in K.S.A.

21-3509

, prior to its repeal;

(E) indecent solicitation of a child as defined in K.S.A.

21-3510

, prior to its repeal, or K.S.A.

21-5508

(a), and amendments thereto;

(F) aggravated indecent solicitation of a child as defined in K.S.A.

21-3511

, prior to its repeal, or K.S.A.

21-5508

(b), and amendments thereto;

(G) 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;

(H) aggravated sexual battery as defined in K.S.A.

21-3518

, prior to its repeal, or K.S.A.

21-5505

(b), and amendments thereto;

(I) aggravated incest as defined in K.S.A.

21-3603

, prior to its repeal, or K.S.A.

21-5604

(b), and amendments thereto;

(J) aggravated human trafficking as defined in K.S.A.

21-3447

, prior to its repeal, or K.S.A.

21-5426

(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(K) internet trading in child pornography or aggravated internet trading in child pornography as defined in K.S.A.

21-5514

, and amendments thereto; or

(L) commercial sexual exploitation of a child as defined in K.S.A.

21-6422

, and amendments thereto.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in subsections (a) and (e), a prosecution for a sexually violent crime as defined in K.S.A.

22-3717

, and amendments thereto:

(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or

(2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(d) Except as provided in subsection (e), a prosecution for any crime as defined in K.S.A.

21-5102

, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;

(2) the accused is concealed within the state so that process cannot be served upon the accused;

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such victim's memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

KSA 21-5108 — Burden of proof; defendant presumed innocent

Burden of proof; defendant presumed innocent.

(a) In all criminal proceedings, the state has the burden to prove beyond a reasonable doubt that a defendant is guilty of a crime. This standard requires the prosecution to prove beyond a reasonable doubt each required element of a crime.

(b) A defendant is presumed to be innocent until proven guilty. When there is a reasonable doubt as to which of two or more degrees of a crime the defendant is guilty, the defendant shall be convicted of the lowest degree only. When there is a reasonable doubt as to a defendant's guilt, the defendant shall be found not guilty.

(c) A defendant is entitled to an instruction on every affirmative defense that is supported by competent evidence. Competent evidence is that which could allow a rational fact finder to reasonably conclude that the defense applies. Once the defendant satisfies the burden of producing such evidence, the state has the burden of disproving the defense beyond a reasonable doubt.

(d) Issues raised under K.S.A.

21-5106

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21-5107

and

21-5110

, and amendments thereto, are not affirmative defenses under subsection (c).

KSA 21-5109 — Multiple prosecutions for same act; lesser included crimes

Multiple prosecutions for same act; lesser included crimes.

(a) When the same conduct of a defendant may establish the commission of more than one crime under the laws of this state, the defendant may be prosecuted for each of such crimes. Each of such crimes may be alleged as a separate count

in a single complaint, information or indictment.

(b) Upon prosecution for a crime, the defendant may be convicted of either the crime charged or a lesser included crime, but not both. A lesser included crime is:

(1) A lesser degree of the same crime, except that there are no lesser degrees of murder in the first degree under subsection (a)(2) of K.S.A.

21-5402

, and amendments thereto;

(2) a crime where all elements of the lesser crime are identical to some of the elements of the crime charged;

(3) an attempt to commit the crime charged; or

(4) an attempt to commit a crime defined under paragraph (1) or (2).

(c) Whenever charges are filed against a person, accusing the person of a crime which includes another crime of which the person has been convicted, the conviction of the lesser included crime shall not bar prosecution or conviction of the crime charged if the crime charged was not consummated at the time of conviction of the lesser included crime, but the conviction of the lesser included crime shall be annulled upon the filing of such charges. Evidence of the person's plea or any admission or statement made by the person in connection therewith in any of the proceedings which resulted in the person's conviction of the lesser included crime shall not be admissible at the trial of the crime charged. If the person is convicted of the crime charged, or of a lesser included crime, the person so convicted shall receive credit against any prison sentence imposed or fine to be paid for the period of confinement actually served or the amount of any fine actually paid under the sentence imposed for the annulled conviction.

(d) Unless otherwise provided by law, when crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct, the defendant:

(1) May not be convicted of the two crimes based upon the same conduct; and

(2) shall be sentenced according to the terms of the more specific crime.

(e) A defendant may not be convicted of identical offenses based upon the same conduct. The prosecution may choose which such offense to charge and, upon conviction, the defendant shall be sentenced according to the terms of that offense.

KSA 21-5110 — Effect of former prosecution

Effect of former prosecution.

(a) A prosecution is barred if the defendant was formerly prosecuted for the same crime, based upon the same facts, if such former prosecution:

(1) Resulted in either a conviction or an acquittal or in a determination that the evidence was insufficient to warrant a conviction;

(2) was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

(3) was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of:

(A) The illness or death of an indispensable party;

(B) the inability of the jury to agree; or

(C) the impossibility of the jury arriving at a verdict.

A conviction of an included crime is an acquittal of the offense charged.

(b) A prosecution is barred if the defendant was formerly prosecuted for a different crime, or for the same crime based upon different facts, if such former prosecution:

(1) Resulted in either a conviction or an acquittal and the subsequent prosecution is for a crime or crimes of which evidence has been admitted in the former prosecution and which might have been included as other counts in the complaint, indictment or information filed in such former prosecution or upon which the state then might have elected to rely; or was for a crime which involves the same conduct, unless each prosecution requires proof of a fact not required in

the other prosecution, or the crime was not consummated when the former trial began;

(2) was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or

(3) was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of:

(A) The illness or death of an indispensable party;

(B) the inability of the jury to agree; or

(C) the impossibility of the jury arriving at a verdict, and the subsequent prosecution is for an offense of which the defendant could have been convicted if the former prosecution had not been terminated improperly.

(c) A prosecution is barred if the defendant was formerly prosecuted in a district court of the United States or in a state court of general jurisdiction of another state or in the municipal court of any city of this state for a crime which is within the concurrent jurisdiction of this state, if such former prosecution:

(1) Resulted in either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began; or

(2) was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the prosecution in this state.

(d) A prosecution is not barred under this section:

(1) By a former prosecution before a court which lacked jurisdiction over the defendant or the offense;

(2) by a former prosecution procured by the defendant without the knowledge of a prosecuting officer authorized to commence a prosecution for the maximum offense which might have been charged on the facts known to the defendant, and with the purpose of avoiding the sentence which otherwise might be imposed; or

(3) if subsequent proceedings resulted in the invalidation, setting aside, reversal or vacating of the conviction, unless the defendant was adjudged not guilty.

(e) In no case where a conviction for a lesser included crime has been invalidated, set aside, reversed or vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which such defendant was originally convicted.

(f) A defendant is in jeopardy when such defendant is put on trial in a court of competent jurisdiction upon an indictment, information or complaint sufficient in form and substance to sustain a conviction, and in the case of trial by jury, when the jury has been impaneled and sworn, or where the case is tried to the court without a jury, when the court has begun to hear evidence.

KSA 21-5111 — Definitions

Definitions.

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 that 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 that 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

21-5413

(d), 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 knowingly having joint or exclusive control over an item 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 that is capable of being used to the advantage or disadvantage of some person.

KSA 21-5112 — Prohibition on ordering the victim of a crime to undergo psychiatric or psychological examination

Prohibition on ordering the victim of a crime to undergo psychiatric or psychological examination.

(a) In any prosecution for a crime, a court shall not require or order a victim of the crime to submit to or undergo either a psychiatric or psychological examination.

(b) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5201 — Requirements of voluntary act or omission

Requirements of voluntary act or omission.

(a) A person commits a crime only if such person voluntarily engages in conduct, including an act, an omission or possession.

(b) A person who omits to perform an act does not commit a crime unless a law provides that the omission is an offense or otherwise provides that such person has a duty to perform the act.

KSA 21-5202 — Culpable mental state; definition of intentionally, knowingly, recklessly

Culpable mental state; definition 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.

KSA 21-5203 — Guilt without culpable mental state, when

Guilt without culpable mental state, when.

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.

KSA 21-5204 — Culpable mental state; exclusions

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.

KSA 21-5205 — Intoxication

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.

KSA 21-5206 — Compulsion

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.

KSA 21-5207 — Ignorance or mistake

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:

KSA 21-5208 — Entrapment

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.

KSA 21-5209 — Defense of lack of mental state

Defense of lack of mental state.

It shall be a defense to a prosecution under any statute that the defendant, as a result of mental disease or defect, lacked the culpable mental state required as an element of the crime charged. Mental disease or defect is not otherwise a defense.

KSA 21-5210 — Liability for crimes of another

Liability for crimes of another.

(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.

KSA 21-5211 — Corporations; criminal responsibility

Corporations; criminal responsibility.

(a) A corporation is criminally responsible for acts committed by its agents when acting within the scope of their authority.

(b) "Agent" means any director, officer, servant, employee or other person who is authorized to act in behalf of the corporation.

KSA 21-5212 — Individual liability for corporate crime

Individual liability for corporate crime.

(a) An individual who performs criminal acts, or causes such acts to be performed, in the name of or on behalf of a corporation is legally responsible to the same extent as if such acts were in the person's own name or on the person's own behalf.

(b) An individual who has been convicted of a crime based on conduct performed by such individual for and on behalf of a corporation is subject to punishment as an individual upon conviction of such crime, although a lesser or different

punishment is authorized for the corporation.

KSA 21-5220 — Construction and application of provisions retroactively

Construction and application of provisions retroactively.

The provisions of K.S.A. 21-5220 through

21-5230

, and amendments thereto, are to be construed and applied retroactively.

KSA 21-5221 — Definitions

Definitions.

(a) As used in article 32 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, K.S.A.

21-5202

through

21-5208

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21-5210

through

21-5212

, and

21-5220

through

21-5231

, and K.S.A.

21-3212a

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21-3220

and

21-3221

, 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.

KSA 21-5222 — Defense of a person; no duty to retreat

Defense of a person; no duty to retreat.

(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.

KSA 21-5223 — Defense of dwelling, place of work or occupied vehicle; no duty to retreat

Defense of dwelling, place of work or occupied vehicle; no duty to retreat.

(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.

KSA 21-5224 — Presumptions

Presumptions.

(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.

KSA 21-5225 — Defense of property other than a dwelling, place of work or occupied vehicle

Defense of property other than a dwelling, place of work or occupied vehicle.

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.

KSA 21-5226 — Use of force by an aggressor

Use of force by an aggressor.

The justification described in K.S.A.

21-3211

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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.

KSA 21-5227 — Law enforcement officer making arrest

Law enforcement officer making arrest.

(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.

KSA 21-5228 — Private person making arrest

Private person making arrest.

(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.

KSA 21-5229 — Resisting arrest

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.

KSA 21-5230 — No duty to retreat

No duty to retreat.

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 Statutes Annotated, prior to their repeal, or K.S.A.

21-5202

through

21-5208

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21-5210

through

21-5212

, and

21-5220

through

21-5231

, and amendments thereto.

KSA 21-5231 — Immunity from prosecution or liability; investigation

Immunity from prosecution or liability; investigation.

(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.

KSA 21-5301 — Attempt

Attempt.

(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 K.S.A.

21-5426

(b), 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 K.S.A.

21-5503

(a)(3), and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in K.S.A.

21-5506

(b)(3), and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(H) sexual exploitation of a child, as defined in K.S.A.

21-5510

(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age;

(I) aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or

(J) capital murder, as defined in K.S.A.

21-5401

, and amendments thereto.

(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.

KSA 21-5302 — Conspiracy

Conspiracy.

(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 is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) 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.

(d) (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 K.S.A.

21-5426

(b), 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 K.S.A.

21-5503

(a)(3), and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in K.S.A.

21-5506

(b)(3), and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(H) sexual exploitation of a child, as defined in K.S.A.

21-5510

(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age;

(I) aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or

(J) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A.

21-6329

, and amendments thereto.

(e) 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.

(f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

KSA 21-5303 — Criminal solicitation

Criminal solicitation.

(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 K.S.A.

21-5426

(b), 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 K.S.A.

21-5503

(a)(3), and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in K.S.A.

21-5506

(b)(3), and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(H) sexual exploitation of a child, as defined in K.S.A.

21-5510

(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or

(I) aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), 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.

KSA 21-5401 — Capital murder

Capital murder.

(a) Capital murder is the:

(1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in K.S.A.

21-5408

(a), and amendments thereto, or aggravated kidnapping, as defined in K.S.A.

21-5408

(b), 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 K.S.A.

21-5504

(a)(3) or (4), and amendments thereto, or aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b), 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 K.S.A.

21-5408

(a), and amendments thereto, or aggravated kidnapping, as defined in K.S.A.

21-5408

(b), 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 K.S.A.

21-5506

(b), and amendments thereto; aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b), and amendments thereto; selling sexual relations, as defined in K.S.A.

21-6419

, and amendments thereto; promoting the sale of sexual relations, as defined in K.S.A.

21-6420

, and amendments thereto; commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto; sexual exploitation of a child, as defined in K.S.A.

21-5510

, and amendments thereto; internet trading in child pornography, as defined in K.S.A.

21-5514

(a), and amendments thereto; aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), and amendments thereto; or aggravated human trafficking, as defined in K.S.A.

21-5426

(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another.

(c) Capital murder or attempt to commit capital murder is an off-grid person felony.

(d) The provisions of K.S.A.

21-5301

(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of capital murder pursuant to this section.

KSA 21-5402 — Murder in the first degree

Murder in the first degree.

(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 K.S.A.

21-5408

(a), and amendments thereto;

(B) aggravated kidnapping, as defined in K.S.A.

21-5408

(b), and amendments thereto;

(C) robbery, as defined in K.S.A.

21-5420

(a), and amendments thereto;

(D) aggravated robbery, as defined in K.S.A.

21-5420

(b), and amendments thereto;

(E) rape, as defined in K.S.A.

21-5503

, and amendments thereto;

(F) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b), 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 K.S.A.

21-5801

(a)(1) or (a)(3), and amendments thereto;

(I) burglary, as defined in K.S.A.

21-5807

(a), and amendments thereto;

(J) aggravated burglary, as defined in K.S.A.

21-5807

(b), and amendments thereto;

(K) arson, as defined in K.S.A.

21-5812

(a), and amendments thereto;

(L) aggravated arson, as defined in K.S.A.

21-5812

(b), 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 K.S.A.

21-6308

(a) or (b), and amendments thereto;

(P) endangering the food supply, as defined in K.S.A.

21-6317

(a), and amendments thereto;

(Q) aggravated endangering the food supply, as defined in K.S.A.

21-6317

(b), and amendments thereto;

(R) fleeing or attempting to elude a police officer, as defined in K.S.A.

8-1568

(b), and amendments thereto;

(S) aggravated endangering a child, as defined in K.S.A.

21-5601

(b)(1), and amendments thereto;

(T) abandonment of a child, as defined in K.S.A.

21-5605

(a), and amendments thereto;

(U) aggravated abandonment of a child, as defined in K.S.A.

21-5605

(b), and amendments thereto; or

(V) mistreatment of a dependent adult or mistreatment of an elder person, as defined in K.S.A.

21-5417

, 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 K.S.A.

21-5403

(a)(1), and amendments thereto;

(C) voluntary manslaughter, as defined in K.S.A.

21-5404

(a)(1), and amendments thereto;

(D) aggravated assault, as defined in K.S.A.

21-5412

(b), and amendments thereto;

(E) aggravated assault of a law enforcement officer, as defined in K.S.A.

21-5412

(d), and amendments thereto;

(F) aggravated battery, as defined in K.S.A.

21-5413

(b)(1), and amendments thereto; or

(G) aggravated battery against a law enforcement officer, as defined in K.S.A.

21-5413

(d), and amendments thereto.

(d) Murder in the first degree as defined in subsection (a)(2) is an alternative method of proving murder in the first degree and is not a separate crime from murder in the first degree as defined in subsection (a)(1). The provisions of K.S.A.

21-5109

, and amendments thereto, are not applicable to murder in the first degree as defined in subsection (a)(2). Murder in the first degree as defined in subsection (a)(2) is not a lesser included offense of murder in the first degree as defined in subsection (a)(1), and is not a lesser included offense of capital murder as defined in K.S.A.

21-5401

, and amendments thereto. As set forth in subsection (b) of K.S.A.

21-5109

, and amendments thereto, there are no lesser included offenses of murder in the first degree under subsection (a)(2).

KSA 21-5403 — Murder in the second degree

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.

KSA 21-5404 — Voluntary manslaughter

Voluntary manslaughter.

(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.

KSA 21-5405 — Involuntary manslaughter

Involuntary manslaughter.

(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

8-1568

(a), 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;

(4) during the commission of a lawful act in an unlawful manner; or

(5) in the commission of, or attempt to commit, or flight from an act described in K.S.A.

8-1567

, and amendments thereto, while:

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A.

8-285

, and amendments thereto, including at least one violation of 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.

(b) Involuntary manslaughter as defined in:

(1) Subsection (a)(1), (a)(2) or (a)(4) is a:

(A) Severity level 5, person felony, except as provided in subsection (b)(1)(B); and

(B) severity level 3, person felony, if the victim is under the age of six years;

(2) subsection (a)(3) is a severity level 4, person felony; and

(3) subsection (a)(5) is a severity level 3, person felony.

KSA 21-5406 — Vehicular homicide

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.

KSA 21-5407 — Assisting suicide

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.

KSA 21-5407a — Encouraging suicide

Encouraging suicide.

(a) Encouraging suicide is knowingly encouraging another person to commit or attempt to commit suicide when the person knows that such other person has communicated a desire to commit suicide and such encouragement:

(1) Is made proximate in time to the other person committing or attempting to commit suicide; and

(2) substantially influences the other person's decision or methods used to commit or attempt to commit suicide.

(b) Encouraging suicide is a:

(1) Severity level 5, person felony if the other person attempts to commit suicide; and

(2) severity level 4, person felony if the other person commits suicide.

(c) As used in this section:

(1) "Attempt to commit suicide" means any physical action done by a person with the intent to commit suicide; and

(2) "encouraging a person to commit or attempt to commit suicide" means oral, written or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide or develop a plan to commit suicide.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5408 — Kidnapping; aggravated kidnapping

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 I, person felony.

KSA 21-5409 — Interference with parental custody; aggravated interference with parental custody

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.

KSA 21-5410 — Interference with custody of a committed person

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.

KSA 21-5411 — Criminal restraint

Criminal restraint.

(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.

KSA 21-5412 — Assault; aggravated assault; assault of a law enforcement officer; aggravated assault of a law enforcement officer

Assault; aggravated assault; assault of a law enforcement officer; aggravated assault of a law enforcement officer.

(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;

(2) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(3) a uniformed or properly identified federal law enforcement officer as defined in K.S.A.

21-5413

, and amendments thereto, 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 K.S.A.

21-6804

(g), and amendments thereto.

KSA 21-5413 — Battery; aggravated battery; battery against certain persons; aggravated battery against certain persons

Battery; aggravated battery; battery against certain persons; aggravated battery against certain persons.

(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;

(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; or

(3) (A) committing an act described in K.S.A.

8-1567

, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A.

8-1567

, and amendments thereto, when bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act; or

(4) committing an act described in K.S.A.

8-1567

, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act while:

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A.

8-285

, and amendments thereto, including at least one violation of 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.

(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;

(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 or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(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;

(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 or a juvenile detention facility officer, or employee, while such

officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, 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) state correctional 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) 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;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) 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;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services 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;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(C) uniformed or properly identified federal law enforcement 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 for aging and disability services, while such employee is engaged in the performance of such employee's duty.

(g) Battery against a healthcare provider is a battery as defined in subsection (a) committed against a healthcare provider while such provider is engaged in the performance of such provider's duty.

(h) (1) Battery is a class B person misdemeanor.

(2) Aggravated battery as defined in:

(A) Subsection (b)(1)(A) or (b)(4) 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) or (b)(3)(A) is a severity level 5, person felony; and

(D) subsection (b)(2)(B) or (b)(3)(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.

(7) Battery against a healthcare provider is a class A person misdemeanor.

(i) 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, whose duties include working at a correctional institution;

(3) "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;

(4) "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, whose duties include working at a city holding facility or county jail facility;

(5) "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;

(6) "mental health employee" means:

(A) An employee of the Kansas department for aging and disability services working at Larned state hospital, Osawatomie state hospital, south central regional mental health hospital, Kansas neurological institute and Parsons state hospital and the treatment staff as defined in K.S.A.

59-29a02

, and amendments thereto; and

(B) contractors and employees of contractors under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility;

(7) "judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;

(8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

(9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs;

(10) "court services officer" means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court;

(11) "federal law enforcement officer" means a law enforcement officer employed by the United States federal government who, as part of such officer's duties, is permitted to make arrests and to be armed; and

(12) "healthcare provider" means an individual who is licensed, registered, certified or otherwise authorized by the state of Kansas to provide healthcare services in this state.

KSA 21-5414 — Domestic battery; aggravated domestic battery

Domestic battery; aggravated domestic battery.

(a) Domestic battery is:

(1) Knowingly or recklessly causing bodily harm to a person with whom the offender is involved or has been involved in a dating relationship or a family or household member; or

(2) knowingly causing physical contact with a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner.

(b) Aggravated domestic battery is:

(1) Knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck or chest of a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner; or

(2) knowingly impeding the normal breathing or circulation of the blood by blocking the nose or mouth of a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner.

(c) (1) Domestic battery is:

(A) Except as provided in subsection (c)(1)(B) or (c)(1)(C), a 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 to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

(B) except as provided in subsection (c)(1)(C), a 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. 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 undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court; and

(C) a 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. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, 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.

(2) Aggravated domestic battery is a severity level 7, person felony.

(d) In determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense under this section, a court shall consider information presented to the court relating to any current or prior protective order issued against such person.

(e) As used in this section:

(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 the 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 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

(3) "protective order" means:

(A) A protection from abuse order issued pursuant to K.S.A.

60-3105

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60-3106

or

60-3107

, and amendments thereto;

(B) 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. Â§ 2265;

(C) a restraining order issued pursuant to K.S.A. 2025 Supp.

23-2707

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38-2243

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38-2244

or

38-2255

, and amendments thereto, or K.S.A.

60-1607

, prior to its transfer;

(D) 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 or upon appeal that orders the person to refrain from having any direct or indirect contact with a family or household member;

(E) 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

(F) a protection from stalking order issued pursuant to K.S.A.

60-31a05

or

60-31a06

, and amendments thereto.

(f) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under subsection (c)(1):

(1) "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;

(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 or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) 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

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(g) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of subsection (a) or (b) or an ordinance of any city or resolution of any county which prohibits the acts that subsection (a) or (b) prohibits only twice during any five-year period.

KSA 21-5415 — Criminal threat; aggravated criminal threat

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).

KSA 21-5416 — Mistreatment of a confined person

Mistreatment of a confined person.

(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.

KSA 21-5417 — Mistreatment of a dependent adult or an elder person

Mistreatment of a dependent adult or an elder person.

(a) Mistreatment of a dependent adult or an elder person is knowingly committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or unreasonable punishment upon a dependent adult or an elder person;

(2) taking the personal property or financial resources of a dependent adult or an elder person for the benefit of the defendant or another person by taking control, title, use or management of the personal property or financial resources of a dependent adult or an elder person through:

(A) Undue influence, coercion, harassment, duress, deception, false representation, false pretense or without adequate consideration to such dependent adult or elder person;

(B) a violation of the Kansas power of attorney act, K.S.A.

58-650

et seq., and amendments thereto;

(C) a violation of the Kansas uniform trust code, K.S.A.

58a-101

et seq., and amendments thereto; or

(D) a violation of the Kansas uniform guardianship, conservatorship and other protective arrangements act, K.S.A.

59-30,101

through

59-30,212

, and amendments thereto; or

(3) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of such dependent adult or elder person.

(b) Mistreatment of a dependent adult or an elder person as defined in:

(1) (A) Subsection (a)(1) is a severity level 5, person felony, except as provided in subsection (b)(1)(B);

(B) subsection (a)(1) is a severity level 2, person felony, when the victim is a dependent adult who is a resident of an adult care home, as described in subsection (e)(2)(A), during the commission of the offense;

(2) subsection (a)(2) if the aggregate amount of the value of the personal property or financial 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 $1,500 but less than $25,000 is a severity level 7, person felony;

(F) less than $1,500 is a class A person misdemeanor, except as provided in subsection (b)(2)(G); and

(G) less than $1,500 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of a violation of this section two or more times is a severity level 7, person felony; and

(3) (A) subsection (a)(3) is a severity level 8, person felony, except as provided in subsection (b)(3)(B); and

(B) subsection (a)(3) is a severity level 5, person felony, when the victim is a dependent adult who is a resident of an adult care home, as described in subsection (e)(2)(A), during the commission of the offense.

(c) It shall be an affirmative defense to any prosecution for mistreatment of a dependent adult or an elder person as described in subsection (a)(2) that:

(1) The personal property or financial resources were given as a gift consistent with a pattern of gift giving to the person that existed before the dependent adult or elder person became vulnerable;

(2) the personal property or financial resources were given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the dependent adult or elder person became vulnerable;

(3) the personal property or financial resources were conferred as a gift by the dependent adult or elder person to the benefit of a person or class of persons, and such gift was reasonable under the circumstances; or

(4) a court approved the transaction before the transaction occurred.

(d) No dependent adult or elder person is considered to be mistreated under subsection (a)(1) or (a)(3) for the sole reason that such dependent adult or elder person 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 or elder person is a member or adherent.

(e) As used in this section:

(1) "Adequate consideration" means the personal property or financial resources were given to the person as payment for bona fide goods or services provided by such person and the payment was at a rate customary for similar goods or services in the community that the dependent adult or elder person resided in at the time of the transaction.

(2) "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:

(A) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A.

39-923

, and amendments thereto;

(B) adult cared for in a private residence;

(C) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;

(D) individual with intellectual disability or a developmental disability receiving services through a community facility for people with intellectual disability or residential facility licensed under K.S.A.

39-2001

et seq., and amendments thereto;

(E) individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(F) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for people with intellectual disability.

(3) "Elder person" means a person 60 years of age or older.

(f) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or K.S.A.

21-6418

, and amendments thereto.

KSA 21-5418 — Hazing

Hazing.

(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) Hazing is a class B nonperson misdemeanor.

KSA 21-5419 — Application of certain crimes to an unborn child

Application of certain crimes to an unborn child.

(a) As used in this section:

(1) "Abortion" means an abortion as defined by K.S.A.

65-6701

, and amendments thereto; and

(2) "unborn child" means a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth.

(b) This section shall not apply to:

(1) Any act committed by the mother of the unborn child;

(2) any medical procedure, including abortion, performed by a physician or other licensed medical professional at the request of the pregnant woman or her legal guardian; or

(3) the lawful dispensation or administration of lawfully prescribed medication.

(c) As used in K.S.A.

21-5401

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21-5402

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21-5403

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21-5404

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21-5405

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21-5406

and subsections (a) and (b) of

21-5413

, and amendments thereto, "person" and "human being" also mean an unborn child.

(d) This section shall be known as Alexa's law.

KSA 21-5420 — Robbery; aggravated robbery

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 committed 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.

KSA 21-5421 — Terrorism

Terrorism.

(a) Terrorism is the commission of, the attempt to commit, the conspiracy to commit, or the criminal solicitation to commit any felony with the intent to:

(1) Intimidate or coerce the civilian population;

(2) influence government policy by intimidation or coercion; or

(3) affect the operation of any unit of government.

(b) Terrorism or attempt, conspiracy or criminal solicitation to commit terrorism is an off-grid person felony.

(c) The provisions of subsection (c) of K.S.A.

21-5301

, and amendments thereto, shall not apply to a violation of attempting to commit the crime of terrorism pursuant to this section. The provisions of subsection (c) of K.S.A.

21-5302

, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of terrorism pursuant to this section. The provisions of 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 terrorism pursuant to this section.

KSA 21-5422 — Illegal use of weapons of mass destruction

Illegal use of weapons of mass destruction.

(a) The illegal use of weapons of mass destruction is:

(1) Knowingly and without lawful authority, developing, producing, stockpiling, transferring, acquiring, retaining or possessing any:

(A) Biological agent, toxin or delivery system for use as a weapon;

(B) chemical weapon; or

(C) nuclear materials or nuclear byproduct materials for use as a weapon;

(2) knowingly assisting a foreign state or any organization to do any such activities as specified in subsection (a)(1); or

(3) threatening to do any such activities as specified in subsection (a)(1) or (a)(2).

(b) Illegal use of weapons of mass destruction or attempt, conspiracy or criminal solicitation to commit illegal use of weapons of mass destruction is an off-grid person felony.

(c) The provisions of subsection (c) of K.S.A.

21-5301

, and amendments thereto, shall not apply to a violation of attempting to commit the crime of illegal use of weapons of mass destruction pursuant to this section. The provisions of subsection (c) of K.S.A.

21-5302

, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of illegal use of weapons of mass destruction pursuant to this section. The provisions of 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 illegal use of weapons of mass destruction pursuant to this section.

(d) The following shall not be prohibited under the provisions of this section:

(1) Any peaceful purpose related to an industrial, agricultural, research, medical or pharmaceutical activity or other activity;

(2) any purpose directly related to protection against toxic chemicals and to protection against chemical weapons;

(3) any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm;

(4) any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment; or

(5) any individual self-defense device, including those using a pepper spray or chemical mace.

(e) As used in this section:

(1) "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

(A) Death, disease or other biological malfunction in a human, an animal, a plant or another living organism;

(B) deterioration of food, water, equipment, supplies or material of any kind; or

(C) deleterious alteration of the environment;

(2) "chemical weapon" means the following together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this section, as long as the type and quantity is consistent with such a purpose;

(B) a munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

(3) "key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

(4) "delivery system" means:

(A) Any apparatus, equipment, device or means of delivery specifically designed to deliver or disseminate a biological agent, toxin or vector; or

(B) any vector;

(5) "for use as a weapon" does not include the development, production, transfer, acquisition, retention or possession of any biological agent, toxin or delivery system for prophylactic, protective or other peaceful purposes;

(6) "nuclear material" means material containing any:

(A) Plutonium;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(D) uranium 233;

(7) "nuclear byproduct material" means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;

(8) "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. "Precursor" includes any key component of a binary or multicomponent chemical system;

(9) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. "Toxic chemical" includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

(10) "toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(A) Any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B) any poisonous isomer or biological product, homolog or derivative of such a substance; and

(11) "vector" means a living organism or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

KSA 21-5423 — Furtherance of terrorism or illegal use of weapons of mass destruction

Furtherance of terrorism or illegal use of weapons of mass destruction.

(a) It is unlawful for any person to receive or acquire property, or engage in transactions involving property, with the intent to commit or further the commission of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto. 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.

21-5421

or

21-5422

, and amendments thereto.

(b) It is unlawful for any person to intentionally invest, conceal, distribute, transport or maintain an interest in or otherwise make available any property which that person knows is intended to be used to commit or further the commission of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto.

(c) It is unlawful for any person to intentionally direct, plan, organize, initiate, finance, manage, supervise or facilitate the transportation or distribution of property which that person knows is intended to be used to commit or further the commission of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto.

(d) It is unlawful for any person to conduct a financial transaction involving property with the intent to commit or further the commission of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property which that person knows is intended to be used to commit or further the commission of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto, or to avoid a transaction reporting requirement under state or federal law.

(e) It is unlawful to raise, solicit, collect or provide material support or resources with the intent that such will be used, in whole or in part, to plan, prepare, carry out or aid in:

(1) Any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto;

(2) the hindering of the prosecution of any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto; or

(3) the concealment of, or the escape from, any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto.

(f) Violation of this section is a severity level 1, person felony.

(g) As used in this section:

(1) "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, tangible or intangible;

(2) "transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property whatever means effected; and

(3) "hindering of the prosecution of terrorism" shall include, but is not limited to, the following:

(A) Harboring or concealing a person who is known or believed by the offender to have committed any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto;

(B) warning a person who is known or believed by the offender to have committed any violations of K.S.A.

21-5421

or

21-5422

, and amendments thereto, of impending discovery or apprehension, except that the provisions of this subparagraph 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; and

(C) suppressing any physical evidence which might aid in the discovery or apprehension of a person who is known or believed by the offender to have committed any violation of K.S.A.

21-5421

or

21-5422

, and amendments thereto.

KSA 21-5424 — Exposing another to a life threatening communicable disease

Exposing another to a life threatening communicable disease.

(a) It is unlawful for an individual, who knows oneself to be infected with a life threatening communicable disease, to:

(1) Engage in sexual intercourse or sodomy with another individual with the intent to expose that individual to that life threatening communicable disease;

(2) sell or donate one's own blood, blood products, semen, tissue, organs or other body fluids with the intent to expose the recipient to a life threatening communicable disease; or

(3) share with another individual a hypodermic needle, syringe, or both, for the introduction of drugs or any other substance into, or for the withdrawal of blood or body fluids from, the other individual's body with the intent to expose another person to a life threatening communicable disease.

(b) Violation of this section is a severity level 7, person felony.

(c) As used in this section:

(1) "Sexual intercourse" shall not include penetration by any object other than the male sex organ; and

(2) "sodomy" shall not include the penetration of the anal opening by any object other than the male sex organ.

KSA 21-5425 — Unlawful administration of a substance

Unlawful administration of a substance.

(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.

KSA 21-5426 — Human trafficking; aggravated human trafficking

Human trafficking; aggravated human trafficking.

(a) Human trafficking is:

(1) Except as provided in subsection (b)(4) and (5), 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), involving the commission or attempted commission of kidnapping, as defined in K.S.A.

21-5408

(a), and amendments thereto;

(2) human trafficking, as defined in subsection (a), committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(3) human trafficking, as defined in subsection (a), resulting in a death;

(4) recruiting, harboring, transporting, providing or obtaining, by any means, a child knowing that the child, with or without force, fraud, threat or coercion, will be used to engage in: (A) Forced labor; (B) involuntary servitude; or (C) sexual gratification of the defendant or another involving the exchange of anything of value; or

(5) hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in 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, sexual intercourse, sodomy or any unlawful sexual act, and the offender recklessly disregards the age of the child.

(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.

(4) In addition to any other sentence imposed, a person convicted under subsection (c)(1) shall be fined not less than $2,500 nor more than $5,000. In addition to any other sentence imposed, a person convicted under subsection (c)(2) or (c)(3) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A.

75-758

, and amendments thereto.

(5) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

(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) K.S.A.

21-5301

(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;

(2) K.S.A.

21-5302

(d), 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) K.S.A.

21-5303

(d), 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) It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant: (1) Was under 18 years of age at the time of the violation; and (2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.

(f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that: (1) The victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another; or (2) the offender had no knowledge of the age of the victim.

(g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A.

21-6422

, and amendments thereto, or for any form of homicide.

(h) 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.

(i) As used in this section:

(1) "Child" means a person under 18 years of age; and

(2) "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.

KSA 21-5427 — Stalking

Stalking.

(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;

(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; or

(4) intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for such child's safety.

(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;

(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; and

(4) subsection (a)(4) is a:

(A) Severity level 7, person felony, except as provided in subsection (b)(4)(B); and

(B) severity level 4, 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) utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns; and

(H) 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:

(A) Father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person;

(B) any person residing in the household of the targeted person; or

(C) any person involved in an intimate relationship with the targeted person.

KSA 21-5428 — Blackmail

Blackmail.

(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:

(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 K.S.A.

21-6101

(a)(6) or (a)(8), 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.

KSA 21-5429 — Endangerment

Endangerment.

(a) Endangerment is recklessly exposing another person to a danger of great bodily harm or death.

(b) Endangerment is a class A person misdemeanor.

(c) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5430 — Distribution of a controlled substance causing great bodily harm or death

Distribution of a controlled substance causing great bodily harm or death.

(a) Distribution of a controlled substance causing great bodily harm is distributing a controlled substance in violation of K.S.A.

21-5705

, and amendments thereto, when great bodily harm results from the use of such controlled substance.

(b) Distribution of a controlled substance causing death is distributing a controlled substance in violation of K.S.A.

21-5705

, and amendments thereto, when death results from the use of such controlled substance.

(c) (1) Distribution of a controlled substance causing great bodily harm is a nondrug severity level 5, person felony.

(2) Distribution of a controlled substance causing death is a nondrug severity level 1, person felony.

(d) It shall not be a defense that the user contributed to the user's own great bodily harm or death by using the controlled substance or consenting to the administration of the controlled substance by another.

(e) As used in this section:

(1) "Controlled substance" has the same meaning as defined in K.S.A.

21-5701

, and amendments thereto, and also includes "controlled substance analog" as defined in K.S.A.

21-5701

, and amendment thereto;

(2) "distribute" has the same meaning as defined in K.S.A.

21-5701

, and amendments thereto; and

(3) "use" means injection, inhalation, ingestion or other introduction into the body.

(f) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5431 — Female genital mutilation

Female genital mutilation.

(a) Female genital mutilation is:

(1) Knowingly circumcising, excising, or infibulating the whole or any part of the labia majora, labia minora or clitoris of a female under 18 years of age;

(2) removing a female under 18 years of age from this state for the purpose of circumcising, excising, or infibulating the whole or any part of the labia majora, labia minora or clitoris of such female; or

(3) causing or permitting another to perform the conduct described in subsection (a)(1) or (a)(2) when the person causing or permitting such conduct is the parent, legal guardian or caretaker of the victim.

(b) Female genital mutilation is a severity level 3, person felony.

(c) The provisions of this section shall not apply if:

(1) The physical health of the female under 18 years of age makes circumcising, excising or infibulating the whole or any part of her labia majora, labia minora or clitoris medically necessary pursuant to the order of a physician, and such procedure is performed by a physician; or

(2) the female under 18 years of age is in labor or has just given birth, and such labor or birth makes circumcising, excising or infibulating the whole or any part of her labia majora, labia minora or clitoris medically necessary pursuant to the order of a physician, and such procedure is performed by a physician.

(d) It shall not be a defense that the conduct described in subsection (a):

(1) Is required as a matter of custom, ritual or religious practice; or

(2) that the victim, or such victim's parent, legal guardian or caretaker consented to the procedure.

(e) As used in this section:

(1) "Caretaker" means any person that willfully assumes responsibility for the care of a female under the age of 18; and

(2) "physician" means any person licensed by the state board of healing arts to practice medicine and surgery.

KSA 21-5432 — Human smuggling; aggravated human smuggling

Human smuggling; aggravated human smuggling.

(a) (1) Human smuggling is intentionally transporting, harboring or concealing an individual into or within Kansas when the person:

(A) Knows, or should have known, that the individual is entering into or remaining in the United States illegally;

(B) benefits financially or receives anything of value; and

(C) knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.

(2) Aggravated human smuggling is human smuggling that:

(A) Is committed using a deadly weapon or by threat of use of a deadly weapon;

(B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or

(C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or human trafficking as defined in K.S.A.

21-5426

, and amendments thereto, or causes the person to commit selling sexual relations as defined in K.S.A.

21-6419

, and amendments thereto.

(b) (1) Human smuggling is a severity level 5, person felony; and

(2) aggravated human smuggling is a severity level 3, person felony.

(c) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5433 — Coercion to obtain an abortion

Coercion to obtain an abortion.

(a) Coercion to obtain an abortion is engaging in coercion with knowledge that a woman is pregnant and with the intent to compel such woman to obtain an abortion when such woman has expressed her desire to not obtain an abortion.

(b) Coercion to obtain an abortion, as defined in subsection (a), is:

(1) A person felony, and the offender shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than $500 nor more than $5,000; or

(2) if committed by the father or the putative father, who is 18 years of age or older at the time of the violation, of the unborn child of a pregnant woman and such pregnant woman is less than 18 years of age at the time of the violation, a person felony, 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 $10,000.

(c) As used in this section:

(1) "Abortion" means the same as defined in K.S.A.

65-6701

, and amendments thereto;

(2) "coercion" means any of the following:

(A) Threatening to harm or physically restrain an individual or the creation or execution of any scheme, plan or pattern intended to cause an individual to believe that failure to perform an act would result in financial harm to, or physical restraint of, an individual;

(B) abusing or threatening abuse of the legal system, including threats of arrest or deportation without regard to whether the individual being threatened is subject to arrest or deportation under the laws of this state or the United States;

(C) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document from an individual without regard to whether the documents are fraudulent or fraudulently obtained; or

(D) facilitating or controlling an individual's access to a controlled substance, as defined in K.S.A.

65-4101

, and amendments thereto, other than for a legitimate medical purpose;

(3) "financial harm" means any of the following:

(A) Any loan, promissory note or other credit instrument that provides for interest at a rate that is prohibited by state or federal law;

(B) any employment contract or other agreement for the payment of wages that violates the wage payment act, K.S.A.

44-313

et seq., and amendments thereto;

(C) extortion as defined in K.S.A.

21-6501

, and amendments thereto; or

(D) any other adverse financial consequence; and

(4) "unborn child" means a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5501 — Definitions

Definitions.

The following definitions shall apply when the words and phrases defined are used in article 55 of chapter 21 of the Kansas Statutes Annotated, and K.S.A.

21-6419

through

21-6422

, 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.

KSA 21-5502 — Evidence of complaining witness' previous sexual conduct in prosecutions for certain offenses; motions; notice

Evidence of complaining witness' previous sexual conduct in prosecutions for certain offenses; motions; notice.

(a) The provisions of this section shall apply only in a prosecution for:

(1) Rape, as defined in K.S.A.

21-5503

, and amendments thereto;

(2) indecent liberties with a child, as defined in K.S.A.

21-5506

(a), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A.

21-5506

(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A.

21-5504

(a)(3) and (4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A.

21-5504
(b), and amendments thereto;
(6) aggravated indecent solicitation of a child, as defined in K.S.A.
21-5508
(b), and amendments thereto;
(7) sexual exploitation of a child, as defined in K.S.A.
21-5510
, and amendments thereto;
(8) aggravated sexual battery, as defined in K.S.A.
21-5505
(b), and amendments thereto;
(9) incest, as defined in K.S.A.
21-5604
(a), and amendments thereto;
(10) aggravated incest, as defined in K.S.A.
21-5604
(b), and amendments thereto;
(11) indecent solicitation of a child, as defined in K.S.A.
21-5508
(a), and amendments thereto;
(12) aggravated assault, as defined in K.S.A.
21-5412
(b), and amendments thereto, with intent to commit any crime specified above;
(13) sexual battery, as defined in K.S.A.
21-5505
(a), and amendments thereto;
(14) unlawful voluntary sexual relations, as defined in K.S.A.
21-5507
, and amendments thereto;
(15) aggravated human trafficking, as defined in K.S.A.
21-5426
(b)(2), (4) and (5), and amendments thereto;
(16) commercial sexual exploitation of a child, as defined in K.S.A.
21-6422
, and amendments thereto;
(17) electronic solicitation, as defined in K.S.A.
21-5509
, and amendments thereto;
(18) internet trading in child pornography, as defined in K.S.A.
21-5514
(a), and amendments thereto;
(19) aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), and amendments thereto; or

(20) attempt, as defined in K.S.A.

21-5301

, and amendments thereto, or conspiracy, as defined in K.S.A.

21-5302

, and amendments thereto, to commit any crime specified above.

(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The motion shall state the nature of such evidence or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.

(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.

(d) As used in this section, "complaining witness" means the alleged victim of any crime designated in subsection (a), the prosecution of which is subject to this section.

KSA 21-5503 — Rape

Rape.

(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.

KSA 21-5504 — Criminal sodomy; aggravated criminal sodomy

Criminal sodomy; aggravated criminal sodomy.

(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.

KSA 21-5505 — Sexual battery; aggravated sexual battery

Sexual battery; aggravated sexual battery.

(a) 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.

(b) Aggravated sexual battery is sexual battery, as defined in subsection (a), 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.

KSA 21-5506 — Indecent liberties with a child; aggravated indecent liberties with a child

Indecent liberties with a child; aggravated indecent liberties with a child.

(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.

KSA 21-5507 — Unlawful voluntary sexual relations

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.

KSA 21-5508 — Indecent solicitation of a child; aggravated indecent solicitation of a child

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.

KSA 21-5509 — Electronic solicitation

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.

KSA 21-5510 — Sexual exploitation of a child

Sexual exploitation of a child.

(a) Except as provided in K.S.A.

21-5610

and

21-5611

, and amendments thereto, 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) (A) 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; or

(B) possessing any artificially generated visual depiction 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 l8 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 3, 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) K.S.A.

21-5301

(c), 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) K.S.A.

21-5302

(d), 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) K.S.A.

21-5303

(d), 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;

(5) "obscene" means a visual depiction or artificially generated visual depiction that, taken as a whole, appeals to the prurient interest of an average person, applying contemporary community standards, that is patently offensive and that, taken as a whole, lacks serious literary, artistic, political or scientific value;

(6) "artificially generated visual depiction" means a visual depiction that is obscene and produced through the use of computer software, digital manipulation or other means that creates an image or video that appears to depict a child under 18 years of age shown or heard engaging in sexually explicit conduct. "Artificially generated visual depiction" includes depictions that are obscene and indistinguishable from a real child, morphed from a real child's image or generated without any actual child involvement; and

(7) "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.

(e) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.

KSA 21-5511 — Adultery

Adultery.

(a) Adultery is engaging in sexual intercourse or sodomy with a person who is not married to the offender if:

(1) The offender is married; or

(2) the offender is not married and knows that the other person involved in the act is married.

(b) Adultery is a class C misdemeanor.

KSA 21-5512 — Unlawful sexual relations

Unlawful sexual relations.

(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, 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 department of corrections 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 department of corrections or the employee of a contractor who is under contract to provide direct supervision and offender control services to the department of corrections and:

(A) The person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person l6 years of age or older who has been:

(i) Released on conditional release from a juvenile correctional facility under the supervision and control of the department of corrections or juvenile community supervision agency; or

(ii) placed in the custody of the department of corrections under the supervision and control of the department of corrections or juvenile community supervision agency; and

(B) 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 Kansas department for aging and disability services or the Kansas department for children and families or the employee of a contractor who is under contract to provide services in an aging and disability or children and families institution or to the Kansas department for aging and disability services or the Kansas department for children and families 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 a patient in such institution or in the custody of the secretary for aging and disability services or the secretary for children and families;

(8) the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment 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 a foster child placed in the care of such family foster home;

(9) the offender is a teacher or other person in a position of authority 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 a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions of K.S.A.

21-5604

(b), and amendments thereto, shall apply, not this subsection;

(10) 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;

(11) 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;

(12) the offender is a surety or an employee of a surety 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 the subject of a surety or bail bond agreement with such surety 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 the subject of a surety or bail bond agreement with such surety; or

(13) the offender is a law enforcement officer 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 interacting with such law enforcement officer during the course of a traffic stop, a custodial interrogation, an interview in connection with an investigation, or while the law enforcement officer has such person detained.

(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), (a)(10), (a)(11), (a)(12) or (a)(13) is a severity level 5, person felony.

(c) (1) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A.

21-5503

, and amendments thereto, the provisions of K.S.A.

21-5503

, and amendments thereto, shall apply, not this section.

(2) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A.

21-5506

(b)(1), and amendments thereto, the provisions of K.S.A.

21-5506

(b)(1), and amendments thereto, shall apply, not this section.

(3) If an offender violates the provisions of this section by engaging in sodomy which would constitute a violation of K.S.A.

21-5504

(a)(3), (a)(4) or (b), and amendments thereto, the provisions of K.S.A.

21-5504

(a)(3), (a)(4) or (b), and amendments thereto, shall apply, not this section.

(4) If an offender violates the provisions of this section by engaging in lewd fondling or touching which would constitute a violation of K.S.A.

21-5506

(b)(2), and amendments thereto, the provisions of K.S.A.

21-5506

(b)(2), and amendments thereto, shall apply, not this section.

(d) 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, coaches, 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;

(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 department of corrections; and

(13) "surety" means the same as in K.S.A.

22-2809a

, and amendments thereto.

KSA 21-5513 — Lewd and lascivious behavior

Lewd and lascivious behavior.

(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.

KSA 21-5514 — Internet trading in child pornography; aggravated internet trading in child pornography

Internet trading in child pornography; aggravated internet trading in child pornography.

(a) Except as provided in K.S.A.

21-5610

and

21-5611

, and amendments thereto, internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A.

21-5510

(a)(2), and amendments thereto, when the offender is 18 years of age or older, and the offender knowingly causes or permits the visual depiction to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the visual depiction.

(b) Except as provided in K.S.A.

21-5610

and

21-5611

, and amendments thereto, aggravated internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A.

21-5510

(a)(1) or (4), and amendments thereto, when the offender is 18 years of age or older and the offender knowingly causes or permits the performance to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the performance.

(c) (1) Internet trading in child pornography is a severity level 5, person felony.

(2) Aggravated internet trading in child pornography is a severity level 3, person felony, except as provided in subsection (c)(3).

(3) Aggravated internet trading in child pornography or attempt, conspiracy or criminal solicitation to commit aggravated internet trading in child pornography is an off-grid person felony when the child is under 14 years of age.

(d) If the child is under 14 years of age, the provisions of:

(1) K.S.A.

21-5301

(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated internet trading in child pornography pursuant to this section;

(2) K.S.A.

21-5302

(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated internet trading in child pornography pursuant to this section; and

(3) K.S.A.

21-5303

(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated internet trading in child pornography pursuant to this section.

(e) In addition to the venue provided for under any other provision of law, a prosecution for internet trading in child pornography or aggravated internet trading in child pornography may be brought in the county where the visual depiction or performance may be viewed by any person other than the offender using any electronic device connected to the internet and is viewed by a law enforcement officer using an electronic device connected to the internet while engaged in such officer's official duties.

(f) As used in this section, "the internet" has the meaning as provided in K.S.A.

66-2011

, and amendments thereto.

(g) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5515 — Sexual extortion

Sexual extortion.

(a) Sexual extortion is communicating by any means a threat to injure the property or reputation of a person, commit violence against a person, or distribute an image, video or other recording of a person that is of a sexual nature or depicts such person in a state of nudity:

(1) With the intent to coerce such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature; or

(2) that causes such person to: (A) Engage in sexual contact, sexual intercourse or conduct that is of a sexual nature; or (B) produce, provide or distribute an image, video or other recording of a person in a state of nudity or engaging in conduct that is of a sexual nature.

(b) Sexual extortion as defined in:

(1) Subsection (a)(1) is a severity level 7, person felony; and

(2) subsection (a)(2) is a severity level 4, person felony.

(c) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5601 — Endangering a child; aggravated endangering a child

Endangering a child; aggravated endangering a child.

(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 any fentanyl-related controlled substance; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that:

(A) Drug paraphernalia or volatile, toxic or flammable chemicals are stored or used for the purpose of manufacturing or attempting to manufacture any methamphetamine; or

(B) drug paraphernalia or toxic materials, compounds or mixtures are stored or used for the purpose of manufacturing or attempting to manufacture any fentanyl-related controlled substance.

(c) (1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a:

(A) Severity level 9, person felony except as provided in subsection (c)(2)(B); and

(B) severity level 6, person felony when bodily harm is inflicted upon the child.

(3) 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) "Drug paraphernalia," "fentanyl-related controlled substance" and "manufacture" mean the same as defined in K.S.A.

21-5701

, and amendments thereto; and

(2) "methamphetamine" means any substance designated in K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or any analog thereof.

KSA 21-5602 — Abuse of a child

Abuse of a child.

(a) Abuse of a child is committing any of the following acts against a child under 18 years of age:

(1) (A) Knowingly torturing, cruelly beating, cruelly striking or cruelly kicking;

(B) knowingly inflicting cruel and inhuman corporal punishment; or

(C) knowingly using cruel and inhuman physical restraint, including caging or confining the child in a space not designated for human habitation or binding the child in a way that is not medically necessary;

(2) recklessly causing great bodily harm, abusive head trauma, permanent disability or disfigurement; or

(3) (A) knowingly causing great bodily harm, abusive head trauma, permanent disability or disfigurement;

(B) knowingly inflicting cruel and inhuman corporal punishment with a deadly weapon; or

(C) knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm could be inflicted.

(b) Abuse of a child as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 5, person felony if the child is at least six years of age but less than 18 years of age; and

(B) severity level 3, person felony if the child is under six years of age;

(2) subsection (a)(2) is a severity level 4, person felony; and

(3) subsection (a)(3) is a severity level 3, person felony.

KSA 21-5603 — Contributing to a child's misconduct or deprivation

Contributing to a child's misconduct or deprivation.

(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.

KSA 21-5604 — Incest; aggravated incest

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 l0, person felony.

(2) Aggravated incest as defined in:

(A) Subsection (b)(2)(A) is a:

(i) Severity level 5, person felony, except as provided in subsection (c)(2)(A)(ii); and

(ii) severity level 3, person felony if the victim is the offender's biological, step or adoptive child; and

(B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony.

KSA 21-5605 — Abandonment of a child; aggravated abandonment of a child

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 great 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.

KSA 21-5606 — Criminal nonsupport

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.

KSA 21-5607 — Furnishing alcoholic liquor or cereal malt beverage to a minor; furnishing alcoholic beverage to a minor for illicit purposes

Furnishing alcoholic liquor or cereal malt beverage to a minor; furnishing alcoholic beverage to a minor for illicit purposes.

(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 K.S.A.

21-5501

through

21-5513

, 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's or ward's parent or legal guardian.

KSA 21-5608 — Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage

Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage.

(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.

KSA 21-5609 — Bigamy

Bigamy.

(a) Bigamy is any of the following:

(1) Marriage within this state by any person who has another spouse living at the time of such marriage;

(2) marriage within this state by an unmarried person to a person known to such unmarried person to be the spouse of some other person; or

(3) cohabitation within this state after marriage in another state or country under circumstances described in subsection (a)(1) or (a)(2).

(b) Bigamy is a severity level 10, nonperson felony.

(c) It shall be a defense to a charge of bigamy that the accused reasonably believed the prior marriage had been dissolved by death, divorce or annulment.

KSA 21-5610 — Unlawful possession of a visual depiction of a child

Unlawful possession of a visual depiction of a child.

(a) Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 years of age or older but less than 16 years of age in a state of nudity, if committed by a person less than 19 years of age, and the possessor of such visual depiction received such visual depiction directly and exclusively from the child who is the subject of such visual depiction.

(b) Unlawful possession of a visual depiction of a child is a class B person misdemeanor.

(c) It shall be an affirmative defense to any prosecution under this section that the recipient of a visual depiction of a child in a state of nudity:

(1) Received such visual depiction without requesting, coercing or otherwise attempting to obtain such visual depiction;

(2) did not transmit, exhibit or disseminate such visual depiction; and

(3) made a good faith effort to erase, delete or otherwise destroy such visual depiction.

(d) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.

(e) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A.

21-6401

(f)(1), and amendments thereto.

(f) It shall not be unlawful for a person who is less than 19 years of age to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.

KSA 21-5611 — Unlawful transmission of a visual depiction of a child

Unlawful transmission of a visual depiction of a child.

(a) Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of an identifiable child 12 or more years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age.

(b) Aggravated unlawful transmission of a visual depiction of a child is:

(1) Knowingly transmitting a visual depiction of an identifiable child 12 or more years of age but less than 18 years of age in a state of nudity:

(A) With the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm;

(B) for pecuniary or tangible gain; or

(C) with the intent to exhibit or transmit such visual depiction to more than one person; and

(2) when the offender is less than 19 years of age.

(c) (1) Unlawful transmission of a visual depiction of a child is a:

(A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and

(B) severity level 10, person felony upon a second or subsequent conviction.

(2) Aggravated unlawful transmission of a visual depiction of a child is a:

(A) Severity level 9, person felony, except as provided in subsection (c)(2)(B); and

(B) severity level 7, person felony upon a second or subsequent conviction.

(d) It shall be a rebuttable presumption that an offender had the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm if the offender transmitted a visual depiction of a person other than such child in a state of nudity to more than one person.

(e) The provisions of this section shall not apply to transmission of a visual depiction of a child in a state of nudity by the child who is the subject of such visual depiction.

(f) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A.

21-6401

(f)(1), and amendments thereto.

(g) As used in this section and K.S.A.

21-5610

, and amendments thereto:

(1) "Sexually explicit conduct" means actual or simulated: 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 and sado-masochistic abuse for the purpose of sexual stimulation;

(2) "state of nudity" 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;

(3) "transmission" means any form of communication, including, but not limited to, physical transmission of paper and electronic transmission that creates a record that may be retained and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Transmission also includes a request to receive a transmission of a visual depiction; and

(4) "visual depiction" means any photograph, film, video picture, digital or computer-generated image or picture made or produced by electronic, mechanical or other means, including, but not limited to, any such item created, in whole or in part, altered or modified by artificial intelligence or any digital means to appear to depict or purport to depict an identifiable child, regardless of whether such identifiable child was involved in the creation of the original image.

KSA 21-5612 — Promoting travel for child exploitation

Promoting travel for child exploitation.

(a) Promoting travel for child exploitation is knowingly selling or offering to sell travel services that include or facilitate travel for the purpose of any person engaging in conduct that would constitute a violation of K.S.A.

21-5426

(b)(4) or (5),

21-5510

,

21-5514

or

21-6422

, and amendments thereto, if such conduct occurred in this state.

(b) Promoting travel for child exploitation is a severity level 5, person felony.

(c) As used in this section, "travel services" means transportation by air, sea or ground, hotel or any lodging accommodations, package tours, or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission or other valuable consideration.

(d) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5701 — Definitions

Definitions.

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

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65-4107

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65-4109

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65-4111

and

65-4113

, and amendments thereto.

(b) (1) "Controlled substance analog" means a substance that is intended for human consumption, and at least one of the following:

(A) The chemical structure of the substance 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) the substance 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, such individual represents or intends the substance 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. Â§ 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 that 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) (1) "Drug" means:

(A) Substances recognized as drugs in the official United States pharmacopeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(B) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(C) substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(D) substances intended for use as a component of any article specified in subparagraph (A), (B) or (C).

(2) "Drug" does not include devices or their components, parts or accessories.

(f) (1) "Drug paraphernalia" means all equipment and materials of any kind that 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.

(2) "Drug paraphernalia" includes, but is not limited to:

(A) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

(B) kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(C) isomerization devices used or intended for use in increasing the potency of any species of plant that is a controlled substance;

(D) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(E) scales and balances used or intended for use in weighing or measuring controlled substances;

(F) diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose that are used or intended for use in cutting controlled substances;

(G) separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

(H) blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(I) capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;

(J) containers and other objects used or intended for use in storing or concealing controlled substances;

(K) hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;

(L) 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:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(ii) water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

(iii) carburetion pipes, glass or other heat-resistant tubes or any other device used, intended to be used or designed to be used to cause vaporization of a controlled substance for inhalation;

(iv) smoking and carburetion masks;

(v) 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;

(vi) miniature cocaine spoons and cocaine vials;

(vii) chamber smoking pipes;

(viii) carburetor smoking pipes;

(ix) electric smoking pipes;

(x) air-driven smoking pipes;

(xi) chillums;

(xii) bongs;

(xiii) ice pipes or chillers;

(xiv) any smoking pipe manufactured to disguise its intended purpose;

(xv) wired cigarette papers; or

(xvi) cocaine freebase kits.

(3) "Drug paraphernalia" does not include:

(A) Any products, chemicals or materials described in K.S.A.

21-5709

(a), and amendments thereto; or

(B) any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine or gamma hydroxybutyric acid.

(g) "Fentanyl-related controlled substance" means any substance designated in K.S.A.

65-4105

(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(12), (b)(15), (b)(16), (b)(17), (b)(20), (b)(21), (b)(24), (b)(26), (b)(27), (b)(28), (b)(35), (b)(42), (b)(43), (b)(44), (b)(45), (b)(48), (b)(50), (b)(54), (b)(55), (b)(56), (b)(57), (b)(58), (b)(59), (b)(68), (b)(70), (b)(71), (b)(72), (b)(73), (b)(74), (b)(75), (b)(76), (b)(77), (b)(78), (b)(79), (b)(80), (b)(81), (b)(82), (b)(83), (b)(84), (b)(85), (b)(91), (b)(97), (b)(98), (b)(99), (b)(103), (b)(104), (g)(1) or (g)(2) or

65-4107

(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), and amendments thereto, or any analog thereof.

(h) "Immediate precursor" means a substance that the state 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 that 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.

(i) "Isomer" means all enantiomers and diastereomers.

(j) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of or placing into pill or capsule form 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. "Manufacture" does not include:

(1) 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:

(A) 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

(B) 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; or

(2) the addition of diluents or adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose or lactose that are intended for use in cutting a controlled substance.

(k) "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:

(1) 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 that is incapable of germination;

(2) any substance listed in schedules II through V of the uniform controlled substances act;

(3) drug products approved by the United States food and drug administration as of the effective date of this act;

(4) cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or

(5) industrial hemp as defined in K.S.A.

2-3901

, and amendments thereto, when cultivated, produced, possessed or used for activities authorized by the commercial industrial hemp act.

(l) "Minor" means a person under 18 years of age.

(m) "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 that 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 that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine.

(n) "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.

(o) "Opium poppy" means the plant of the species Papaver somniferum l. except its seeds.

(p) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or any other legal entity.

(q) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(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 that identifies itself by a common name or slang term associated with a controlled substance and that indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

KSA 21-5702 — Effective date; scope of act

Effective date; scope of act.

(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, the commercial industrial hemp act or otherwise authorized by law.

KSA 21-5703 — Unlawful manufacturing of controlled substances

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:

(1) Drug severity level 2 felony, except as provided in subsections (b)(2) and (b)(3);

(2) drug severity level 1 felony if:

(A) The controlled substance is not methamphetamine, as defined by K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or an analog thereof;

(B) the controlled substance is not a fentanyl-related controlled substance; and

(C) the offender has a prior conviction for unlawful manufacturing of a controlled substance under this section, K.S.A.

65-4159

, prior to its repeal, K.S.A. 2010 Supp.

21-36a03

, prior to its transfer, or a substantially similar offense from another jurisdiction and the substance was not methamphetamine, as defined by K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any such prior conviction; and

(3) drug severity level 1 felony if the controlled substance is methamphetamine, as defined by K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or an analog thereof, or is a fentanyl-related controlled substance.

(c) The provisions of K.S.A.

21-5301

(d), and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance or controlled substance analog pursuant to this section.

(d) For persons arrested and charged under this section, bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A.

22-2802

, and amendments thereto, 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.

(e) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.

(f) The sentence of a person who violates this section, K.S.A.

65-4159

, prior to its repeal or K.S.A. 2010 Supp.

21-36a03

, prior to its transfer, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A.

65-4161

or

65-4163

, prior to their repeal, K.S.A. 2010 Supp.

21-36a05

, prior to its transfer, or K.S.A.

21-5705

, and amendments thereto.

KSA 21-5704 — Costs and expenses assessed against defendant for unlawful manufacturing

Costs and expenses assessed against defendant for unlawful manufacturing.

All costs and expenses resulting from the seizure, disposition and decontamination of an unlawful manufacturing site shall be assessed as costs against the defendant.

KSA 21-5705 — Unlawful cultivation or distribution of controlled substances. [See Revisor's Note]

Unlawful cultivation or distribution of controlled substances.

(a) It shall be unlawful for any person to 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 K.S.A.

65-4107

(d)(1), (d)(3) or (f)(1), and amendments thereto;

(2) any depressant designated in K.S.A.

65-4105

(e),

65-4107

(e),

65-4109

(b) or (c) or

65-4111

(b), and amendments thereto;

(3) any stimulant designated in K.S.A.

65-4105

(f),

65-4107

(d)(2), (d)(4), (d)(5) or (f)(2) or

65-4109

(e), and amendments thereto;

(4) any hallucinogenic drug designated in K.S.A.

65-4105

(d),

65-4107

(g) or

65-4109

(g), and amendments thereto;

(5) any substance designated in K.S.A.

65-4105

(g) or

65-4111

(c), (d), (e), (f) or (g), and amendments thereto;

(6) any anabolic steroids as defined in K.S.A.

65-4109

(f), and amendments thereto; or

(7) any substance designated in K.S.A.

65-4105

(h), 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) It shall be unlawful for any person to cultivate any controlled substance or controlled substance analog listed in subsection (a).

(d) (1) Except as provided further, violation of subsection (a) is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 3.5 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 3.5 grams but less than 100 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 100 grams but less than 1 kilogram; and

(D) drug severity level 1 felony if the quantity of the material was 1 kilogram or more.

(2) Except as provided further, violation of subsection (a) with respect to material containing any quantity of marijuana, or an analog thereof, is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 25 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 25 grams but less than 450 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 450 grams but less than 30 kilograms; and

(D) drug severity level 1 felony if the quantity of the material was 30 kilograms or more.

(3) Except as provided further, violation of subsection (a) with respect to material containing any quantity of a fentanyl-related controlled substance, heroin as defined by K.S.A.

65-4105

(c)(12), and amendments thereto, or methamphetamine as defined by K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or an analog thereof, is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 1 gram;

(B) drug severity level 3 felony if the quantity of the material was at least 1 gram but less than 3.5 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 3.5 grams but less than 100 grams; and

(D) drug severity level 1 felony if the quantity of the material was 100 grams or more.

(4) Except as provided further, violation of subsection (a) with respect to material containing any quantity of a controlled substance designated in K.S.A.

65-4105

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65-4107

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65-4109

or

65-4111

, and amendments thereto, or an analog thereof, distributed by dosage unit, is a:

(A) Drug severity level 4 felony if the number of dosage units was fewer than 10;

(B) drug severity level 3 felony if the number of dosage units was at least 10 but fewer than 100;

(C) drug severity level 2 felony if the number of dosage units was at least 100 but fewer than 1,000; and

(D) drug severity level 1 felony if the number of dosage units was 1,000 or more.

(5) Violation of subsection (a) with respect to material containing any quantity of a fentanyl-related controlled substance, distributed by dosage unit, is a:

(A) Drug severity level 4 felony if the number of dosage units was fewer than 10;

(B) drug severity level 3 felony if the number of dosage units was at least 10 but fewer than 50;

(C) drug severity level 2 felony if the number of dosage units was at least 50 but fewer than 250; and

(D) drug severity level 1 felony if the number of dosage units was 250 or more.

(6) For any violation of subsection (a), the severity level of the offense shall be increased one level if the controlled substance or controlled substance analog was distributed or possessed with the intent to distribute on or within 1,000 feet of any school property.

(7) Violation of subsection (b) is a:

(A) Class A person misdemeanor, except as provided in subsection (d)(7)(B); and

(B) nondrug severity level 7, person felony if the substance was distributed to or possessed with the intent to distribute to a minor.

(8) Violation of subsection (c) is a:

(A) Drug severity level 3 felony if the number of plants cultivated was more than 4 but fewer than 50;

(B) drug severity level 2 felony if the number of plants cultivated was at least 50 but fewer than 100; and

(C) drug severity level 1 felony if the number of plants cultivated was 100 or more.

(e) In any prosecution under this section, there shall be an inference of an intent to distribute if such an inference is supported by the facts and such person possesses the following quantities of controlled substances or analogs thereof:

(1) 450 grams or more of marijuana;

(2) 3.5 grams or more of a fentanyl-related controlled substance, heroin or methamphetamine;

(3) 50 dosage units or more containing any quantity of a fentanyl-related controlled substance;

(4) 100 dosage units or more containing any other controlled substance; or

(5) 100 grams or more of any other controlled substance.

(f) It shall not be a defense to charges arising under this section that the defendant:

(1) Was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog;

(2) did not know the quantity of the controlled substance or controlled substance analog; or

(3) did not know the specific controlled substance or controlled substance analog contained in the material that was distributed or possessed with the intent to distribute.

(g) As used in this section:

(1) "Material" means the total amount of any substance, including a compound or a mixture, which contains any quantity of a controlled substance or controlled substance analog.

(2) "Dosage unit" means a controlled substance or controlled substance analog distributed or possessed with the intent to distribute as a discrete unit, including but not limited to, one pill, one capsule or one microdot, and not distributed by weight.

(A) For steroids, or controlled substances in liquid solution legally manufactured for prescription use, or an analog thereof, "dosage unit" means the smallest medically approved dosage unit, as determined by the label, materials provided by the manufacturer, a prescribing authority, licensed health care professional or other qualified health authority.

(B) For illegally manufactured controlled substances in liquid solution, or controlled substances in liquid products not intended for ingestion by human beings, or an analog thereof, "dosage unit" means 10 milligrams, including the liquid carrier medium, except as provided in subsection (g)(2)(C).

(C) For lysergic acid diethylamide (LSD) in liquid form, or an analog thereof, a dosage unit is defined as 0.4 milligrams, including the liquid medium.

KSA 21-5706 — Unlawful possession of controlled substances

Unlawful possession of controlled substances.

(a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in K.S.A.

65-4107

(d)(1), (d)(3) or (f)(1), 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 K.S.A.

65-4105

(e),

65-4107

(e),

65-4109

(b) or (c) or

65-4111

(b), and amendments thereto;

(2) any stimulant designated in K.S.A.

65-4105

(f),

65-4107

(d)(2), (d)(4), (d)(5) or (f)(2) or

65-4109

(e), and amendments thereto;

(3) any hallucinogenic drug designated in K.S.A.

65-4105

(d),

65-4107

(g) or

65-4109

(g), and amendments thereto;

(4) any substance designated in K.S.A.

65-4105

(g) and

65-4111

(c), (d), (e), (f) or (g), and amendments thereto;

(5) any anabolic steroids as defined in K.S.A.

65-4109

(f), and amendments thereto;

(6) any substance designated in K.S.A.

65-4113

, and amendments thereto; or

(7) any substance designated in K.S.A.

65-4105

(h), and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony.

(2) Except as provided in subsection (c)(3):

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subparagraph (B); and

(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 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 K.S.A.

65-4105

(d), and amendments thereto, or any substance designated in K.S.A.

65-4105

(h), and amendments thereto, or an analog thereof.

(3) If the substance involved is marijuana, as designated in K.S.A.

65-4105

(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A.

65-4105

(h), and amendments thereto, violation of subsection (b) is a:

(A) Class B nonperson misdemeanor, except as provided in subparagraphs (B) and (C);

(B) class A nonperson misdemeanor 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; and

(C) drug severity level 5 felony if that person has two or more prior convictions 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.

(d) It shall be an affirmative defense to prosecution under this section arising out of a person's possession of any cannabidiol treatment preparation if the person:

(1) Has a debilitating medical condition, as defined in K.S.A. 2025 Supp.

65-6235

, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating medical condition;

(2) is possessing a cannabidiol treatment preparation, as defined in K.S.A. 2025 Supp.

65-6235

, and amendments thereto, that is being used to treat such debilitating medical condition; and

(3) has possession of a letter, at all times while the person has possession of the cannabidiol treatment preparation, that:

(A) Shall be shown to a law enforcement officer on such officer's request;

(B) is dated within the preceding 15 months and signed by the physician licensed to practice medicine and surgery in Kansas who diagnosed the debilitating medical condition;

(C) is on such physician's letterhead; and

(D) identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition.

(e) 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 or controlled substance analog.

KSA 21-5707 — Unlawful manufacture, distribution, cultivation or possession of controlled substances using a communication facility

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

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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.

KSA 21-5708 — Unlawfully obtaining or selling a prescription-only drug

Unlawfully obtaining or selling 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:

(A) Class A nonperson misdemeanor, except as provided in subsection (c)(1)(B); and

(B) nondrug severity level 9, nonperson felony if that person has a prior conviction of under this section, K.S.A. 2010 Supp.

21-36a08

, prior to its transfer, or K.S.A.

21-4214

, prior to its repeal.

(2) Unlawfully selling a prescription-only drug is a nondrug 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.

KSA 21-5709 — Unlawful possession of certain drug precursors and drug paraphernalia

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 3 felony;

(2) violation of subsection (b)(1) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) class B nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class B nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 5 felony; and

(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, and such person shall not be released upon the person's own recognizance pursuant to K.S.A.

22-2802

, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

KSA 21-5710 — Unlawful distribution of certain drug precursors and drug paraphernalia

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 controlled substance analog; 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 or controlled substance analog 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 3 felony;

(2) violation of subsection (b) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) drug severity level 4 felony if the trier of fact makes a finding that 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:

(A) Nondrug severity level 9, nonperson felony, except as provided in subsection (e)(3)(B); and

(B) drug severity level 5 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property; and

(4) violation of subsection (d) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (e)(4)(B); and

(B) nondrug severity level 9, nonperson felony if the trier of fact makes a finding that 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, and such person shall not be released upon the person's own recognizance pursuant to K.S.A.

22-2802

, and amendments thereto, 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.

KSA 21-5711 — Factors to consider when determining what is drug paraphernalia

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.

KSA 21-5712 — Unlawful abuse of toxic vapors

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, freon 12 and other halogenated hydrocarbons;

(8) hexane;

(9) methyl ethyl ketone;

(10) methyl isobutyl ketone;

(11) naptha;

(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.

KSA 21-5713 — Unlawful distribution or possession of a simulated controlled substance

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:

(A) Nondrug severity level 9, nonperson felony, except as provided in subsection (c)(1)(B); and

(B) 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.

KSA 21-5714 — Unlawful representation that noncontrolled substance is controlled substance

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:

(1) Class A nonperson misdemeanor, except as provided in subsection (b)(2); and

(2) nondrug severity level 9, nonperson felony if the distributor is 18 or more years of age, distributing to a minor and at least three years older than the minor 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.

(d) A person who commits a violation of subsection (a) also may be prosecuted for, convicted of and punished for theft.

KSA 21-5715 — Treatment of a controlled substance analog

Treatment of a controlled substance analog.

Within 10 days after the initiation of prosecution with respect to a controlled substance analog by indictment, complaint or information, the prosecuting attorney shall notify the board of pharmacy of information relevant to emergency scheduling as provided for in subsection (e) of K.S.A.

65-4102

, and amendments thereto. After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may be commenced or continued.

KSA 21-5716 — Unlawful acts involving proceeds derived from violations of K.S.A. 21-5701 through 21-5717

Unlawful acts involving proceeds derived from violations of K.S.A.

21-5701

through

21-5717

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(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) Violation of this section is a:

(1) Drug severity level 5 felony if the value of the proceeds is less than $5,000;

(2) drug severity level 4 felony if the value of the proceeds is at least $5,000 but less than $100,000;

(3) drug severity level 3 felony if the value of the proceeds is at least $100,000 but less than $250,000;

(4) drug severity level 2 felony if the value of the proceeds is at least $250,000 but less than $500,000; and

(5) drug severity level 1 felony if the value of the proceeds is $500,000 or more.

KSA 21-5717 — Uniformity of act

Uniformity of act.

The statutes listed below shall be applicable and uniform throughout this state and in all cities and counties therein. No city or county shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions listed below unless expressly authorized by law to do so:

(a) Subsection (c) of K.S.A.

21-2501a

, and amendments thereto;

(b) subsections (k) and (l) of K.S.A.

65-1643

, and amendments thereto;

(c) subsections (e), (f) and (g) of K.S.A.

65-4113

, and amendments thereto;

(d) subsection (c) of K.S.A.

21-5703

, and amendments thereto;

(e) subsection (f) of K.S.A.

21-5709

, and amendments thereto;

(f) subsection (f) of K.S.A.

21-5710

, and amendments thereto.

KSA 21-5801 — Theft

Theft.

(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) 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 $1,500 but less than $25,000 is a severity level 9, nonperson felony, except as provided in subsection (b)(7);

(4) property or services of the value of less than $1,500 is a class A nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6), (b)(7) or (b)(8);

(5) property of the value of less than $1,500 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;

(6) property of the value of at least $50 but less than $1,500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two or more times;

(7) property that is a firearm of the value of less than $25,000 is a severity level 9, nonperson felony; and

(8) property that is mail of the value of less than $1,500 from three separate locations 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.

(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) "mail" means a letter, postal card, package or bag sent through the United States postal service or other delivery service, or any other article or thing contained therein;

(3) "regulated scrap metal" means the same as defined in K.S.A.

50-6,109

, and amendments thereto;

(4) "remote service unit" means the same as defined in K.S.A.

9-1111

, and amendments thereto, and includes, but is not limited to, automated cash dispensing machines and automated teller machines; and

(5) "value" means the value of the property or, if the property is regulated scrap metal or a remote service unit, the cost to restore the site of the theft of such regulated scrap metal or remote service unit to its condition at the time immediately prior to the theft of such regulated scrap metal or remote service unit, whichever is greater.

KSA 21-5802 — Theft of property lost, mislaid or delivered by mistake

Theft of property lost, mislaid or delivered by mistake.

(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, nonperson 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.

KSA 21-5803 — Criminal deprivation of property

Criminal deprivation of property.

(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 that is a firearm is a severity level 9, nonperson felony.

(3) Criminal deprivation of property other than a motor vehicle or a firearm 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.

(4) 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.

KSA 21-5804 — Prima facie evidence of intent to permanently deprive owner or lessor of possession, use or benefit of property

Prima facie evidence of intent to permanently deprive owner or lessor of possession, use or benefit of property.

(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 buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting 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 K.S.A.

21-5801

(a)(5), 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) In a prosecution for theft as defined in K.S.A.

21-5801

, and amendments thereto, and such theft is of regulated scrap metal as defined in K.S.A.

50-6,109

, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

(e) In a prosecution for theft as defined in K.S.A.

21-5801

, and amendments thereto, and such theft is of a motor vehicle as defined in K.S.A.

8-126

, and amendments thereto, fleeing or attempting to elude a police officer as defined in K.S.A.

8-1568

(a)(1)(B) or (b), and amendments thereto, shall be prima facie evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use or benefit thereof.

(f) 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:

(i) Any electricity, water or natural gas that has not been measured; or

(ii) any telephone or cable television service that has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the acts described in subparagraphs (A) through (D).

KSA 21-5805 — Unlawful acts involving theft detection shielding devices

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.

KSA 21-5806 — Unlawful use of recordings

Unlawful use of recordings.

(a) Unlawful use of recordings is:

(1) Knowingly, and without the consent of the owner, duplicating or causing to be duplicated any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, or recording or causing to be recorded any live performance, with the intent to sell, rent or cause to be sold or rented, any such duplicated sounds or any such recorded performance, or to give away such duplicated sounds or recorded performance as part of a promotion for any product or service;

(2) distributing or possessing with the intent to distribute, any article produced in violation of subsection (a)(1) knowing or having reasonable grounds to know that such article was produced in violation of law;

(3) possessing any article produced in violation of subsection (a)(1) knowing or having reasonable grounds to know that such article was produced in violation of law; or

(4) knowingly selling, renting, offering for sale or rental, or possessing, transporting or manufacturing with intent to sell or rent, any phonograph record, audio or video disc, wire, audio or video tape, film or other article now known or later developed on which sounds, images, or both sounds and images are recorded or otherwise stored, unless the outside cover, box or jacket clearly and conspicuously discloses the name and address of the manufacturer of such recorded article.

(b) Unlawful use of recordings:

(1) Is a severity level 9, nonperson felony, except as provided in subsections (b)(2) and (b)(3);

(2) as defined in subsection (a)(2) or (a)(4), is a class A nonperson misdemeanor if the offense involves fewer than seven audio visual recordings, or fewer than 100 sound recordings during a 180-day period; and

(3) as defined in subsection (a)(3), is a class B nonperson misdemeanor.

(c) The provisions of subsection (a)(1) shall not apply to:

(1) Any broadcaster who, in connection with or as part of a radio or television broadcast or cable transmission, or for the purpose of archival preservation, duplicates any such sounds recorded on a sound recording;

(2) any person who duplicates such sounds or such performance for personal use, and without compensation for such duplication; or

(3) any sounds initially fixed in a tangible medium of expression after February 15, 1972.

(d) The provisions of subsections (a)(1) and (a)(3) shall not apply to any computer program or any audio or visual recording that is part of any computer program or to any article or device on which is exclusively recorded any such computer program.

(e) As used in this section:

(1) "Owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master wire, master tape, master film or other device used for reproducing sounds on phonograph records, discs, wires, tapes, films or other articles now known or later developed upon which sound is recorded or otherwise

stored, and from which the duplicated recorded sounds are directly or indirectly derived, or the person who owns the right to record such live performance; and

(2) "computer program" means a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

(f) It shall be the duty of all law enforcement officers, upon discovery, to confiscate all recorded devices that do not conform to the provisions of this section and that are possessed for the purpose of selling or renting such recorded devices, and all equipment and components used or intended to be used to knowingly manufacture recorded devices that do not conform to the provisions of such section for the purpose of selling or renting such recorded devices. The nonconforming recorded devices that are possessed for the purpose of selling or renting such recorded devices are contraband and shall be delivered to the district attorney for the county in which the confiscation was made, by court order, and shall be destroyed or otherwise disposed of, if the court finds that the person claiming title to such recorded devices possessed such recorded devices for the purpose of selling or renting such recorded devices. The equipment and components confiscated shall be delivered to the district attorney for the county in which the confiscation was made, by court order upon conviction, and may be given to a charitable or educational organization.

KSA 21-5807 — Burglary; aggravated burglary

Burglary; aggravated burglary.

(a) Burglary is, without authority, entering into or remaining within any:

(1) (A) Dwelling, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(B) locked or secured portion of any dwelling, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein;

(2) (A) building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(B) locked or secured portion of any building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(3) vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein.

(b) Aggravated burglary is, without authority, entering into or remaining within any:

(1) (A) Dwelling in which there is a human being, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(B) locked or secured portion of any dwelling in which there is a human being, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein;

(2) (A) building, manufactured home, mobile home, tent or other structure which is not a dwelling in which there is a human being, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(B) locked or secured portion of any building, manufactured home, mobile home, tent or other structure which is not a dwelling in which there is a human being, with intent to commit a felony, theft, domestic battery, violation of a protection order or sexually motivated crime therein; or

(3) 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, domestic battery, violation of a protection order or sexually motivated crime therein.

(c) (1) Burglary as defined in:

(A) (i) Subsection (a)(1) is a severity level 7, person felony, except as provided in subsection (c)(1)(B);

(ii) subsection (a)(2) is a severity level 7, nonperson felony, except as provided in subsection (c)(1)(B); and

(iii) subsection (a)(3) is a severity level 9, nonperson felony, except as provided in subsection (c)(1)(B); and

(B) (i) subsection (a)(1), with intent to commit the theft of a firearm, is a severity level 5, person felony; and

(ii) subsection (a)(2) or (a)(3), with intent to commit the theft of a firearm, is a severity level 5, nonperson felony.

(2) Aggravated burglary as defined in:

(A) Subsection (b)(1) is a severity level 4, person felony; and

(B) subsection (b)(2) or (b)(3) is a severity level 5, person felony.

(d) As used in this section, "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.

(e) This section shall not apply to any person entering into or remaining in a retail or commercial premises at any time that it is open to the public after having received a personal communication from the owner or manager of such premises not to enter such premises pursuant to K.S.A.

21-5808

, and amendments thereto, except when such person is entering into or remaining in such premises with the intent to commit a person felony or sexually motivated crime therein.

KSA 21-5808 — Criminal trespass

Criminal trespass.

(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 as provided in K.S.A.

32-1013

, and amendments thereto, or in any other 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.

60-3105

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60-3106

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60-3107

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60-31a05

or

60-31a06

or K.S.A.

23-2707

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38-2243

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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.

KSA 21-5809 — Trespassing on railroad property

Trespassing on railroad property.

(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. Â§ 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.

KSA 21-5810 — Criminal hunting

Criminal hunting.

(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 nonperson 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 K.S.A.

21-3728

(a), prior to its repeal, or subsection (a)(1) or (a)(2); and

(2) subsection (a)(3) is a class B nonperson 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 K.S.A.

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(b), prior to its repeal, or subsection (a)(3).

(c) The court shall notify the Kansas department of wildlife and parks of any conviction or diversion for a violation of this section.

KSA 21-5811 — Commercial fossil hunting

Commercial fossil hunting.

(a) It is unlawful for any commercial fossil hunter to:

(1) Go upon the land of another in search of fossils unless the commercial fossil hunter has obtained the written authorization of the landowner to go upon such land for such purpose and when requesting such written authorization has identified oneself to the landowner as a commercial fossil hunter who intends to explore the land and sell any fossils of value found on the land. The written authorization shall state that the landowner has been informed of such intended activities by the commercial fossil hunter; or

(2) remove a fossil from the land of another upon which the fossil is located unless the landowner is first provided with a description of the fossil and the landowner authorizes in writing the removal of the fossil.

(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.

(c) As used in this section:

(1) "Commercial fossil hunter" means an individual who goes upon the land of another in search of fossils with the intent to sell fossils of value found upon such land;

(2) "fossil" means any impression or trace of an animal or plant of a past geological age preserved in the earth's crust;

(3) "landowner" means the record owner of the fee in real estate or the tenant of such owner who occupies such real estate, if so authorized by the owner; and

(4) "land of another" means all real estate other than that owned or leased by any governmental entity or the commercial fossil hunter.

(d) This section is supplemental to and not in lieu of any other law of this state relating to entering or remaining upon the land of another and relating to the removal of items of value from the property of another.

(e) It shall not be a defense that the person did not know or have reason to know that such person was on the landowner's property.

KSA 21-5812 — Arson; aggravated arson

Arson; aggravated arson.

(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.

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, 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.

KSA 21-5813 — Criminal damage to property; aggravated criminal damage to property

Criminal damage to property; aggravated criminal damage to property.

(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) Aggravated criminal damage to property is criminal damage to property, as defined in subsection (a)(1), if the value or amount of damage exceeds $5,000, committed with the intent to obtain:

(1) Currency upon a remote service unit as defined in K.S.A.

9-1111

, and amendments thereto, including, but not limited to, any automated cash dispensing machine or automated teller machine; or

(2) any regulated scrap metal as defined in K.S.A.

50-6,109

, and amendments thereto, or any items listed in K.S.A.

50-6,111

(d), and amendments thereto, upon:

(A) Any building, structure, personal property or place used primarily for worship or any religious purpose;

(B) any building, structure or place used as a school or as an educational facility;

(C) any building, structure or place used by a non-profit or charitable business, corporation, firm, service or association;

(D) any grave, cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead;

(E) any agricultural property or agricultural infrastructure;

(F) any construction, mining or recycling facility, structure or site;

(G) any utility, utility service, telecommunication, telecommunication service, cable or video service facility, property, building, structure, site or component thereof;

(H) any municipal, county or state building, structure, site or property;

(I) any residential, commercial, industrial or agricultural irrigation, sprinkler or watering system or component thereof;

(J) the infrastructure of any residence, building or structure;

(K) any historical marker, plaque or work of art;

(L) any vehicle or transportation building, facility, structure, site or property; or

(M) any other building, structure, residence, facility, site, place, property, vehicle or any infrastructure thereof.

(c) 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.

(d) Aggravated criminal damage to property is a severity level 6, nonperson felony.

(e) (1) As used in subsection (b):

(A) "Infrastructure" includes any fixture to, attachment upon or part of a residence, building or structure's framework, electrical wiring and appurtenances, plumbing or heating and air systems; and

(B) "site" includes any area, place or location set aside for specific use or uses, including, but not limited to, storage, staging, repair, sorting, transportation, planning or organization.

(2) Any of the items or locations listed in subsection (b) shall include the curtilage, adjoining land and any improvements thereupon.

(3) Nothing in subsection (b) shall be construed to require the:

(A) Construction or existence of any door, gate, fence, barrier or wall; or

(B) existence of notice, postings or signs to potential trespassers.

(f) In determining the amount of damage to property, damages may include the cost of repair or replacement of the property that was damaged, the reasonable cost of the loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

KSA 21-5814 — Criminal use of an explosive

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. Â§ 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.

KSA 21-5815 — Criminal littering

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.

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, 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.

KSA 21-5816 — Tampering with a landmark

Tampering with a landmark.

(a) Tampering with a landmark is doing any of the following acts with the intent to fraudulently alter a boundary:

(1) Removing any monument of stone or other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land, or of the state, or any legal subdivision thereof;

(2) defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary;

(3) cutting down or removing any tree, post or other monument upon which any such marks have been made for such purpose, with intent to destroy such marks;

(4) defacing or altering any inscription on any such marker or monument; or

(5) altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of K.S.A.

58-2011

, and amendments thereto.

(b) Tampering with a landmark is a class C misdemeanor.

KSA 21-5817 — Tampering with a traffic signal; aggravated tampering with a traffic signal

Tampering with a traffic signal; aggravated tampering with a traffic signal.

(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 K.S.A.

21-5801

or

21-5802

, and amendments thereto.

KSA 21-5818 — Trespassing on a critical infrastructure facility; aggravated trespassing on a critical infrastructure facility; criminal damage to a critical infrastructure facility; aggravated criminal damage to a critical infrastructure facility

Trespassing on a critical infrastructure facility; aggravated trespassing on a critical infrastructure facility; criminal damage to a critical infrastructure facility; aggravated criminal damage to a critical infrastructure facility.

(a) Trespassing on a critical infrastructure facility is, without consent of the owner or the owner's agent, knowingly entering or remaining in:

(1) A critical infrastructure facility; or

(2) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization.

(b) Aggravated trespassing on a critical infrastructure facility is:

(1) Knowingly entering or remaining in:

(A) A critical infrastructure facility; or

(B) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization; and

(2) with the intent to damage, destroy or tamper with a critical infrastructure facility or impede or inhibit operations of the facility.

(c) Criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility.

(d) Aggravated criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility with the intent to impede or inhibit operations of the facility.

(e) (1) Trespassing on a critical infrastructure facility is a class A nonperson misdemeanor.

(2) Aggravated trespassing on a critical infrastructure facility is a severity level 7, nonperson felony.

(3) Criminal damage to a critical infrastructure facility is a severity level 6, nonperson felony.

(4) Aggravated criminal damage to a critical infrastructure facility is a severity level 5, nonperson felony.

(f) Nothing in this section shall be construed to prevent:

(1) An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or

(2) a person who violates the provisions of this section from being prosecuted for, convicted of and punished for any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A.

66-2303

, and amendments thereto.

(g) As used in this section, "critical infrastructure facility" means any:

(1) Petroleum or alumina refinery;

(2) electric generation facility, substation, switching station, electrical control center, electric distribution or transmission lines, or associated equipment infrastructure;

(3) chemical, polymer or rubber manufacturing facility;

(4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;

(5) natural gas compressor station;

(6) liquid natural gas or propane terminal or storage facility;

(7) facility or any aboveground or belowground line, cable or wire that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including:

(A) Backup power supplies;

(B) cable television headend;

(C) antennas, radio transceivers, towers, wireless support structures, small cell facilities and any associated support structures and accessory equipment; and

(D) related equipment buildings, cabinets and storage sheds, shelters or similar structures;

(8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;

(9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids;

(10) transmission facility used by a federally licensed radio or television station;

(11) steelmaking facility that uses an electric arc furnace to make steel;

(12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program, a facility operated by the office of laboratory services under the supervision of the secretary of health and environment pursuant to K.S.A.

75-5608

, and amendments thereto, the national bio and agro-defense facility or the biosecurity research institute at Kansas state university;

(13) dam that is regulated by the state as a hazard class B or C dam or by the federal government;

(14) natural gas distribution utility facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;

(15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or

(16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

KSA 21-5819 — Throwing or otherwise casting objects onto street, highway or railroad right-of-way or railroad property

Throwing or otherwise casting objects onto street, highway or railroad right-of-way or railroad property.

(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 article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto. An accused may be convicted for a violation of any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, 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 article 54 of chapter 21 of the Kansas Statutes Annotated and K.S.A.

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, and amendments thereto. An accused may be convicted for a violation of any other offense in article 54 of chapter 21 of the Kansas Statutes Annotated and K.S.A.

21-6418

, and amendments thereto, or this section, but not under both.

KSA 21-5820 — Unlawful posting of political pictures and political advertisements

Unlawful posting of political pictures and political advertisements.

(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.

KSA 21-5821 — Giving a worthless check

Giving a worthless check.

(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.

KSA 21-5822 — Causing an unlawful prosecution for giving a worthless check

Causing an unlawful prosecution for giving a worthless check.

(a) Causing an unlawful prosecution for giving a worthless check is filing a complaint before a magistrate or supplying information upon which a prosecution for giving a worthless check is commenced with knowledge that the check upon which such prosecution is based was postdated and such check was presented for payment prior to the postdated date or when the payee had knowledge, when such payee accepted such check, that there were no funds or insufficient funds in the hands of the financial institution to pay such check upon presentation and such check was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(b) Causing an unlawful prosecution for giving a worthless check is a class A nonperson misdemeanor.

(c) Any person convicted of violating this section shall pay the taxable costs of the prosecution initiated by such person or upon information supplied by such person.

KSA 21-5823 — Forgery

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.

KSA 21-5824 — Making false information

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.

KSA 21-5825 — Counterfeiting

Counterfeiting.

(a) Counterfeiting is manufacturing, using, displaying, advertising, distributing or possessing with intent to distribute any item or services knowing such item or services bear or are identified by a counterfeit mark.

(b) Counterfeiting is a:

(1) Severity level 7, nonperson felony if:

(A) The retail value of such item or service is $25,000 or more;

(B) such counterfeiting involves 1,000 or more items bearing a counterfeit mark; or

(C) a third or subsequent violation of this section;

(2) severity level 9, nonperson felony if:

(A) The retail value of such item or service is at least $1,000 but less than $25,000;

(B) such counterfeiting involves more than 100 but less than 1,000 items bearing a counterfeit mark; or

(C) a second violation of this section; and

(3) class A nonperson misdemeanor, if the retail value of such item or service is less than $1,000.

(c) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to distribute.

(d) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(e) As used in this section:

(1) "Counterfeit mark" means:

(A) Any unauthorized reproduction or copy of intellectual property; or

(B) intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property;

(2) "intellectual property" means any trademark, service mark or trade name as such terms are defined in K.S.A.

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, and amendments thereto; and

(3) "retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(f) The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes or possesses.

KSA 21-5826 — Destroying a written instrument

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.

KSA 21-5827 — Altering a legislative document

Altering a legislative document.

(a) Altering a legislative document is knowingly mutilating, altering or changing, otherwise than in the regular course of legislation, any act, bill or resolution introduced into or acted upon by either or both houses of the legislature of this state either before or after such act, bill or resolution has been signed by the governor.

(b) Altering a legislative document is a severity level 9, nonperson felony.

KSA 21-5828 — Criminal use of a financial card

Criminal use of a financial card.

(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.

KSA 21-5829 — Unlawful manufacture or disposal of false tokens

Unlawful manufacture or disposal of false tokens.

(a) Unlawful manufacture or disposal of false tokens is manufacturing for sale, offering for sale or giving away any false token, slug, substance, false or spurious coin or other device intended or calculated to be placed or deposited in any automatic vending machine, coin-operated telephone, parking meter or other such receptacle with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of such automatic vending machine, coin-operated telephone, parking meter or other receptacle designed to receive coins or currency of the United States of America in connection with the sale, use or enjoyment of property or service.

(b) Unlawful manufacture or disposal of false tokens is a class B nonperson misdemeanor.

(c) The manufacture for sale, advertising, offering for sale or distribution of any such false token, slug, substance, false or spurious coin or other device shall be prima facie evidence of an intent to cheat or defraud within the meaning of this section.

KSA 21-5830 — Impairing a security interest

Impairing a security interest.

(a) Impairing a security interest is, with intent to defraud the secured party:

(1) Damaging, destroying or concealing any personal property subject to a security interest;

(2) selling, exchanging or otherwise disposing of any personal property subject to a security interest without the written consent of the secured party, where such sale, exchange or other disposition is not authorized by the secured party under the terms of the security agreement; or

(3) failing to account to the secured party for the proceeds of the sale, exchange or other disposition of any personal property subject to a security interest, where such sale, exchange or other disposition is authorized and such accounting for proceeds is required by the secured party under the terms of the security agreement or otherwise.

(b) Impairing a security interest, when the personal property subject to the security interest is of the value of:

(1) $25,000 or more and is subject to a security interest of $25,000 or more is a severity level 7, nonperson felony;

(2) at least $1,000 and is subject to a security interest of at least $1,000 and either the value of the property or the security interest is less than $25,000 is a severity level 9, nonperson felony; and

(3) less than $1,000, or of the value of $1,000 or more but subject to a security interest of less than $1,000 is a class A nonperson misdemeanor.

KSA 21-5831 — Warehouse receipt fraud

Warehouse receipt fraud.

(a) Warehouse receipt fraud is making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering by a warehouseman, or any officer, agent or employee of a warehouseman, of:

(1) A negotiable receipt for goods with knowledge that the goods for which the receipt is issued have not actually been received by the warehouseman, or are not under the warehouseman's actual control at the time of issuing the receipt;

(2) a negotiable receipt for goods with knowledge that the receipt contains a false statement; or

(3) a duplicate or additional negotiable receipt for goods with knowledge that a former negotiable receipt for the same goods or any part thereof is outstanding and uncanceled, without plainly placing on the face thereof the word "duplicate," except in the case of a lost, stolen or destroyed receipt after proceedings as provided in K.S.A.

34-257

or subsection (a) of K.S.A. 2025 Supp.

84-7-601

, and amendments thereto.

(b) Warehouse receipt fraud is a severity level 10, nonperson felony.

KSA 21-5832 — Unauthorized delivery of stored goods

Unauthorized delivery of stored goods.

(a) Unauthorized delivery of stored goods is delivery of goods out of the possession of a warehouseman by such warehouseman, or any officer, agent or employee of such warehouseman, with knowledge that a negotiable receipt, the negotiation of which would transfer the right to the possession of such goods, is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery except:

(1) In the case of a lost, stolen or destroyed receipt, after proceedings as provided in subsection (a) of K.S.A. 2025 Supp.

84-7-601

, and amendments thereto;

(2) in the case of delivery in good faith as provided in subsection (b) of K.S.A. 2025 Supp.

84-7-206

, and amendments thereto;

(3) in the case of optional termination of storage as provided in K.S.A. 2025 Supp.

84-7-206

, and amendments thereto;

(4) in the case of a lost or destroyed receipt, after proceedings as provided in K.S.A.

34-257

, and amendments thereto; or

(5) in the case of sale as provided in K.S.A.

34-276

, and amendments thereto.

(b) Unauthorized delivery of stored goods is a class A nonperson misdemeanor.

KSA 21-5833 — Automobile master key violation

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).

KSA 21-5834 — Sale of recut or regrooved tires

Sale of recut or regrooved tires.

(a) Sale of recut or regrooved tires is the sale, offer to sell or exposure for sale of any passenger vehicle tire which the person knows to have been recut or regrooved, or the sale, offer to sell or exposure for sale of any passenger vehicle equipped with any tire which is known to have been recut or regrooved.

(b) Sale of recut or regrooved tires is a class B nonperson misdemeanor.

(c) As used in this section:

(1) "Recut or regrooved tire" means an unretreated or unrecapped tire into which new grooves have been cut or burned; and

(2) "passenger vehicle" means the same as in K.S.A.

8-126

, and amendments thereto.

KSA 21-5835 — Unlawful acts concerning odometers

Unlawful acts concerning odometers.

(a) It is unlawful for any person:

(1) To knowingly tamper with, adjust, alter, change, set back, disconnect or fail to connect the odometer of any motor vehicle, or cause any of the foregoing to occur to an odometer of a motor vehicle, so as to reflect a lower mileage than the true mileage traveled by the motor vehicle;

(2) with the intent to defraud, to operate a motor vehicle on any street or highway knowing that the odometer of the motor vehicle is disconnected or nonfunctional;

(3) to advertise for sale, sell, use or install on any part of a motor vehicle or on any odometer in a motor vehicle any device which the person knows can cause the odometer to register any mileage other than the true mileage; or

(4) to sell or offer to sell, with the intent to defraud, a motor vehicle knowing that the odometer of such motor vehicle was tampered with, adjusted, altered, changed, set back, disconnected or failed to be connected so as to reflect a lower mileage than the true mileage of such motor vehicle.

(b) Nothing in this section shall prevent the service, repair or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair or replacement. If the odometer is incapable of registering the same mileage as before such service, repair or replacement, the odometer shall be adjusted to read zero and a notice shall be attached permanently to the left door frame of the vehicle by the owner or owner's agent specifying the mileage prior to repair or replacement of the odometer, the date on which it was repaired or replaced and the vehicle identification number except that it shall be unlawful for any person to:

(1) Fail to adjust an odometer or affix a notice regarding such adjustment, as required under this subsection; or

(2) remove or alter any notice affixed to a vehicle pursuant to the provisions of this subsection.

(c) Violation of this section is a severity level 9, nonperson felony.

(d) The provisions of this section shall not apply to antique motor vehicles which could be registered under the provisions of K.S.A.

8-166

et seq., and amendments thereto, or to special interest vehicles which could be registered under the provisions of K.S.A.

8-194

et seq., and amendments thereto.

(e) As used in this section:

(1) "Motor vehicle" means any vehicle other than a motorized bicycle which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, and amendments thereto;

(2) "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, and amendments thereto, except that such term shall not include motorized bicycles or mobile homes;

(3) "true mileage" means the actual mileage the motor vehicle has been driven;

(4) "person" means an individual, partnership, corporation or association; and

(5) "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation, but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

(f) Every action pursuant to this section shall be brought in the district court of any county in which there occurred any act or practice declared to be a violation of this section, or in which the defendant resides or has such person's principal place of business.

KSA 21-5836 — Unlawful acts concerning certificates of title

Unlawful acts concerning certificates of title.

(a) It shall be unlawful to transfer ownership to any vehicle, manufactured home or mobile home and knowingly fail to show oneself on the transferred certificate of title.

(b) Violation of this section is a class C misdemeanor.

KSA 21-5837 — Adding dockage or foreign material to grain

Adding dockage or foreign material to grain.

(a) Adding dockage or foreign material to grain is knowingly:

(1) Adding dockage or foreign material to any grain to be marketed; or

(2) recombining any dockage or foreign material once removed from grain with any grain which is to be marketed.

(b) Adding dockage or foreign material to grain is a severity level 9, nonperson felony.

(c) Nothing in this section shall be construed to prohibit:

(1) The treatment of grain to control insects, dust or fungi injurious to stored grain;

(2) the blending of grain with similar grain of a different quality to adjust the quality of a resulting mixture;

(3) the marketing of dockage or foreign materials removed from grain if such dockage or foreign material is marketed separately;

(4) the recombination of broken corn or broken kernels as defined by the administrator of the federal grain inspection service under the federal grain quality improvement act of 1986 with grain of the type from which the broken corn or broken kernels were derived; or

(5) other practices as may be authorized by the United States secretary of agriculture, as of July 1, 1987, under the federal grain quality improvement act of 1986.

(d) As used in this section:

(1) "Foreign material" means dirt, rock, sand, sticks or manure, or any combination of such material defined as foreign material by the United States secretary of agriculture, as of July 1, 1987, under the federal grain quality improvement act of 1986; and

(2) "dockage" means the same as provided by the United States secretary of agriculture, as of July 1, 1987, under the federal grain quality improvement act of 1986.

KSA 21-5838 — Conducting a pyramid promotional scheme

Conducting a pyramid promotional scheme.

(a) Conducting a pyramid promotional scheme is knowingly establishing, operating, advertising or promoting any pyramid promotional scheme.

(b) Conducting a pyramid promotional scheme is a severity level 9, nonperson felony.

(c) A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation does not change the identity of the scheme as a pyramid promotional scheme.

(d) It is not a defense under this section that a participant, on giving consideration, obtains any goods, services or intangible property in addition to the right to receive compensation.

(e) The provisions of this section shall not be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, if the participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services or intangible property for personal use, consumption or resale if the plan or operation does not cause inventory loading.

(f) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

(g) As used in this section:

(1) "Pyramid promotional scheme" means any plan or operation by which a person gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other persons into the plan or operation rather than from the sale and consumption of goods, services or intangible property by a participant or other persons introduced into the plan or operation.

(2) "Compensation" means a payment of any money, a thing of value or financial benefit conferred in return for inducing another person to participate in a pyramid promotional scheme.

(3) "Consideration" means the payment of cash or the purchase of goods, services or intangible property. "Consideration" does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, or time and effort spent in pursuit of sales or recruiting activities. "Consideration" does not include payment for sales demonstration, equipment and materials furnished at cost for use in making sales and not for resale.

(4) "Inventory" means both goods and services, including, but not limited to, company-produced promotional materials, sales aids and sales kits that an entity requires independent salespersons to purchase.

(5) "Inventory loading" means the requirement or encouragement by a plan or operation to have the independent salesperson of the plan or operation purchase inventory in an amount that exceeds the amount that the salesperson can expect to resell for ultimate consumption or to use or consume in a reasonable time period, or both.

(6) "Person" means an individual, corporation, trust, estate, partnership, unincorporated association or any other legal or commercial entity.

(7) "Promote" means to contrive, prepare, establish, plan, operate, advertise or otherwise induce or attempt to induce another person to participate in a pyramid promotional scheme.

KSA 21-5839 — Unlawful acts concerning computers

Unlawful acts concerning computers.

(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, computer network, social networking website or personal electronic content; or

(5) knowingly and without authorization, access or attempt to access any computer, computer system, social networking website, computer network or computer software, program, documentation, data or property contained in any computer, computer system or computer network.

(b) (1) Except as provided in (b)(2), violation of subsections (a)(1), (a)(2) or (a)(3) is a severity level 8, nonperson felony.

(2) Violation of subsections (a)(1), (a)(2) or (a)(3) is a severity level 5, nonperson felony if the monetary loss to the victim or victims is more than $100,000.

(3) 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) "personal electronic content" means the electronically stored content of an individual including, but not limited to, pictures, videos, emails and other data files;

(9) "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;

(10) "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;

(11) "social networking website" means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system; and

(12) "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.

KSA 21-5840 — Counterfeiting currency

Counterfeiting currency.

(a) Counterfeiting currency is:

(1) Making, forging or altering any note, currency, obligation or security of the United States with the intent to defraud;

(2) distributing, or possessing with the intent to distribute, any note, currency, obligation or security of the United States knowing such note, currency, obligation or security has been made, forged or altered with the intent to defraud; or

(3) possessing any paper, ink, printer, press, currency plate, computer or other item with the intent to make, forge or alter any note, currency, obligation or security of the United States.

(b) Counterfeiting currency as defined in:

(1) Subsection (a)(1) or (a)(2) is a:

(A) Severity level 7, nonperson felony, if the total face value of the notes, currency, obligations or securities is $25,000 or more; and

(B) severity level 8, nonperson felony, if the total face value of the notes, currency, obligations or securities is less than $25,000; and

(2) subsection (a)(3) is a severity level 9, nonperson felony.

(c) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5841 — Organized retail crime

Organized retail crime.

(a) Organized retail crime 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) Acting in concert with one or more other persons to:

(A) Receive, purchase, sell or possess merchandise with an aggregate retail market value of $5,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen; or

(B) take merchandise with an aggregate retail market value of $5,000 or more from one or more retailers within a 12-month period, as part of an organized plan to commit theft; or

(2) recruiting, coordinating, organizing, supervising, directing, managing or financing one or more other persons to undertake any of the acts described in paragraph (1).

(b) Organized retail crime:

(1) Involving merchandise with an aggregate retail market value of at least $5,000 but less than $25,000 is a severity level 6, nonperson felony;

(2) involving merchandise with an aggregate retail market value of at least $25,000 but less than $100,000 is a severity level 5, nonperson felony; and

(3) involving merchandise with an aggregate retail market value of $100,000 or more is a severity level 4, nonperson felony.

(c) In addition to the venue provided for under any other provision of law, a prosecution for organized retail crime may be brought in any county where at least $1 in aggregate retail market value of merchandise is taken, received, sold or purchased.

(d) As used in this section:

(1) "Aggregate retail market value" means the total combined value of merchandise taken, at the price at which the merchandise would ordinarily be sold by the retailer through legitimate sale or distribution;

(2) "merchandise" means chattels of any type or description regardless of the value offered for sale in or about a store;

(3) "retailer" means a person or business selling, leasing or facilitating the sale or lease of merchandise to the public or a business; and

(4) "store" means a place where merchandise is:

(A) Sold or offered to the public for sale at retail; or

(B) leased or offered to the public for lease.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-5901 — Treason

Treason.

(a) Treason is intentionally levying war against the state, adhering to its enemies, or giving them aid and comfort.

(b) Treason is an off-grid person felony.

(c) No person shall be convicted of treason unless on the evidence of two witnesses to the overt act or confession in open court.

KSA 21-5902 — Sedition

Sedition.

(a) Sedition is advocating, or with knowledge of its contents knowingly publishing or distributing any document which advocates, or, with knowledge of its purpose, knowingly becoming a member of any organization which advocates the overthrow or reformation of the existing form of government of this state by violence or unlawful means.

(b) Sedition is a severity level 7, nonperson felony.

KSA 21-5903 — Perjury

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 the penalty of perjury the affidavit as provided in K.S.A.

25-1121

(c), 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.

KSA 21-5904 — Interference with law enforcement

Interference with law enforcement.

(a) Interference with law enforcement is:

(1) Falsely reporting to a law enforcement officer, law enforcement agency or state investigative agency:

(A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

(B) that a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

(C) any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or

(D) any information concerning the death, disappearance or potential death or disappearance of a child under the age of 13, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

(2) concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person;

(3) 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; or

(4) knowingly fleeing from a law enforcement officer, other than fleeing by operation of a motor vehicle, when the law enforcement officer has:

(A) Reason to stop the person under K.S.A.

22-2402

, and amendments thereto; and

(B) given the person visual or audible signal to stop.

(b) Interference with law enforcement as defined in:

(1) Subsection (a)(1)(A) and (a)(1)(B) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 8, nonperson felony in the case of a felony;

(2) subsection (a)(1)(C) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) severity level 9, nonperson felony in the case of a felony;

(3) subsection (a)(1)(D) is a severity level 8, nonperson felony;

(4) subsection (a)(2) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(4)(B); and

(B) severity level 8, nonperson felony in the case of a felony;

(5) subsection (a)(3) 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; and

(6) subsection (a)(4) is a:

(A) Class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case;

(B) severity level 7, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and

(C) severity level 5, nonperson felony if the offender discharged or used a firearm while fleeing.

KSA 21-5905 — Interference with the judicial process

Interference with the judicial process.

(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 to improperly 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;

(5) knowingly or intentionally in any criminal proceeding or investigation:

(A) Inducing a witness or informant to withhold or unreasonably delay in producing any testimony, information, document or thing;

(B) withholding or unreasonably delaying in producing any testimony, information, document or thing after a court orders the production of such testimony, information, document or thing;

(C) altering, damaging, removing or destroying any record, document or thing, with the intent to prevent it from being produced or used as evidence; or

(D) making, presenting or using a false record, document or thing with the intent that the record, document or thing, material to such criminal proceeding or investigation, appear in evidence to mislead a justice, judge, magistrate, master or law enforcement officer;

(6) 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; or

(7) knowingly making available by any means personal information about a judge or the judge's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat.

(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) is a:

(A) Severity level 8, nonperson felony if the matter or case involves a felony; or

(B) class A nonperson misdemeanor if the matter or case involves a misdemeanor;

(5) subsection (a)(6)(A) is a severity level 7, nonperson felony;

(6) subsection (a)(6)(B) or (a)(6)(C) is a severity level 9, nonperson felony; and

(7) subsection (a)(7) is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(7)(B); and

(B) severity level 9, person felony upon a second or subsequent conviction.

(c) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.

(d) As used in this section:

(1) "Immediate family member" means a judge's spouse, child, parent or any other blood relative who lives in the same residence as such judge.

(2) "Judge" means any duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge.

(3) "Personal information" means a judge's home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, immediate family member photograph, photograph of the judge's home, and information about the judge's motor vehicle, any immediate family member's motor vehicle, any immediate family member's place of employment, any immediate family member's child care or day care facility and any immediate family member's public or private school that offers instruction in any or all of the grades kindergarten through 12.

KSA 21-5906 — Criminal disclosure of a warrant

Criminal disclosure of a warrant.

(a) Criminal disclosure of a warrant is recklessly making public in any way, prior to the execution of such warrant the:

(1) Fact that a search warrant or warrant for arrest has been applied for or issued; or

(2) contents of the affidavit or testimony on which such warrant is based.

(b) Criminal disclosure of a warrant is a class B nonperson misdemeanor.

(c) Criminal disclosure of a warrant shall not apply:

(1) When disclosure of the warrant is made at the request of a law enforcement officer for the purpose of assisting in the execution of such warrant;

(2) to personnel of a law enforcement agency disclosing a warrant:

(A) For the purpose of encouraging the person named in the warrant to voluntarily surrender; or

(B) issued in a case involving the abduction of a child unless such disclosure is specifically prohibited by the court issuing such warrant.

KSA 21-5907 — Simulating legal process

Simulating legal process.

(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 legal process, with the intent to mislead the recipient and cause the recipient to take action in reliance thereon; 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.

KSA 21-5908 — Definitions for K.S.A. 21-5909 and 29-5910

Definitions for K.S.A.

21-5909

and 29-5910.

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.

KSA 21-5909 — Intimidation of a witness or victim; aggravated intimidation of a witness or victim

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, judicial officer, the secretary for children and families, the secretary for aging and disability services, or any agent or representative of either secretary, or any person required to make a report pursuant to K.S.A.

38-2223

, and amendments thereto;

(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) 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 that, 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.

KSA 21-5910 — Civil remedies; court orders authorized; penalties; pretrial release

Civil remedies; court orders authorized; penalties; pretrial release.

(a) In its discretion and upon good cause, which may include, but is not limited to, the declaration of a party's attorney, to believe that intimidation or dissuasion of any victim or witness has occurred or is reasonably likely to occur, any court having jurisdiction over any civil or criminal matter may issue any reasonable order necessary to remedy or prevent the intimidation or dissuasion, including, but not limited to, an order that:

(1) Any person before the court, including but not limited to a party, subpoenaed witness or other person entering the courtroom of the court, not violate any provision of this section or K.S.A.

21-5909

, and amendments thereto;

(2) any person described in this section maintain a prescribed geographic distance from any specified witness or victim;

(3) any person described in this section have no communication whatsoever with any specified witness or victim, except through an attorney under such reasonable restrictions as the court imposes;

(4) calls for a hearing to determine if an order described in subsection (a)(1), (a)(2) or (a)(3) should be issued; or

(5) a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or witness.

(b) Actions by a law enforcement agency pursuant to an order issued under subsection (a)(5) shall be considered to be police protection within the exemption from liability under the Kansas tort claims act for damages resulting from the failure

to provide, or the method of providing, police protection.

(c) Violation of an order entered pursuant to subsection (a) may be punished in any of the following ways:

(1) In the manner provided by K.S.A.

21-5909

, and amendments thereto, when applicable;

(2) as a contempt of the court making the order. No finding of contempt shall be a bar to prosecution for a violation of K.S.A.

21-5909

, and amendments thereto, but:

(A) Any person held in contempt shall be entitled to have any punishment imposed for contempt to be credited against any sentence imposed upon conviction of a violation of K.S.A.

21-5909

, and amendments thereto; and

(B) any conviction or acquittal of a violation of subsection (a) or K.S.A.

21-5909

, and amendments thereto, shall be a bar to subsequent punishment for contempt arising out of the same act; or

(3) by revocation of any form of pretrial release of a criminal defendant or by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant into custody. After a hearing and upon a showing by clear and convincing evidence, the court, in its sound discretion, may order the revocation whether the violation was committed by the defendant personally or in any way caused or encouraged it to be committed.

(d) (1) Any pretrial release of any criminal defendant, whether on bail or under another form of recognizance, shall be considered as a matter of law to include a condition that the defendant will not commit, cause to be committed or knowingly permit to be committed, on the defendant's behalf, any violation of this section or K.S.A.

21-5909

, and amendments thereto. Knowing violation of that condition is subject to the sanction provided by subsection (c)(3) whether or not the defendant was the subject of an order under subsection (a).

(2) Any receipt for any bail or bond given by any court, or by any surety or bondsman and any written promise to appear on one's own recognizance shall contain notice of the provisions of subsection (d)(1) in a conspicuous location.

(3) Any pretrial release of any criminal defendant whether on bail or under another form of recognizance who requests and is entitled to the assistance of counsel under the provisions of K.S.A.

22-4503

, and amendments thereto, shall be considered as a matter of law to include a condition that the defendant shall pay the application fee prescribed by K.S.A.

22-4529

, and amendments thereto, and the failure to pay such fee shall constitute a violation of this section. Knowing violation of such condition is subject to the sanction provided by subsection (c)(3) whether or not the defendant was the subject of an order under subsection (a).

KSA 21-5911 — Escape from custody; aggravated escape from custody

Escape from custody; aggravated escape from custody.

(a) Escape from custody is escaping while held in custody on a:

(1) Charge, conviction of or arrest for a misdemeanor;

(2) charge, adjudication or arrest 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 an adjudication of a misdemeanor.

(b) Aggravated escape from custody is:

(1) Escaping while held in custody:

(A) Upon a charge, conviction of or arrest for a felony;

(B) upon a charge, adjudication or arrest 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:

(A) Departure from custody without lawful authority; or

(B) failure to return to custody following temporary leave lawfully granted by:

(i) Express authorization of law;

(ii) order of a court; or

(iii) a custodial official authorized to grant such leave;

(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.

(e) As used in this section, the term "charge" shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.

KSA 21-5912 — Aiding escape

Aiding escape.

(a) Aiding escape is:

(1) Assisting another who is in custody to escape from such custody; or

(2) supplying to another who is in custody any object or thing adapted or designed for use in making an escape; or

(3) introducing into an institution in which a person is confined any object or thing adapted or designed for use in making any escape.

(b) Aiding escape is a:

(1) Severity level 8, nonperson felony, except as provided in subsection (b)(2); and

(2) severity level 4, nonperson felony if such aiding escape is 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) As used in this section "custody" includes custody on a charge or conviction of crime, on a charge or adjudication of a misdemeanor or felony, or on 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.

KSA 21-5913 — Obstructing apprehension or prosecution

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.

KSA 21-5914 — Traffic in contraband in a correctional institution or care and treatment facility

Traffic in contraband in a correctional institution or care and treatment facility.

(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 that 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 for aging and disability 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 subsection (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 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, and such person is either: (1) 21 years of age or older; or (2) possesses a valid provisional license issued pursuant to K.S.A.

75-7c03

, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A.

75-7c03

, and amendments thereto.

(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 Kansas department for aging and disability 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.

KSA 21-5915 — Failure to appear; aggravated failure to appear

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).

KSA 21-5916 — False signing of a petition

False signing of a petition.

(a) False signing of a petition is knowingly affixing any fictitious or unauthorized signature to any petition, memorial or remonstrance, intended to be presented to the legislature, or either house thereof, or to any agency or officer of the state

of Kansas or any of its political subdivisions.

(b) False signing of a petition is a class C misdemeanor.

KSA 21-5917 — False impersonation; aggravated false impersonation

False impersonation; aggravated false impersonation.

(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.

KSA 21-5918 — Dealing in false identification documents; vital records identity fraud

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.

KSA 21-5919 — Performance of an unauthorized official act

Performance of an unauthorized official act.

(a) Performance of an unauthorized official act is knowingly and without lawful authority:

(1) Conducting a marriage ceremony; or

(2) certifying an acknowledgment of the execution of any document which by law may be recorded.

(b) Performance of an unauthorized official act is a class B nonperson misdemeanor.

KSA 21-5920 — Tampering with a public record

Tampering with a public record.

(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.

KSA 21-5921 — Tampering with public notice

Tampering with public notice.

(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.

KSA 21-5922 — Interference with the conduct of public business in public buildings; aggravated interference with the conduct of public business

Interference with the conduct of public business in public buildings; aggravated interference with the conduct of public business.

(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.

KSA 21-5923 — Unlawful disclosure of authorized interception of wire, oral or electronic communications

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.

KSA 21-5924 — Violation of a protective order; extended protective orders; penalties

Violation of a protective order; extended protective orders; penalties.

(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

or

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. Â§ 2265, and amendments thereto;

(3) a restraining order issued pursuant to K.S.A. 2025 Supp.

23-2707

,

38-2243

,

38-2244

or

38-2255

, and amendments thereto, or K.S.A.

60-1607

, prior to its transfer;

(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, sexual assault or human trafficking order issued pursuant to K.S.A.

60-31a05

or

60-31a06

, and amendments thereto.

(b) (1) Violation of a protective order is a class A person misdemeanor, except as provided in subsection (b)(2).

(2) Violation of an extended protective order as described in K.S.A.

60-3107

(e)(2), and amendments thereto, and K.S.A.

60-31a06

(d), and amendments thereto, is a severity level 6, person felony.

(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.

KSA 21-5925 — Citation of act

Citation of act.

K.S.A.

21-5925

through

21-5934

and K.S.A.

75-725

and

75-726

, and amendments thereto, shall be known and may be cited as the Kansas medicaid fraud control act.

KSA 21-5926 — Definitions

Definitions.

As used in the Kansas medicaid fraud control act:

(a) "Aggregate amount of payments illegally claimed" means the greater of: (1) The actual pecuniary harm resulting from the offense; (2) the pecuniary harm that was intended to result from the offense; or (3) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim exceeded the allowed value. The aggregate dollar amount of fraudulent claims submitted to the medicaid program shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount of payments illegally claimed, if not rebutted;

(b) "attorney general" means the attorney general, employees of the attorney general or authorized representatives of the attorney general;

(c) "benefit" means the receipt of money, goods, items, facilities, accommodations or anything of pecuniary value;

(d) "claim" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the medicaid program, or its fiscal agents, or which states income or expense and is or may be used to determine a rate of payment by the medicaid program, or its fiscal agent;

(e) "fiscal agent" means any corporation, firm, individual, organization, partnership, professional association or other legal entity which, through a contractual relationship with the Kansas department of health and environment division of health care finance and thereby, the state of Kansas, receives, processes and pays claims under the medicaid program;

(f) "family member" means spouse, child, grandchild of any degree, parent, mother-in-law, father-in-law, grandparent of any degree, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, uncle, aunt, nephew or niece, whether biological, step or adoptive;

(g) "medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended as administered by the Kansas department of health and environment division of health care finance, or its fiscal agent, or any successor federal or state, or both, health insurance program or waiver granted thereunder;

(h) "medically necessary" means for the purposes of the Kansas medicaid fraud control act only, any goods, service, item, facility, or accommodation, that a reasonable and prudent provider under similar circumstances would believe is appropriate for diagnosing or treating a recipient's condition, illness or injury;

(i) "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm;

(j) "person" means any agency, association, corporation, firm, limited liability company, limited liability partnership, natural person, organization, partnership or other legal entity, the agents, employees, independent contractors, and subcontractors, thereof, and the legal successors thereto, and any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program;

(k) "provider" means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the medicaid program, by providing or claiming to have provided goods, services, items, facilities or accommodations;

(l) "recipient" means an individual, either real or fictitious, in whose behalf any person claimed or received any payment or payments from the medicaid program, or its fiscal agent, whether or not any such individual was eligible for benefits under the medicaid program;

(m) "records" mean all written documents and electronic or magnetic data, including, but not limited to, medical records, X-rays, professional, financial or business records relating to the treatment or care of any recipient; goods, services, items, facilities or accommodations provided to any such recipient; rates paid for such goods, services, items, facilities or accommodations; and goods, services, items, facilities, or accommodations provided to nonmedicaid recipients to verify rates or amounts of goods, services, items, facilities or accommodations provided to medicaid recipients, as well as any records that the medicaid program, or its fiscal agents require providers to maintain;

(n) "sign" means to affix a signature, directly or indirectly, by means of handwriting, typewriter, stamp, computer impulse or other means; and

(o) "statement or representation" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic, or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the medicaid program, or its fiscal agent, or that states income or expense and is or may be used to determine a rate of payment by the medicaid program, or its fiscal agent.

KSA 21-5927 — Making false claim, statement or representation to the medicaid program

Making false claim, statement or representation to the medicaid program.

(a) Medicaid fraud is:

(1) With intent to defraud, making, presenting, submitting, offering or causing to be made, presented, submitted or offered:

(A) Any false or fraudulent claim for payment for any goods, service, item, facility * accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(B) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(C) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(D) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(E) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;

(F) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(G) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(H) any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of the Kansas department for aging and disability services, Kansas department of health and environment, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program; or

(I) any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program; or

(2) intentionally executing or attempting to execute a scheme or artifice to defraud the medicaid program or any contractor or subcontractor thereof.

(b) (1) Except as provided in subsection (b)(2), for each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the aggregate amount of payments illegally claimed is:

(A) $250,000 or more, medicaid fraud is a severity level 3, nonperson felony;

(B) at least $100,000 but less than $250,000, medicaid fraud is a severity level 5, nonperson felony;

(C) at least $25,000 but less than $100,000, medicaid fraud is a severity level 7, nonperson felony;

(D) at least $1,000 but less than $25,000, medicaid fraud is a severity level 9, nonperson felony; and

(E) less than $1,000, medicaid fraud is a class A nonperson misdemeanor.

(2) For each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2):

(A) When great bodily harm results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 4, person felony, except as provided in subsection (b)(2)(B); and

(B) when death results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 1, person felony.

(3) Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I) is a severity level 9, nonperson felony.

(c) In determining what is medically necessary pursuant to subsection (a)(1)(F), the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.

(d) In sentencing for medicaid fraud, subsection (c)(3) of K.S.A.

21-6815

, and amendments thereto, shall not apply and an act or omission by the defendant that resulted in any medicaid recipient receiving any service that was of lesser quality or amount than the service to which such recipient was entitled may be considered an aggravating factor in determining whether substantial and compelling reasons for departure exist pursuant to K.S.A.

21-6801

through

21-6824

, and amendments thereto.

(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.

KSA 21-5928 — Unlawful acts relating to the medicaid program

Unlawful acts relating to the medicaid program.

(a) No recipient of medicaid benefits, family member of such recipient, or provider of medicaid services shall intentionally:

(1) Solicit or receive any remuneration, including but not limited to any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind:

(A) In return for referring or refraining from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program;

(2) offer or pay any remuneration, including, but not limited to, any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(A) To refer or refrain from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(3) divide or share any funds illegally obtained from the medicaid program.

(b) No medicaid recipient shall intentionally trade a medicaid number for money or other remuneration, sign for services that are not received by the medicaid recipient or sell or exchange for value goods purchased or provided under the medicaid program.

(c) A violation of this section is a severity level 7, nonperson felony.

(d) This section shall not apply to a refund, discount, copayment, deductible, incentive or other reduction obtained by a provider in the ordinary course of business, and appropriately reflected in the claims or reports submitted to the medicaid program, or its fiscal agent, nor shall it be construed to prohibit deductibles, copayments or any other cost or risk sharing arrangements which are a part of any program operated by or pursuant to contracts with the medicaid program.

KSA 21-5929 — Obstruction of a medicaid fraud investigation

Obstruction of a medicaid fraud investigation.

(a) Obstruction of a medicaid fraud investigation is intentionally engaging in one or more of the following during an investigation of any matter pursuant to K.S.A.

21-5925

through

21-5934

and K.S.A.

75-725

and

75-726

, and amendments thereto:

(1) Falsifying, concealing or covering up a material fact by any trick, misstatement, scheme or device; or

(2) making or causing to be made any materially false writing or document knowing that such writing or document contains any false, fictitious or fraudulent statement or entry.

(b) Obstruction of a medicaid fraud investigation is a severity level 9, nonperson felony.

KSA 21-5930 — Failure to maintain adequate records

Failure to maintain adequate records.

(a) Failure to maintain adequate records is negligently failing to maintain such records as are necessary to disclose fully:

(1) The nature of the goods, services, items, facilities or accommodations for which a claim was submitted or payment was received under the medicaid program; or

(2) all income and expenditures upon which rates of payment were based under the medicaid program.

(b) Failure to maintain adequate records is a class A, nonperson misdemeanor.

(c) Upon submitting a claim for or upon receiving payment for goods, services, items, facilities or accommodations under the medicaid program, a person shall maintain adequate records for five years after the date on which payment was received, if payment was received, or for five years after the date on which the claim was submitted, if the payment was not received.

KSA 21-5931 — Destruction or concealment of records

Destruction or concealment of records.

(a) Destruction or concealment of records is intentionally destroying or concealing such records as are necessary to disclose fully:

(1) The nature of the goods, services, items, facilities or accommodations for which a claim was submitted or payment was received under the medicaid program; or

(2) all income and expenditures upon which rates of payment were based under the medicaid program.

(b) Destruction or concealment of records is a severity level 9, nonperson felony.

(c) Upon submitting a claim for or upon receiving payment for goods, services, items, facilities or accommodations under the medicaid program, a person shall not destroy or conceal any records for five years after the date on which payment was received, if payment was received, or for five years after the date on which the claim was submitted, if the payment was not received.

KSA 21-5932 — Defense of actions

Defense of actions.

Offers of repayment or repayment occurring after the filing of criminal charges of payments, goods, services, items, facilities or accommodations wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought pursuant to K.S.A.

21-5925

through

21-5934

and K.S.A.

75-725

and

75-726

, and amendments thereto.

KSA 21-5933 — Penalties; medicaid fraud reimbursement fund; medicaid fraud prosecution revolving fund

Penalties; medicaid fraud reimbursement fund; medicaid fraud prosecution revolving fund.

(a) In addition to any other criminal penalties provided by law, any person convicted of a violation of the Kansas medicaid fraud control act may be liable for all of the following:

(1) Payment of full restitution of the amount of the excess payments;

(2) payment of interest on the amount of any excess payments at the maximum legal rate in effect on the date the payment was made to the person for the period from the date upon which payment was made, to the date upon which repayment is made; and

(3) payment of all reasonable expenses that have been necessarily incurred in the enforcement of the Kansas medicaid fraud control act including, but not limited to, the costs of the investigation, litigation and attorney fees.

(b) In addition to any other criminal penalties provided by law, any person convicted of a violation of the Kansas medicaid fraud control act shall, upon request of the attorney general at any time prior to sentencing, be subject to a fine of not less than $1,000 and not more than $11,000 for each violation of such act.

(c) All moneys recovered pursuant to subsection (a)(1) and (2), shall be remitted 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 medicaid fraud reimbursement fund, which is hereby established in the state treasury. Moneys in the medicaid fraud reimbursement fund shall be divided and payments made from such fund to the federal government and affected state agencies for the refund of moneys falsely obtained from the federal and state governments.

(d) All moneys recovered pursuant to subsection (a)(3) shall be remitted 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 medicaid fraud prosecution revolving fund, which is hereby established in the state treasury. Moneys in the medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any county or district attorney who has successfully prosecuted an action for a violation of the Kansas medicaid fraud control act and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such county or district attorney in connection with their duties provided by the Kansas medicaid fraud control act. No moneys shall be paid into the medicaid fraud prosecution revolving fund pursuant to this section unless the attorney general or appropriate county or district attorney has commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorney fees and investigative costs is appropriate under all the circumstances, and the attorney general, or county or district attorney has proven to the court that the expenses were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary.

(e) All moneys recovered pursuant to subsection (b) shall be remitted 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 false claims litigation revolving fund established by K.S.A.

75-7508

, and amendments thereto.

KSA 21-5934 — Other remedies available as provided by law

Other remedies available as provided by law.

The provisions of K.S.A.

21-5925

through

21-5934

and K.S.A.

75-725

and

75-726

, and amendments thereto, are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy.

KSA 21-5935 — Failure to register an aircraft

Failure to register an aircraft.

(a) Failure to register an aircraft is possessing an aircraft knowing that is not registered in accordance with the regulations of the federal aviation administration contained in title 14, chapter 1, parts 47-49 of the code of federal regulations.

(b) Failure to register an aircraft is a severity level 8, nonperson felony.

(c) The provisions of this section do not apply to any aircraft registration or information supplied by a governmental entity in the course and scope of performing its lawful duties.

KSA 21-5936 — Fraudulent aircraft registration

Fraudulent aircraft registration.

(a) Fraudulent aircraft registration is:

(1) Owning, possessing, or operating any aircraft in this state knowing that it is registered to a nonexistent person, firm, business or corporation or to a firm, business or corporation that is no longer a legal entity;

(2) knowingly supplying false information by any person to a governmental entity in regard to the name, address, business name or business address of the owner of an aircraft in or operated in the state; or

(3) knowingly supplying false information by any person, firm, business or corporation to any governmental entity in regard to ownership by such person, firm, business or corporation or another firm, business or corporation of an aircraft in or operated in this state if it is determined that such firm, business or corporation:

(A) Is not, or has never been, a legal entity in this state;

(B) is not, or has never been, a legal entity in any other state; or

(C) has lapsed into a state of no longer being a legal entity in this state, and no documented attempt has been made to correct such information with the governmental entity for a period of 90 days after the date on which such lapse took effect with the secretary of state.

(b) Fraudulent aircraft registration is a severity level 8, nonperson felony.

(c) This section does not apply to any aircraft registration or information supplied by a governmental entity in the course and scope of performing its lawful duties.

(d) For the purposes of this section, a firm, business, or corporation that is no longer a legal entity includes any firm, business or corporation that has:

(1) No physical location;

(2) no corporate officers; or

(3) lapsed into an inactive state or been dissolved by order of the secretary of state for a period of at least 90 days and during such period no documented attempt is made to either reinstate the firm, business or corporation or to register its aircraft in the name of a real person or legal entity in accordance with federal aviation administration regulations.

KSA 21-5937 — Fraudulent acts relating to aircraft identification numbers

Fraudulent acts relating to aircraft identification numbers.

(a) Fraudulent acts relating to aircraft identification numbers is knowingly:

(1) Buying, receiving, disposing of, distributing, concealing, operating, or having in possession or attempting to buy, receive, dispose of, distribute, conceal, operate, or possess, by any person, firm, business or corporation of any aircraft or part thereof on which the identification numbers do not meet the requirements of the federal aviation regulations; or

(2) possessing, manufacturing, or distributing any counterfeit manufacturer's aircraft identification number plate or decal used for the purpose of identification of any aircraft or authorizing, directing, aiding in exchange or giving away any such counterfeit manufacturer's aircraft identification number plate or decal.

(b) Fraudulent acts relating to aircraft identification numbers is a severity level 8, nonperson felony.

(c) The failure to have aircraft identification numbers clearly displayed on the aircraft and in compliance with federal aviation regulations is probable cause for any law enforcement officer in this state to make further inspection of the aircraft in question to ascertain its true identity. A law enforcement officer is authorized to inspect an aircraft for identification numbers:

(1) When it is located on public property;

(2) upon consent of the owner of the private property on which the aircraft is stored; or

(3) when otherwise authorized by law.

KSA 21-5938 — Failure to report disappearance or death of child; penalties

Failure to report disappearance or death of child; penalties.

(a) Failure to report the disappearance of a child is knowingly failing to report to a law enforcement officer, law enforcement agency or state investigative agency, as soon as practically possible, the disappearance of a child under the age of 13 by a parent, legal guardian or caretaker when:

(1) Such person knows or reasonably should know that such child has been missing, with the intent to conceal the commission of a crime, other than a violation of this subsection; or

(2) such person knows that such child is missing and has reason to believe that such child is in imminent danger of death or great bodily harm.

(b) (1) Failure to report the death of a child is knowingly failing to promptly report the death of a child to a law enforcement officer, law enforcement agency or state investigative agency, with the intent to conceal the commission of a crime, other than a violation of this subsection, by a:

(A) Parent, legal guardian or caretaker; or

(B) person required to make a report as provided in subsection (a) of K.S.A.

38-2223

, and amendments thereto, unless such person is a parent, legal guardian or caretaker.

(2) The provisions of this subsection shall not apply when the child's death has been reported by another person or is otherwise known by a law enforcement officer, law enforcement agency or state investigative agency.

(c) (1) Failure to report the disappearance of a child is a severity level 8, nonperson felony.

(2) Failure to report the death of a child as defined in:

(A) Subsection (b)(1)(A) is a severity level 8, nonperson felony; and

(B) subsection (b)(1)(B) is a class B nonperson misdemeanor.

(d) As used in this section, "caretaker" means a person 16 years of age or older that had willfully assumed responsibility for the care of a child at the time of the child's disappearance or death.

KSA 21-5939 — Unlawful acts involving an automated sales suppression device

Unlawful acts involving an automated sales suppression device.

(a) Unlawful acts involving an automated sales suppression device is knowingly selling, purchasing, installing, transferring, manufacturing, creating, designing, updating, repairing, using or possessing an automated sales suppression

device, zapper or phantom-ware.

(b) Unlawful acts involving an automated sales suppression device is a severity level 7, nonperson felony.

(c) In addition to any other criminal penalties provided by law, any person convicted of unlawful acts involving an automated sales suppression device may be liable for all taxes, interest and penalties due the state as a result of such unlawful acts.

(d) As used in this section:

(1) "Automated sales suppression device" or "zapper" means a computer software program, carried on a memory stick or removable compact disc, accessed through an internet link or accessed through any other means that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports;

(2) "electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data in any manner;

(3) "phantom-ware" means a hidden, pre-installed or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register;

(4) "transaction data" includes, but is not limited to:

(A) Items purchased by a customer;

(B) the price for each item;

(C) a taxability determination for each item;

(D) a segregated tax amount for each of the taxed items;

(E) the amount of cash or credit tendered;

(F) the net amount returned to the customer in change;

(G) the date and time of the purchase;

(H) the name, address and identification number of the vendor; and

(I) the receipt or invoice number of the transaction; and

(5) "transaction report" means a report including, but not limited to, the sales, taxes collected, media totals and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(e) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-5940 — Filing a false lien

Filing a false lien.

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

(1) Cause to be presented to a recorder of record for filing in any public record any lien or claim against any real or personal property when such person knows or reasonably should know that such lien or claim is false or contains any materially false, fictitious or fraudulent statement or representation;

(2) cause to be presented to a recorder of record for filing in any public record any document that purports to assert a lien against real or personal property of any person or entity that is not expressly provided for by the constitution or laws of this state or of the United States, does not depend on the consent of the owner of the real or personal property affected and is not an equitable or constructive lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States;

(3) cause to be presented to a recorder of record for filing in any public record any financing statement pursuant to article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, when such person knows or reasonably should know that the financing statement is not based on a bona fide security agreement or was not authorized or authenticated by the alleged debtor identified in the financing statement or an authorized representative of the alleged debtor;

(4) cause to be presented to a recorder of record for filing in any public record any document filed in an attempt to harass an entity, individual or public official, or obstruct a governmental operation or judicial proceeding, when such person knows or reasonably should know that the document contains false information; or

(5) violate a court order issued pursuant to K.S.A.

58-4301

, and amendments thereto.

(b) Violation of this section is a severity level 8, nonperson felony.

(c) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-6001 — Bribery

Bribery.

(a) Bribery is:

(1) With the intent to improperly influence a public official, offering, giving or promising to give, directly or indirectly, to any public official any benefit, reward or consideration which the public official is not permitted by law to accept, in exchange for the performance or omission of performance of the public official's powers or duties or a promise to perform or omit performance of such powers or duties; or

(2) the act of a public official intentionally requesting, receiving or agreeing to receive, directly or indirectly, any benefit, reward or consideration, which the public official is not permitted by law to accept, with the intent to improperly influence such public official and in exchange for the performance or omission of performance of the public official's powers or duties or a promise to perform or omit performance of such powers or duties.

(b) Bribery is a severity level 7, nonperson felony. Upon conviction of bribery, a public official 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.

(c) As used in this section, "public official" means any person who is a public officer, candidate for public office or public employee.

KSA 21-6002 — Official misconduct

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.

KSA 21-6003 — Compensation for past official acts

Compensation for past official acts.

(a) Compensation for past official acts is intentionally giving or offering to give to any public officer or employee any benefit, reward or consideration for having given, in such official capacity as public officer or employee, a decision, opinion, recommendation or vote favorable to the person giving or offering such benefit, reward or consideration, or for having performed an act of official misconduct.

(b) Compensation for past official acts is a class B nonperson misdemeanor.

(c) Subsection (a) shall not apply to the following:

(1) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationships independent of the official status of the receiver; or

(2) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

KSA 21-6004 — Presenting a false claim; permitting a false claim

Presenting a false claim; permitting a false claim.

(a) Presenting a false claim is, with the intent to defraud, presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.

(b) Permitting a false claim is the auditing, allowing or paying of any claim or demand made upon the state or any subdivision thereof or other governmental instrumentality within the state by a public officer or public employee who

knows such claim or demand is false or fraudulent in whole or in part.

(c) (1) Presenting a false claim or permitting a false claim for:

(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.

(2) Upon conviction of permitting a false claim, a public officer or public employee shall forfeit the officer or employee's office or employment.

KSA 21-6005 — Misuse of public funds

Misuse of public funds.

(a) Misuse of public funds is knowingly using, lending or permitting another to use public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.

(b) (1) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is:

(A) $100,000 or more is a severity level 5, nonperson felony;

(B) at least $25,000 but less than $100,000 is a severity level 7, nonperson felony;

(C) at least $1,000 but less than $25,000 is a severity level 9, nonperson felony; and

(D) less than $1,000 is a class A nonperson misdemeanor.

(2) Upon conviction of misuse of public funds, the convicted person shall forfeit the person's official position.

(c) As used in this section, "public money" means any money or negotiable instrument which belongs to the state of Kansas or any political subdivision thereof.

KSA 21-6006 — Unlawful use of state postage; imprinting of warning on mail

Unlawful use of state postage; imprinting of warning on mail.

(a) It shall be unlawful for any person to use for such person's personal use, or to allow any unauthorized person to use, any form of postage knowing such postage to have been paid for with state funds.

(b) Violation of this section is a class C misdemeanor.

(c) Each state agency, department, board, commission or state educational institution shall imprint by postage meter stamp on all state mail that is stamped by a postage meter that:

(1) Such mail carried by such postage is official state of Kansas mail; and

(2) that there is a penalty for the unlawful use of state postage for private purposes.

KSA 21-6101 — Breach of privacy

Breach of privacy.

(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 such message;

(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 camcorder, motion picture camera or photographic camera of any type to 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 that other person has a reasonable expectation of privacy;

(7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); or

(8) disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or intimidate such identifiable person, and such identifiable person did not consent to such dissemination. This includes disseminating any videotape, photograph, film or image that has been created, in whole or in part, altered or modified by artificial intelligence or any digital means to appear to depict or purport to depict such identifiable person, regardless of whether such identifiable person was involved in the creation of the original image.

(b) Breach of privacy as defined in:

(1) Subsection (a)(1) through (a)(5) is a class A nonperson misdemeanor;

(2) subsection (a)(6) or (a)(8) is a:

(A) Severity level 8, person felony, except as provided in subsection (b)(2)(B); and

(B) severity level 5, person felony upon a second or subsequent conviction within the previous five years; 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:

(1) 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;

(2) a provider of an interactive computer service, as defined in 47 U.S.C. Â§ 230, for content provided by another person;

(3) a radio common carrier, as defined in K.S.A.

66-1,143

, and amendments thereto;

(4) a local exchange carrier or telecommunications carrier as defined in K.S.A.

66-1,187

, and amendments thereto;

(5) a cable service, as defined in 47 U.S.C. Â§ 522;

(6) a provider of direct-to-home satellite services, as defined in 47 U.S.C. Â§ 303(v); and

(7) a multichannel video programming distributor, as defined in 47 U.S.C. Â§ 522(13), or an affiliate thereof.

(e) The provisions of subsection (a)(8) shall not apply to a person acting with a bona fide and lawful scientific, educational, governmental, news or other similar public purpose.

(f) As used in this section, "private place" means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

KSA 21-6102 — Denial of civil rights

Denial of civil rights.

(a) Denial of civil rights is intentionally denying to another, on account of the race, color, ancestry, national origin or religion of such other the full and equal:

(1) Use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof;

(2) use and enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any establishment which provides lodging to transient guests for hire; of any establishment which is engaged in selling food or beverage to the public for consumption upon the premises; or of any place of recreation, amusement, exhibition or entertainment which is open to members of the public;

(3) use and enjoyment of the services, privileges and advantages of any facility for the public transportation of persons or goods;

(4) use and enjoyment of the services, facilities, privileges and advantages of any establishment which offers personal or professional services to members of the public; or

(5) exercise of the right to vote in any election held pursuant to the laws of Kansas.

(b) Denial of civil rights is a class A nonperson misdemeanor.

KSA 21-6103 — Criminal false communication

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.

KSA 21-6104 — Unlawful disclosure of tax information

Unlawful disclosure of tax information.

(a) Unlawful disclosure of tax information is recklessly disclosing or using for commercial purposes any information obtained in the business of preparing federal or state income tax returns or in the business of assisting taxpayers in preparing such returns, unless such disclosure is:

(1) Consented to by the taxpayer in a separate, written document;

(2) expressly authorized by state or federal law;

(3) necessary to the preparation of the return; or

(4) pursuant to an order of any court of competent jurisdiction.

(b) Unlawful disclosure of tax information is a class A nonperson misdemeanor.

(c) For the purposes of this section, a person is engaged in the business of preparing federal or state income tax returns or in the business of assisting taxpayers in preparing such returns if the person does either of the following:

(1) Advertises or gives publicity to the effect that such person prepares or assists others in the preparation of state or federal income tax returns; or

(2) prepares or assists others in the preparation of state or federal income tax returns for compensation.

(d) Contacting a taxpayer to obtain the taxpayer's written consent to disclosure does not constitute a violation of this section.

KSA 21-6105 — Unjustifiably exposing a convicted or charged person

Unjustifiably exposing a convicted or charged person.

(a) Unjustifiably exposing a convicted or charged person is unjustifiably communicating or threatening to communicate to another any oral or written statement that any person has been charged with or convicted of a felony, with intent to interfere with the employment or business of the person so charged or convicted.

(b) Unjustifiably exposing a convicted or charged person is a class B nonperson misdemeanor.

(c) This section shall not apply to any person or organization who furnishes information about a person to another person or organization requesting the same.

KSA 21-6106 — Unlawful public demonstration at a funeral

Unlawful public demonstration at a funeral.

(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.

KSA 21-6107 — Identity theft; identity fraud

Identity theft; identity fraud.

(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:

(1) Defraud that person, or anyone else, in order to receive any benefit; or

(2) misrepresent that person in order to subject that person to economic or bodily harm.

(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:

(1) "Personal electronic content" means the electronically stored content of an individual including, but not limited to, pictures, videos, emails and other data files;

(2) "personal identifying information" includes, but is not limited to, the following:

(A) Name;

(B) birth date;

(C) address;

(D) telephone number;

(E) driver's license number or card or nondriver's identification number or card;

(F) social security number or card;

(G) place of employment;

(H) employee identification numbers or other personal identification numbers or cards;

(I) mother's maiden name;

(J) birth, death or marriage certificates;

(K) electronic identification numbers;

(L) electronic signatures;

(M) 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; and

(N) passwords, usernames or other log-in information that can be used to access a person's personal electronic content, including, but not limited to, content stored on a social networking website; and

(3) "social networking website" means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system.

KSA 21-6108 — Unlawful possession of scanning device or reencoder

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.

KSA 21-6109 — Kansas indoor clean air act; smoking in enclosed areas or public meetings; definitions

Kansas indoor clean air act; smoking in enclosed areas or public meetings; definitions.

As used in K.S.A. 21-6109 through

21-6116

, 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 K.S.A.

21-6110

(d), 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, that employs one or more individual persons.

(e) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls, windows or doorways that extend from the floor to the ceiling, including all space therein screened by partitions that 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 that 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 that 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.

39-2001

et seq., 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 that 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.

KSA 21-6110 — Smoking in public places, public meetings and other places prohibited; smoke-free workplace, employer written policy; exceptions, smoking permitted

Smoking in public places, public meetings and other places prohibited; smoke-free workplace, employer written policy; exceptions, smoking permitted.

(a) It shall be unlawful, with no requirement of a culpable mental state, to 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;

(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; and

(11) that portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue.

KSA 21-6111 — Posting smoking prohibited signs

Posting smoking prohibited signs.

The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law.

KSA 21-6112 — Unlawful acts; penalties; retaliatory discharge prohibited

Unlawful acts; penalties; retaliatory discharge prohibited.

(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

21-6116

, 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) recklessly permits smoking under the totality of the circumstances.

(c) It shall be unlawful for any person, with no requirement of a culpable mental state, 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

21-6116

, 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 take any other adverse action against an employee, applicant for employment or customer with the intent to retaliate against that employee, applicant or customer for reporting or attempting to prosecute a violation of any of the provisions of K.S.A.

21-6109

through

21-6116

, and amendments thereto.

KSA 21-6113 — Rules and regulations to assure exemptions from smoking ban are bona fide

Rules and regulations to assure exemptions from smoking ban are bona fide.

The director of alcoholic beverage control is hereby authorized to promulgate rules and regulations to insure any exemption from the statewide ban on smoking is bona fide and the entity seeking such exemption is not inappropriately

seeking to circumvent the smoking ban created under this act.

KSA 21-6114 — Local regulation of smoking

Local regulation of smoking.

Nothing in this act shall prevent any city or county from regulating smoking within its boundaries, so long as such regulation is at least as stringent as that imposed by this act. In such cases the more stringent local regulation shall control to the extent of any inconsistency between such regulation and this act.

KSA 21-6115 — Citation of act

Citation of act.

On and after January 2, 2010, the amendments made to K.S.A.

21-6109

through

21-6116

, and amendments thereto, shall constitute the Kansas indoor clean air act.

KSA 21-6116 — Severability of act

Severability of act.

If any provision of this act or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions of application of this act that can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

KSA 21-6201 — Riot; incitement to riot

Riot; incitement to riot.

(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 breach of the public peace.

(c) (1) Riot is a:

(A) Class A person misdemeanor, except as provided in subsection (c)(1)(B); and

(B) severity level 8, person felony if the riot occurs in a correctional facility.

(2) Incitement to riot is a:

(A) Severity level 8, person felony, except as provided in subsection (c)(2)(B); and

(B) severity level 6, person felony if the incitement to riot occurs in a correctional facility.

(d) As used in this section, "correctional facility" means a "correctional institution" as defined in K.S.A.

75-5202

, and amendments thereto, or a jail.

KSA 21-6202 — Unlawful assembly; remaining at an unlawful assembly

Unlawful assembly; remaining at an unlawful assembly.

(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.

KSA 21-6203 — Disorderly conduct

Disorderly conduct.

(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.

KSA 21-6204 — Maintaining a public nuisance; permitting a public nuisance; reports

Maintaining a public nuisance; permitting a public nuisance; reports.

(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.

KSA 21-6205 — Criminal desecration

Criminal desecration.

(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:

(1) 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.

KSA 21-6206 — Harassment by telecommunication device

Harassment by telecommunication device.

(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

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21-5509

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21-5510

or

21-6401

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KSA 21-6207 — Unlawful request for emergency service assistance

Unlawful request for emergency service assistance.

(a) Making an unlawful request for emergency service assistance is transmitting or communicating false or misleading information in any manner to request emergency service assistance including law enforcement, fire, medical or other emergency service, knowing at the time of such request there is no reasonable ground for believing such assistance is needed.

(b) Making an unlawful request for emergency service assistance is a:

(1) Class A nonperson misdemeanor, except as provided in subsections (b)(2), (b)(3), (b)(4), (b)(5) and (b)(6);

(2) severity level 10, nonperson felony when the person uses an electronic device or software to alter, conceal or disguise the source of the request or the identity of the person making such request, except as provided in subsection (b)(3), (b)(4), (b)(5) and (b)(6);

(3) severity level 7, nonperson felony when the request for emergency service assistance made by the person includes false information that violent criminal activity or immediate threat to a person's life or safety or the public safety has or is taking place, except as provided in subsection (b)(4), (b)(5) and (b)(6);

(4) severity level 6, person felony when bodily harm results from the response by emergency services, except as provided in subsections (b)(5) and (b)(6);

(5) severity level 4, person felony when great bodily harm results from the response by emergency services, except as provided in subsection (b)(6); and

(6) severity level 1, person felony when death results from the response by emergency services.

(c) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for interference with law enforcement, K.S.A.

21-5904

, and amendments thereto.

(d) It shall not be a defense that the person who suffers bodily harm, great bodily harm or death contributed, or others contributed to such person's bodily harm, great bodily harm or death.

(e) A person who violates the provisions of this section may also be prosecuted for any form of homicide.

KSA 21-6301 — Criminal use of weapons

Criminal use of weapons.

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club or metal knuckles;

(2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, throwing star, stiletto or any other dangerous or deadly weapon or instrument of like character;

(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) possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(11) possessing 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 one 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) refusing 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) possessing 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;

(14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age;

(15) possessing any firearm while a fugitive from justice;

(16) possessing any firearm by a person who is an alien illegally or unlawfully in the United States;

(17) possessing any firearm by a person while such person is subject to a court order that:

(A) Was issued after a hearing, of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking or threatening an intimate partner of such person or a child of such person or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(18) possessing any firearm by a person who, within the preceding five years, has been convicted of a misdemeanor for a domestic violence offense, or a misdemeanor under a law of another jurisdiction which is substantially the same as such misdemeanor offense.

(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), (a)(15), (a)(16), (a)(17) or (a)(18) 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. Â§ 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. Â§ 5801 et seq.

(i) (1) Subsection (a)(4) shall not apply to or affect any person in possession of a device or attachment designed, used or intended for use in suppressing the report of any firearm, if such device or attachment satisfies the description of a Kansas-made firearm accessory as set forth in K.S.A.

50-1204

, and amendments thereto.

(2) The provisions of this subsection shall apply to any violation of subsection (a)(4) that occurred on or after April 25, 2013.

(j) 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) 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 concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law, and who is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A.

75-7c03

, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A.

75-7c03

, and amendments thereto.

(k) 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.

(l) 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, or at another private range with permission of such person's parent or legal guardian;

(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 (l)(1) through (l)(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

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21-5223

or

21-5225

, and amendments thereto.

(m) As used in this section:

(1) "Domestic violence" means the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a dating relationship or is a family or household member.

(2) "Fugitive from justice" means any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person under K.S.A.

22-2713

, and amendments thereto.

(3) "Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.

(4) "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.

KSA 21-6302 — Criminal carrying of a weapon

Criminal carrying of a weapon.

(a) Criminal carrying of a weapon is knowingly carrying:

(1) Any bludgeon, sandclub, metal knuckles or throwing star;

(2) concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;

(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 if such person is under 21 years of age, except when on such person's land or in such 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 any person who is carrying a handgun, as defined in K.S.A.

75-7c02

, and amendments thereto, and who possesses a valid provisional license issued pursuant to K.S.A.

75-7c03

, and amendments thereto, or a valid license or permit to carry a concealed firearm that was issued by another jurisdiction and is recognized in this state pursuant to K.S.A.

75-7c03

, 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. Â§ 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. Â§ 5801 et seq.

(f) As used in this section, "throwing star" means the same as prescribed by K.S.A.

21-6301

, and amendments thereto.

KSA 21-6303 — Criminal distribution of firearms to a felon

Criminal distribution of firearms to a felon.

(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 possession 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.

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, subsection (b) or (d) of

21-5412

, subsection (b) or (d) of

21-5413

, subsection (a) or (b) of

21-5415

, subsection (b) of

21-5420

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21-5503
, subsection (b) of
21-5504
, subsection (b) of
21-5505
, and subsection (b) of
21-5807
, and amendments thereto, K.S.A.
21-5705
or
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, and amendments thereto, or K.S.A.
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65-4127b

or

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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.

KSA 21-6304 — Criminal possession of a firearm by a convicted felon

Criminal possession of a firearm by a convicted felon.

(a) Criminal possession of a weapon by a convicted felon is possession of any weapon by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, 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 that 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 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found by the convicting court to have used a firearm in the commission of the crime;

(2) (A) (i) Has been convicted of a person felony, other than those specified in subsection (a)(3)(A)(i), under the laws of Kansas or a crime under the law of another jurisdiction which is substantially the same as such person felony; or

(ii) 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 person felony;

(B) was not found by the convicting court to have used a firearm in the commission of such crime; and

(C) less than three years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence;

(3) (A) (i) has been convicted of a felony under:

(a) K.S.A.

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(b) or (d),
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(b) or (d),
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(a),
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(b),
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(b),
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(b), and
21-5807
(b), and amendments thereto;
(b) article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;
(c) K.S.A. 2010 Supp.
21-36a01
through
21-36a17
, prior to their transfer;
(d) K.S.A.
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21-3402
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21-3404
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through
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or
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, prior to their repeal;
(e) an attempt, conspiracy or criminal solicitation as defined in K.S.A.
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or
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, prior to their repeal, or K.S.A.

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or

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, and amendments thereto, of any such felony; or

(f) a crime under a law of another jurisdiction that is substantially the same as such felony; or

(ii) 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; and

(B) less than eight years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or

(4) (A) (i) has been convicted of any other nonperson felony, other than those specified in subsections (a)(1) through (a)(3), under the laws of Kansas or a crime under the law of another jurisdiction which is substantially the same as such nonperson felony; or

(ii) 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

(B) less than three months have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(b) Criminal possession of a weapon by a convicted felon is a severity level 8, nonperson felony.

(c) The provisions of subsections (a)(1), (a)(2) and (a)(4) shall not apply to a person who has been convicted of a crime and has had the conviction of such crime expunged or has been pardoned for such crime.

(d) As used in this section:

(1) "Knife" means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character; and

(2) "weapon" means a firearm or a knife.

KSA 21-6305 — Aggravated weapons violation by a convicted felon

Aggravated weapons violation by a convicted felon.

(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.

KSA 21-6306 — Defacing identification marks of a firearm

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.

KSA 21-6308 — Criminal discharge of a firearm

Criminal discharge of a firearm.

(a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm at:

(A) A dwelling, building or structure in which there is a human being, regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present;

(B) a motor vehicle in which there is a human being, regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present; or

(C) an aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons, other than a motor vehicle, or property in which there is a human being, regardless of 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 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof; and

(C) severity level 3, person felony if such criminal discharge results in great 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 nonperson misdemeanor.

(c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A.

21-5412

(d), 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.

KSA 21-6308a — Unlawful discharge of a firearm in a city

Unlawful discharge of a firearm in a city.

(a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.

(b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:

(1) The firearm is discharged in the lawful defense of one's person, another person or one's property;

(2) the firearm is discharged at a private or public shooting range;

(3) the firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife and parks or the governing body of the city;

(4) the firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife and parks;

(5) the firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;

(6) the firearm is discharged using blanks; or

(7) the firearm is discharged in lawful self-defense or defense of another person against an animal attack.

(c) A violation of subsection (a) shall be a class B nonperson misdemeanor.

KSA 21-6309 — Unlawful possession of firearms on certain government property

Unlawful possession of firearms on certain government property.

(a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm:

(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; or

(4) a member of the military of this state or the United States engaged in the performance of duties.

(d) It is not a violation of this section for:

(1) The 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;

(2) 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 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;

(3) law enforcement officers, as that term is defined in K.S.A.

75-7c22

, and amendments thereto, who satisfy the requirements of either K.S.A.

75-7c22

(a) or (b), and amendments thereto, to possess a firearm; or

(4) an individual to possess a concealed handgun if such individual is not prohibited from possessing a firearm under either federal or state law, and such individual is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A.

75-7c03

, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A.

75-7c03

, 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) Buildings have adequate security measures to ensure that no weapons are permitted to be carried into such buildings;

(2) 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

(3) buildings have a sign conspicuously posted at each entryway into such building stating that the provisions of subsection (d)(2) do not apply to such building.

(f) As used in this section:

(1) "Adequate security measures" shall have the same meaning as the term is defined in K.S.A.

75-7c20

, and amendments thereto;

(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 subsections (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.

KSA 21-6310 — Unlawful endangerment

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.

KSA 21-6311 — Failure to register explosives

Failure to register explosives.

(a) Failure to register explosives is, with no requirement of a culpable mental state, the omission by:

(1) The seller of any explosive or detonating substance, to keep a register of every sale or other disposition of such explosives made by the seller as required by this section; or

(2) any person to whom delivery of any quantity of explosive or other detonating substance is made, to acknowledge the receipt thereof by signing the person's name in the register provided in subsection (c) on the page where the record of such delivery is entered.

(b) Failure to register explosives as defined in:

(1) Subsection (a)(1) is a class B nonperson misdemeanor; and

(2) subsection (a)(2) is a class C misdemeanor.

(c) The register of sales required by subsection (a)(1) shall contain the date of the sale or other disposition, the name, address, age and occupation of the person to whom the explosive is sold or delivered, the kind and amount of explosive delivered, the place at which it is to be used and for what purpose it is to be used. Such register and record of sale or other disposition shall be open for inspection by any law enforcement officer, mine inspector or fire marshal of this state

for a period of not less than one year after the sale or other disposition.

KSA 21-6312 — Criminal possession of explosives; criminal disposal of explosives; carrying concealed explosives

Criminal possession of explosives; criminal disposal of explosives; carrying concealed explosives.

(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 and without lawful authority distributing any explosive or detonating substance to a person:

(1) Under 21 years of age, regardless of whether the seller, donor or transferor knows the age of such person;

(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 A person 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.

KSA 21-6313 — Criminal street gangs; definitions

Criminal street gangs; definitions.

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) frequents a particular criminal street gang's area;

(E) adopts such gang's style of dress, color, use of hand signs or tattoos;

(F) associates with known criminal street gang members;

(G) 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;

(H) is identified as a criminal street gang member by physical evidence including, but not limited to, photographs or other documentation;

(I) has been stopped in the company of known criminal street gang members two or more times; or

(J) 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.

KSA 21-6314 — Recruiting criminal street gang membership

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.

KSA 21-6315 — Criminal street gang intimidation

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.

KSA 21-6316 — Criminal street gang member; bail; exceptions

Criminal street gang member; bail; exceptions.

When a criminal street gang member is arrested for a person felony, bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A.

22-2802

, and amendments thereto, unless the court determines on the record that the defendant is not likely to reoffend, an appropriate intensive pre-trial supervision program is available and the defendant agrees to comply with the mandate of such pre-trial supervision.

KSA 21-6317 — Endangering the food supply; aggravated endangering the food supply

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, piroplasmosis, 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.

KSA 21-6318 — Creating a hazard

Creating a hazard.

(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.

KSA 21-6319 — Unlawful failure to report a wound

Unlawful failure to report a wound.

(a) Unlawful failure to report a wound is, with no requirement of a culpable mental state, the failure by an attending physician or other person to report such person's treatment of any of the following wounds, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:

(1) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(2) any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument.

(b) Unlawful failure to report a wound is a class C misdemeanor.

KSA 21-6320 — Selling beverage containers with detachable tabs

Selling beverage containers with detachable tabs.

(a) Selling beverage containers with detachable tabs is knowingly selling or offering for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container.

(b) Selling beverage containers with detachable tabs is a class C misdemeanor.

(c) As used in this section:

(1) "Beverage container" means any sealed can containing beer, cereal malt beverages, mineral waters, soda water and similar soft drinks so designated by the director of alcoholic beverage control, in liquid form and intended for human consumption; and

(2) "in this state" means within the exterior limits of the state of Kansas and includes all territory within these limits owned by or ceded to the United States of America.

KSA 21-6321 — Unlawful act concerning alcohol without liquid machine

Unlawful act concerning alcohol without liquid machine.

(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.

KSA 21-6322 — Unlawfully tampering with electronic monitoring equipment

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:

(1) Severity level 8, nonperson felony in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any felony; and

(2) class A nonperson misdemeanor in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision or parole for any misdemeanor or used pursuant to court-ordered supervision in any civil case.

KSA 21-6323 — Refusal to yield a telephone party line

Refusal to yield a telephone party line.

(a) Refusal to yield a telephone party line is intentionally refusing to immediately yield or surrender the use of a party line when informed that the line is needed for an emergency call to a fire department or police department or for medical aid or ambulance service.

(b) Refusal to yield a telephone party line is a class C misdemeanor.

(c) No person shall request the use of a party line on the pretext that an emergency exists, knowing that no emergency in fact exists.

(d) 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." The provisions of this subsection shall not apply to those directories distributed solely for business advertising services, commonly known as classified directories.

(e) As used in this section:

(1) "Party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number; and

(2) "emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

KSA 21-6324 — Unlawful possession or use of a traffic control signal preemption device

Unlawful possession or use of a traffic control signal preemption device.

(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.

KSA 21-6325 — Unlawful interference with a firefighter

Unlawful interference with a firefighter.

(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.

KSA 21-6326 — Unlawful interference with an emergency medical service provider

Unlawful interference with an emergency medical service provider.

(a) Unlawful interference with an emergency medical service provider is knowingly:

(1) Interfering with any emergency medical service provider while engaged in the performance of such emergency medical service provider's duties; or

(2) obstructing, interfering with or impeding the efforts of any emergency medical service provider to reach the location of an emergency.

(b) Unlawful interference with an emergency medical service provider is a class B person misdemeanor.

(c) As used in this section, "emergency medical service provider" 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.

KSA 21-6327 — Kansas racketeer influenced and corrupt organization act

Kansas racketeer influenced and corrupt organization act.

K.S.A. 21-6327 through

21-6331

, and amendments thereto, shall be known and may be cited as the Kansas racketeer influenced and corrupt organization act (Kansas RICO act).

KSA 21-6328 — Definitions

Definitions.

As used in the Kansas racketeer influenced and corrupt organization act:

(a) (1) "Beneficial interest" means the interest of a person:

(A) As a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(B) under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

(2) The term "beneficial interest" does not include the interest of a stock holder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) "Covered person" means any person who:

(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A.

21-6313

, and amendments thereto;

(2) has engaged in or is engaging in any conduct prohibited by K.S.A.

21-5426

, and amendments thereto, human trafficking or aggravated human trafficking, or K.S.A.

21-6422

, and amendments thereto, commercial sexual exploitation of a child;

(3) has engaged in or is engaging in any conduct prohibited by K.S.A.

21-5703

, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A.

21-5705

, and amendments thereto, unlawful cultivation or distribution of controlled substances; or

(4) has engaged in or is engaging in any conduct prohibited by K.S.A.

21-6107

, and amendments thereto, identity theft or identity fraud.

(c) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(d) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in K.S.A.

21-6313

, and amendments thereto, constitutes an enterprise.

(e) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within five years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit any:

(1) Felony or misdemeanor violation of: The felony provisions of K.S.A.

8-1568

, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A.

9-508

et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.

21-5401

, and amendments thereto, capital murder; K.S.A.

21-5402

, and amendments thereto, murder in the first degree; K.S.A.

21-5403

, and amendments thereto, murder in the second degree; K.S.A.

21-5408

, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A.

21-5412

, and amendments thereto; K.S.A.

21-5413

, and amendments thereto; K.S.A.

21-5414

, and amendments thereto, domestic battery; K.S.A.

21-5415

, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A.

21-5420

, and amendments thereto, robbery or aggravated robbery; K.S.A.

21-5421

, and amendments thereto, terrorism; K.S.A.

21-5422

, and amendments thereto, illegal use of weapons of mass destruction; K.S.A.

21-5423

, and amendments thereto; K.S.A.

21-5426

, and amendments thereto, human trafficking or aggravated human trafficking; K.S.A.

21-5428

, and amendments thereto, blackmail; K.S.A

21-5510

, and amendments thereto, sexual exploitation of a child; K.S.

21-5601

, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A.

21-5602

, and amendments thereto, abuse of a child; K.S.A.

21-5603

, and amendments thereto, contributing to a child's misconduct or deprivation; K.S.A.

21-5607

(b), and amendments thereto, furnishing alcoholic beverages to a minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, crimes involving controlled substances; K.S.A.

21-5801

, and amendments thereto, theft; K.S.A.

21-5803

, and amendments thereto, criminal deprivation of property; K.S.A.

21-5805

, and amendments thereto; K.S.A.

21-5807

, and amendments thereto, burglary or aggravated burglary; K.S.A.

21-5812

, and amendments thereto, arson or aggravated arson; K.S.A.

21-5813

, and amendments thereto, criminal damage to property; K.S.A.

21-5814

, and amendments thereto, criminal use of an explosive; K.S.A.

21-5821

, and amendments thereto, giving a worthless check; K.S.A.

21-5823

, and amendments thereto, forgery; K.S.A.

21-5824

, and amendments thereto, making false information; K.S.A.

21-5825

, and amendments thereto, counterfeiting; K.S.A.

21-5826

, and amendments thereto, destroying written instrument; K.S.A.

21-5828

, and amendments thereto, criminal use of a financial card; K.S.A.

21-5838

, and amendments thereto, conducting a pyramid promotional scheme; K.S.A.

21-5839

, and amendments thereto; K.S.A. 2025 Supp.

21-5841

, and amendments thereto, organized retail crime; K.S.A.

21-5903

, and amendments thereto, perjury; K.S.A.

21-5904

, and amendments thereto, interference with law enforcement; K.S.A.

21-5905

, and amendments thereto, interference with the judicial process; K.S.A.

21-5909

, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A.

21-5912

, and amendments thereto, aiding escape; K.S.A.

21-5913

, and amendments thereto, obstructing apprehension or prosecution; K.S.A.

21-5918

, and amendments thereto; K.S.A.

21-6001

, and amendments thereto, bribery; K.S.A.

21-6002

, and amendments thereto, official misconduct; K.S.A.

21-6107

, and amendments thereto, identity theft or identity fraud; K.S.A.

21-6301

, and amendments thereto, criminal use of weapons; K.S.A.

21-6302

, and amendments thereto, criminal carrying of a weapon; K.S.A.

21-6303

, and amendments thereto, criminal distribution of firearms to a felon; K.S.A.

21-6304

, and amendments thereto, criminal possession of a weapon by a convicted felon; K.S.A.

21-6305

, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A.

21-6306

, and amendments thereto, defacing identification marks of a firearm; K.S.A.

21-6308

, and amendments thereto, criminal discharge of a firearm; K.S.A.

21-6310

, and amendments thereto, unlawful endangerment; K.S.A.

21-6312

, and amendments thereto; K.S.A.

21-6314

, and amendments thereto, recruiting criminal street gang membership; K.S.A.

21-6315

, and amendments thereto, criminal street gang intimidation; K.S.A.

21-6401

, and amendments thereto, promoting obscenity or promoting obscenity to minors; K.S.A.

21-6404

, and amendments thereto, gambling; K.S.A.

21-6405

, and amendments thereto, illegal bingo operation; K.S.A.

21-6406

, and amendments thereto, commercial gambling; K.S.A.

21-6407

, and amendments thereto, dealing in gambling devices; K.S.A.

21-6408

, and amendments thereto; K.S.A.

21-6409

, and amendments thereto, installing communication facilities for gamblers; K.S.A.

21-6414

(a) or (b), and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A.

21-6417

(a) or (b), and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.

21-6419

, and amendments thereto, selling sexual relations; K.S.A.

21-6420

, and amendments thereto, promoting the sale of sexual relations; K.S.A.

21-6422

, and amendments thereto, commercial sexual exploitation of a child; K.S.A.

21-6501

, and amendments thereto, extortion; K.S.A.

21-6502

, and amendments thereto, debt adjusting; K.S.A.

21-6504

, and amendments thereto, equity skimming; K.S.A.

21-6506

, and amendments thereto, commercial bribery; K.S.A.

21-6507

, and amendments thereto, sports bribery; K.S.A.

21-6508

, and amendments thereto, tampering with a sports contest; K.S.A.

39-720

, and amendments thereto, social welfare service fraud; K.S.A.

40-2,118

, and amendments thereto, fraudulent insurance acts; K.S.A.

41-101

et seq., and amendments thereto, Kansas liquor control act; K.S.A.

44-5,125

, and amendments thereto, workers' compensation act; K.S.A.

65-1657

, and amendments thereto, nonresident pharmacy registration; K.S.A.

65-3441

, and amendments thereto, hazardous waste; K.S.A.

65-4167

, and amendments thereto, trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; or K.S.A.

79-3321

, and amendments thereto, Kansas cigarette and tobacco products act; or

(2) conduct defined as "racketeering activity" under 18 U.S.C. Â§ 1961(1).

(g) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(h) (1) "Trustee" means any:

(A) Person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;

(B) person who holds legal or record title to real property in which any other person has a beneficial interest; or

(C) successor trustee or trustees to any or all of the foregoing persons.

(2) The term "trustee" does not include any person appointed or acting as a personal representative as defined in K.S.A.

59-102

, and amendments thereto, or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(i) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in:

(1) Violation of any of the following provisions of law: Article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; K.S.A.

21-6404

, and amendments thereto, gambling; K.S.A.

21-6405

, and amendments thereto, illegal bingo operation; K.S.A.

21-6406

, and amendments thereto, commercial gambling; K.S.A.

21-6407

, and amendments thereto, dealing in gambling devices; K.S.A.

21-6408

, and amendments thereto, unlawful possession of a gambling device; or K.S.A.

21-6409

, and amendments thereto, installing communication facilities for gamblers; or

(2) gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

KSA 21-6329 — Unlawful activities; penalty

Unlawful activities; penalty.

(a) Except as provided in subsection (b), it is unlawful for any covered person:

(1) Who has recklessly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise;

(2) through a pattern of racketeering activity or through the collection of an unlawful debt, to recklessly acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property; or

(3) employed by, or associated with, any enterprise to recklessly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(b) It is not unlawful for a covered person to violate subsection (a) through the collection of an unlawful debt if such person was not a participant in a violation described in subsection (i) of K.S.A.

21-6328

, and amendments thereto, which created such unlawful debt.

(c) Violation of this section or conspiracy to commit a violation of this section is a severity level 2, person felony.

(d) The provisions of subsection (d) of K.S.A.

21-5302

, and amendments thereto, shall not apply to conspiracy to commit a violation of this section.

(e) (1) Notwithstanding the provisions of K.S.A.

21-6611

, and amendments thereto, any person convicted of engaging in conduct in violation of this section, through which the person derived pecuniary value, or by which the person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(2) The court shall hold a hearing to determine the amount of the fine authorized by this subsection.

(3) For the purposes of this subsection, "pecuniary value" means:

(A) Anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; and

(B) any other property or service that has a value in excess of $100.

(f) For persons arrested and charged under this section, bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A.

22-2802

, and amendments thereto, unless the court determines on the record that the defendant is not likely to re-offend, an appropriate intensive pretrial supervision program is available and the defendant agrees to comply with the mandate of such pretrial supervision.

KSA 21-6330 — Appropriate orders and judgments by district courts; civil forfeiture

Appropriate orders and judgments by district courts; civil forfeiture.

(a) Any district court may, after making due provision for the rights of innocent persons, enjoin violations of the provisions of K.S.A.

21-6329

, and amendments thereto, by issuing appropriate orders and judgments, including, but not limited to:

(1) Ordering any defendant to divest such defendant of any interest in any enterprise, including real property.

(2) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of the provisions of K.S.A.

21-6329

, and amendments thereto.

(3) Ordering the dissolution or reorganization of any enterprise.

(4) Ordering the suspension or revocation of a license, permit, or prior approval granted to any enterprise by any agency of the state.

(5) Ordering the forfeiture of the charter of a corporation organized under the laws of the state, or the revocation of a certificate authorizing a foreign corporation to conduct business within the state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or

engaged in conduct in violation of K.S.A.

21-6329

, and amendments thereto, and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate revoked.

(b) All property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of a provision of the Kansas racketeer influenced and corrupt organization act is subject to civil forfeiture pursuant to the Kansas standard asset seizure and forfeiture act, K.S.A.

60-4101

et seq., and amendments thereto.

KSA 21-6331 — Certain attorneys authorized to administer oaths and issue subpoenas; contempt of court

Certain attorneys authorized to administer oaths and issue subpoenas; contempt of court.

(a) For the purposes of this section, "attorney" means the attorney general, assistant attorney general, county attorney or district attorney, or in the absence of the county or district attorney, a designated assistant county or district attorney. If an assistant county or district attorney is designated by the county or district attorney for the purposes of this section, such designation shall be filed with the chief judge of such judicial district.

(b) If an attorney is informed or has knowledge that a person or other enterprise has engaged in, or is engaging in, activity in violation of the Kansas racketeer influenced and corrupt organization act, such attorney shall be authorized to administer oaths or affirmations, subpoena witnesses or material, and collect evidence relating to such activity.

(c) An attorney may apply ex parte to the district court of the district in which a subpoenaed person or entity resides, is found or transacts business, for an order directing that the subpoenaed person or entity not disclose the existence of the subpoena to any other person or entity except the subpoenaed person's attorney for a period of 90 days, which time may be extended by the court for good cause shown by the attorney. The order shall be served with the subpoena, and the subpoena shall include a reference to the order and a notice to the recipient of the subpoena that disclosure of the existence of the subpoena to any other person or entity in violation of the order may subject the subpoenaed person or entity to punishment for contempt of court. Such an order may be granted by the court only upon a showing:

(1) Of sufficient factual grounds to reasonably indicate a violation of the Kansas racketeer influenced and corrupt organization act;

(2) that the documents or testimony sought appear reasonably calculated to lead to the discovery of admissible evidence; and

(3) of facts which reasonably indicate that disclosure of the subpoena would hamper or impede the investigation or would result in a flight from prosecution.

(d) If information or evidence that the attorney seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such information or evidence available to the attorney or such attorney's representative for examination at the place where such information or evidence is located. The attorney may designate representatives, including officials of the jurisdiction in which the information or evidence is located, to inspect the information or evidence on such attorney's behalf and may respond to similar requests from officials of other jurisdictions.

(e) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena issued under this section or a subpoena issued in the course of a civil proceeding instituted pursuant to K.S.A.

21-6330

, and amendments thereto, and after reasonable notice to such person or enterprise, the attorney may apply to the district court in which such civil proceeding is pending or, if no civil proceeding is pending, to the district court of the judicial district in which such person or enterprise resides, is found or transacts business for an order compelling compliance. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or material after asserting a privilege against self-incrimination to which such individual is entitled by law shall not have the testimony or material so provided, or evidence derived therefrom, received against such individual in any criminal investigation or proceeding.

(f) A person who fails to obey a court order entered pursuant to this section may be adjudged in contempt of court and punished by fine and imprisonment.

KSA 21-6332 — Possession of a firearm under the influence

Possession of a firearm under the influence.

(a) Possession of a firearm under the influence is knowingly possessing or carrying a loaded firearm on or about such person, or within such person's immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm.

(b) Possession of a firearm under the influence is a class A nonperson misdemeanor.

(c) This section shall not apply to:

(1) A person who possesses or carries a firearm while in such person's own dwelling or place of business or on land owned or possessed by such person; or

(2) the transitory possession or use of a firearm 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.

(d) If probable cause exists for a law enforcement officer to believe a person is in possession of a firearm under the influence of alcohol or drugs, or both, such law enforcement officer shall request such person submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The selection of the test or tests shall be made by the officer.

(e) (1) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse;

(C) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate/defibrillator, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A.

65-6112

, and amendments thereto, authorized by medical protocol; or

(D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

(3) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

(4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the

sample and without interfering with medical treatment.

(6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).

(7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse; or

(C) a law enforcement officer of the same sex as the person being tested.

The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of a urine sample.

(8) The person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test who is acting in accordance with this section shall not be liable in any civil and criminal proceeding involving the action.

(f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding $1,000 for each violation.

(g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A.

75-7c01

et seq., and amendments thereto, is convicted of a violation of this section, such person'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.

(h) In any criminal prosecution for possession of a firearm 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 drugs, or both.

(2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.

(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 alcohol or drugs, or both.

(i) The provisions of subsection (h) 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.

(j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

KSA 21-6401 — Promoting obscenity; promoting obscenity to minors

Promoting obscenity; promoting obscenity to minors.

(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.

KSA 21-6402 — Promotion to minors of material harmful to minors

Promotion to minors of material harmful to minors.

(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

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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, file, 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.

KSA 21-6403 — Gambling; definitions

Gambling; definitions.

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 that 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;

(7) tribal gaming;

(8) charitable raffles as defined by K.S.A.

75-5173

, and amendments thereto;

(9) a fantasy sports league as defined in this section; or

(10) sports wagering, as defined in K.S.A.

74-8702

, and amendments thereto;

(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 that 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 section 501(c) or (d) 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) "fantasy sports league" means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

(1) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;

(2) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in real-world sporting events; and

(3) no winning outcome is based:

(A) On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or

(B) solely on any single performance of an individual athlete in any single real-world sporting event.

(e) (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) That 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, that 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) That 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 that 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 that 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 and gaming 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, that is not designed and manufactured primarily for use in connection with gambling, and:

(i) That 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 that 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;

(f) "gambling place" means any place, room, building, vehicle, tent or location that 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;

(g) "tribal gaming" means the same as in K.S.A.

74-9802

, and amendments thereto; and

(h) "tribal gaming commission" means the same as in K.S.A.

74-9802

, and amendments thereto.

KSA 21-6404 — Gambling

Gambling.

(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.

KSA 21-6405 — Illegal bingo operation

Illegal bingo operation.

(a) Illegal bingo operation is the knowing management, operation or conduct of games of bingo in violation of the laws of the state of Kansas pertaining to the regulation, licensing and taxing of games of bingo or rules and regulations adopted pursuant thereto.

(b) Illegal bingo operation is a class A nonperson misdemeanor.

KSA 21-6406 — Commercial gambling

Commercial gambling.

(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.

KSA 21-6407 — Dealing in gambling devices

Dealing in gambling devices.

(a) Dealing in gambling devices is manufacturing, distributing or possessing with intent to distribute any gambling device or sub-assembly or essential part thereof.

(b) Dealing in gambling devices is a severity level 8, nonperson felony.

(c) Proof of possession of any device designed exclusively for gambling purposes, which device is not set up for use or which is not in a gambling place, creates a presumption of possession with intent to distribute.

(d) 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 or sub-assembly or essential part thereof is manufactured, distributed or possessed by a manufacturer registered under the federal gambling devices act of 1962 (15 U.S.C. Â§ 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.

KSA 21-6408 — Unlawful possession of a gambling device

Unlawful possession of a gambling device.

(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. Â§ 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.

KSA 21-6409 — Installing communication facilities for gamblers

Installing communication facilities for gamblers.

(a) Installing communication facilities for gamblers is:

(1) Installing communication facilities in a place known to the installer to be a gambling place;

(2) installing communication facilities knowing that they will be used principally for the purpose of transmitting information to be used in making or settling bets; or

(3) allowing the continued use of communication facilities knowing that such facilities are being used principally for the purpose of transmitting information to be used in making or settling bets.

(b) Installing communications facilities for gamblers is a severity level 8, nonperson felony.

(c) (1) When any public utility providing telephone communications service is notified in writing by a state or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used principally for the purpose of transmitting or receiving gambling information, it shall discontinue or refuse the furnishing of service to such facility, after reasonable notice to the subscriber. No damages, penalty or forfeiture, civil or criminal, shall be found against any such public utility for any act done in compliance with any notice received from a law enforcement agency.

(2) Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a court of competent jurisdiction, that such facility should not be discontinued or removed, or should be restored.

KSA 21-6410 — False membership claim

False membership claim.

(a) A false membership claim is knowingly and falsely representing oneself to be a member of a fraternal or veteran's organization.

(b) False membership claim is a class C misdemeanor.

KSA 21-6411 — Unlawful acts concerning animals; definitions

Unlawful acts concerning animals; definitions.

As used in K.S.A.

21-6412

through

21-6417

, and amendments thereto:

(a) "Animal" means every living vertebrate except a human being;

(b) "farm animal" means an animal raised on a farm or ranch and used or intended for use as food or fiber;

(c) "retailer" means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale;

(d) "wild animal" means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal; and

(e) "domestic pet" means any domesticated animal which is kept for pleasure rather than utility.

KSA 21-6412 — Cruelty to animals

Cruelty to animals.

(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 that 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 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 animal shelter, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such shelter;

(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 that may be found outside of the owned or rented property of the owner or custodian of such animal and that 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 K.S.A.

2-2438a

(x), 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 animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, that 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 an animal shelter or licensed veterinarian for treatment, boarding or other care or, if an officer of such animal shelter or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. The owner or custodian, if known or reasonably ascertainable, shall be notified

in writing. If the owner or custodian is charged with a violation of this section, the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal at any time after 21 days after the owner or custodian is notified, unless the owner or custodian of the animal files and maintains a renewable cash or performance bond with the county clerk of the county in which the animal was taken into custody in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Such cash or performance bond shall be maintained and renewed every 30 days as necessary to cover the cost of care and treatment of such animal until disposition of the animal by the court. If the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal. Upon receiving such petition, the court shall determine whether the animal may be transferred.

(f) The owner or custodian of an animal transferred pursuant to subsection (e) shall not be entitled to recover damages for the transfer of such animal unless the owner proves that such transfer 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. Any costs collected by the court or through the cash or performance bond described in subsection (e) shall be transferred to the entity responsible for paying the cost of the care, treatment or boarding of the animal.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to an animal shelter or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Animal shelter" means the same as such term is defined in K.S.A.

47-1701

, and amendments thereto;

(2) "equine" means a horse, pony, mule, jenny, donkey or hinny; and

(3) "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.

KSA 21-6413 — Unlawful disposition of animals

Unlawful disposition of animals.

(a) Unlawful disposition of animals is knowingly raffling or giving as a prize or premium living rabbits or chickens, ducklings or goslings.

(b) Unlawful disposition of animals is a class C misdemeanor.

(c) The provisions of this section shall not apply to a person giving such animals to minors for use in agricultural projects under the supervision of commonly recognized youth farm organizations.

KSA 21-6414 — Unlawful conduct of dog fighting; unlawful attendance of dog fighting; unlawful possession of dog fighting paraphernalia

Unlawful conduct of dog fighting; unlawful attendance of dog fighting; unlawful possession of dog fighting paraphernalia.

(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, nonperson felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A nonperson 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 an animal shelter 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. The law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to be allowed to transfer ownership of 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 transferred. 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 transferred under this subsection shall not be entitled to damages unless the owner or keeper proves that such transfer 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 or licensed veterinarian 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 law enforcement agency, veterinarian or animal shelter all expenses incurred 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.

(i) As used in this section, "animal shelter" means the same as such term is defined in K.S.A.

47-1701

, and amendments thereto.

KSA 21-6415 — Illegal ownership or keeping of an animal

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.

KSA 21-6416 — Harming or killing certain dogs or horses that aid fire, law enforcement, rescue or assistance services

Harming or killing certain dogs or horses that aid fire, law enforcement, rescue or assistance services.

(a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog, search and rescue dog or police horse is knowingly, and without lawful cause or justification, poisoning or inflicting great bodily harm, permanent disability or death upon a police dog, arson dog, assistance dog, game warden dog, search and rescue dog or police horse.

(b) (1) Except as provided in paragraphs (2) and (3), violation of subsection (a) is a nonperson felony. A person convicted of a violation of subsection (a) shall be sentenced to not less than 30 days nor 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 a minimum mandatory sentence of 30 days.

(2) Except as provided in paragraph (3), violation of subsection (a) that results in disability or death to a police dog, arson dog, game warden dog, search and rescue dog or police horse is a severity level 4, nonperson felony.

(3) Violation of subsection (a) that results in disability or death to a police dog, arson dog, game warden dog, search and rescue dog or police horse during the commission of fleeing or attempting to elude a police officer as described in K.S.A.

8-1568

, and amendments thereto, interference with law enforcement as described in K.S.A.

21-5904

, and amendments thereto, or escape from custody or aggravated escape from custody as described in K.S.A.

21-5911

, and amendments thereto, is a severity level 3, nonperson felony.

(4) The following conditions shall apply to a sentence imposed pursuant to paragraph (2) or (3):

(A) As a condition of any probation granted, the person shall serve at least 90 days of imprisonment;

(B) the person shall be required to pay a fine of at least $10,000; and

(C) the person shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the mandatory sentence of 90 days.

(5) During the mandatory period of imprisonment provided for in this subsection, the offender shall have a psychological evaluation prepared 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 that 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" means the same as defined in 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 that is owned, or the service of which is employed, by the Kansas 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 that is owned, or the service of which is employed, by a law enforcement agency;

(6) "police horse" means any horse that is owned* or the service of which is employed* by a law enforcement agency; and

(7) "search and rescue dog" means any dog that 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.

KSA 21-6417 — Unlawful conduct of cockfighting; unlawful attendance of cockfighting; unlawful possession of cockfighting paraphernalia

Unlawful conduct of cockfighting; unlawful attendance of cockfighting; unlawful possession of cockfighting paraphernalia.

(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; or

(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.

KSA 21-6418 — Permitting a dangerous animal to be at large

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.

KSA 21-6419 — Selling sexual relations

Selling sexual relations.

(a) Selling sexual relations 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) Selling sexual relations is a class B nonperson misdemeanor.

(c) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A.

21-5426

, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A.

21-6422

, and amendments thereto.

KSA 21-6420 — Promoting the sale of sexual relations

Promoting the sale of sexual relations.

(a) Promoting the sale of sexual relations is knowingly:

(1) Establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older, or participating in the establishment, ownership, maintenance or management thereof;

(2) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(3) procuring a person selling sexual relations who is 18 years of age or older for a place where sexual relations are being sold or offered for sale;

(4) inducing another who is 18 years of age or older to become a person who sells sexual relations;

(5) soliciting a patron for a person 18 years of age or older who is selling sexual relations or for a place where sexual relations are being sold or offered for sale;

(6) procuring a person 18 years of age or older who is selling sexual relations for a patron;

(7) procuring transportation for, paying for the transportation of, or transporting a person 18 years of age or older within this state with the intention of assisting or promoting that person's engaging in the sale of sexual relations; or

(8) being employed to perform any act which is prohibited by this section.

(b) (1) Promoting the sale of sexual relations is a:

(A) Severity level 9, person felony, except as provided in subsection (b)(1)(B); and

(B) severity level 7, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than $2,500 nor more than $5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A.

75-758

, and amendments thereto.

KSA 21-6421 — Buying sexual relations

Buying sexual relations.

(a) Buying sexual relations is knowingly:

(1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in 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, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(2) hiring a person selling sexual relations who is 18 years of age or older to engage in 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, sexual intercourse, sodomy or any unlawful sexual act.

(b) (1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under this section shall be fined not less than $1,200 nor more than $5,000. One-half of all fines collected pursuant to this section shall be remitted to the human trafficking

victim assistance fund created by K.S.A.

75-758

, and amendments thereto, and the remainder shall be remitted as otherwise provided by law.

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(c) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or any prior version of this section, or a violation of 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 on a complaint alleging any such violations, shall be taken into account; and

(2) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance which prohibits the acts of this section only once during the person's lifetime.

(d) (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.

KSA 21-6422 — Commercial sexual exploitation of a child

Commercial sexual exploitation of a child.

(a) Commercial sexual exploitation of a child is knowingly:

(1) Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a 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, sexual intercourse, sodomy or any unlawful sexual act;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; or

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 4, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child 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.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than $2,500 nor more than $5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or (b)(2) shall be fined not less than $5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A.

75-758

, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

(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) K.S.A.

21-5301

(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) K.S.A.

21-5302

(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) K.S.A.

21-5303

(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

KSA 21-6423 — Violation of a consumer protection order

Violation of a consumer protection order.

(a) Violation of a consumer protection order is engaging in a door-to-door sale while prohibited from door-to-door sales.

(b) Violation of a consumer protection order is a severity level 9, person felony.

(c) As used in this section:

(1) "Door-to-door sale" has the meaning provided by K.S.A.

50-640

, and amendments thereto.

(2) "Engaging in" means participating, directly or indirectly, in the prohibited conduct or causing, directing, employing, enabling or assisting others to participate in such conduct.

(3) "Prohibited from door-to-door sales" means subject to any temporary or permanent order or judgment of a court entered under authority of the Kansas consumer protection act, K.S.A.

50-623

et seq., and amendments thereto, or any act that is part of or supplemental to the consumer protection act, and that restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof. For purposes of this section, an order or judgment restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof if such order or judgment:

(A) Expressly prohibits the person from engaging in door-to-door sales;

(B) prohibits conduct that includes, but is not limited to, engaging in door-to-door sales, such as prohibiting the person from engaging in consumer transactions as defined by K.S.A.

50-624

, and amendments thereto; or

(C) prohibits engaging in only a particular type of door-to-door sale, such as the door-to-door sale of roofing-related services within the meaning of K.S.A.

50-6,122

, and amendments thereto, or prohibits engaging in door-to-door sales only in a particular place. In such case, criminal liability under this section shall arise only if the person engaged in the particular type of door-to-door sale that is restrained, enjoined or otherwise prohibited or engaged in a door-to-door sale in the particular place where such sale is restrained, enjoined or otherwise prohibited.

(d) A person shall be subject to criminal liability under this section only if the state proves beyond a reasonable doubt that such person had actual or constructive notice of the temporary or permanent order or judgment described in subsection (b)(3).

(1) A person has actual notice of the existence of a temporary or permanent order or judgment if:

(A) Such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A.

60-307

, and amendments thereto, at any time prior to the violation of this section, regardless of when such order or judgment was issued; or

(B) such person otherwise had actual knowledge of such order or judgment.

(2) A person has constructive notice of the existence of a temporary or permanent order or judgment if, on or after July 1, 2016:

(A) The petition or subpoena that resulted in issuance of such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A.

60-307

, and amendments thereto;

(B) the petition or subpoena contained, or was accompanied by, notice that failure to answer the petition or comply with the subpoena could result in such person being prohibited from door-to-door sales should a judgment be issued, and that a violation of the judgment could constitute an additional crime;

(C) actual service of such order or judgment on such person was attempted, but was refused or left unclaimed; and

(D) such order or judgment is posted conspicuously on an official and publicly available website of the office of the attorney general, whether or not such order or judgment was actually served on such person. Compliance with this paragraph shall create a rebuttable presumption that such person had knowledge of the existence of such order or judgment, but such presumption may be rebutted by showing, through a preponderance of evidence, that such person neither knew nor should have known of the existence of such order or judgment.

(e) The criminal liability imposed by this section shall not relieve any person of civil liability for violating a consumer protection order, and any criminal penalties authorized by law may be imposed in addition to any civil sanctions or liability authorized by law.

(f) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

(g) This section shall be part of and supplemental to the Kansas criminal code.

(h) If any provision or provisions of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or provisions or application, and to this end the provisions of this section are severable.

KSA 21-6424 — Unlawful use of a communication facility

Unlawful use of 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.

21-5426

,

21-6422

or

21-6420

, and amendments thereto;

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A.

21-5426

,

21-6422

or

21-6420

, and amendments thereto; or

(3) in committing, causing, or facilitating the commission of any felony or misdemeanor under K.S.A.

21-6421

, and amendments thereto, or in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony or misdemeanor under K.S.A.

21-6421

, and amendments thereto.

Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) (1) Violation of subsection (a)(1) or (a)(2) is a severity level 7, person felony.

(2) Violation of subsection (a)(3) is a class A person misdemeanor.

(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.

(d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A.

21-5426

, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A.

21-6422

, and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas criminal code.

KSA 21-6425 — Misuse of nonpublic sports information

Misuse of nonpublic sports information.

(a) Misuse of nonpublic sports information is placing or causing to be placed a bet or wager on a sports contest on the basis of material nonpublic information relating to such bet or wager.

(b) Misuse of nonpublic sports information is a severity level 5, nonperson felony.

(c) As used in this section:

(1) "On the basis of material nonpublic information" means the person placing the bet or wager, or causing such bet or wager to be placed, was aware of the material nonpublic information relating to such bet or wager when the person placed the bet or wager, or caused such bet or wager to be placed; and

(2) "sports contest" means the same as defined in K.S.A.

21-6507

, and amendments thereto.

(d) The provisions of this section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-6501 — Extortion

Extortion.

(a) Extortion is:

(1) Intentionally and wrongfully demanding, soliciting or receiving anything of value from the owner, proprietor or other person having a financial interest in a business; and

(2) by means of either a threat, express or implied, or a promise, express or implied, that the person so demanding, soliciting or receiving such thing of value will:

(A) Cause the competition of the person from whom the payment is demanded, solicited or received to be diminished or eliminated;

(B) cause the price of goods or services purchased or sold in the business to be increased, decreased or maintained at a stated level; or

(C) protect the property used in the business or the person or family of the owner, proprietor or other interested person from injury by violence or other unlawful means.

(b) Extortion is a severity level 7, nonperson felony.

KSA 21-6502 — Debt adjusting

Debt adjusting.

(a) Debt adjusting is knowingly engaging in the business of making contracts, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaging in the debt adjusting business who shall for a consideration distribute the same among certain specified creditors.

(b) Debt adjusting is a class B nonperson misdemeanor.

(c) The provisions of this section shall not apply to those situations involving debt adjusting, which is incidental to the lawful practice of law in this state or to any person registered as a credit services organization under the Kansas credit services organization act.

KSA 21-6503 — Deceptive commercial practice

Deceptive commercial practice.

(a) A deceptive commercial practice is the knowing act, use or employment by any person of any deception, fraud, false pretense, false promise, or misrepresentation of a material fact, with the intent that others shall rely thereon in connection with the sale of any merchandise.

(b) A deceptive commercial practice is a class B nonperson misdemeanor.

(c) It shall not be a defense to a charge of deceptive commercial practice that no person has in fact been misled, deceived or damaged thereby.

(d) As used in this section:

(1) "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate or services;

(2) "person" means any natural person, partnership, domestic corporation, foreign corporation, company, trust, business entity or association; and

(3) "sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration.

(e) This section shall not apply to the owner or publisher of any newspaper, magazine or other printed matter wherein an advertisement appears, or to the owner or operator of a radio or television station which disseminates an advertisement, when such owner, publisher or operator had no knowledge of the intent, design or purpose of the advertisement.

KSA 21-6504 — Equity skimming

Equity skimming.

(a) Equity skimming is, with the intent to defraud, intentionally engaging in a pattern or practice of:

(1) Purchasing one family to four family dwellings, including condominiums and cooperatives or acquiring any right, title or interest therein, including, but not limited to, an equity of redemption interest, which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage;

(2) failing to deliver to the holder of the mortgage before a sheriff's sale or holder of the certificate of purchase during the period of redemption all rent proceeds received from rental of the property, not to exceed the monthly payment of principal and interest required by the note and mortgage; and

(3) applying or authorizing the application of rents from such dwellings for such person's own use.

(b) Equity skimming is a class A nonperson misdemeanor.

(c) Each purchase of a dwelling pursuant to subsection (a) shall be deemed a separate offense.

KSA 21-6505 — Tie-in magazine sale

Tie-in magazine sale.

(a) A tie-in magazine sale is knowingly selling, offering for sale, or consigning for sale by a wholesaler a magazine or other periodical of one kind or name to a retailer conditioned on the requirement that such retailer shall agree to, or shall, purchase or receive on consignment for sale a magazine or periodical of another kind or name.

(b) A tie-in magazine sale is a class B nonperson misdemeanor.

(c) As used in this section:

(1) "Retailer" means a person who sells magazines or periodicals at retail; and

(2) "wholesaler" means a person who sells or distributes or delivers on consignment for sale or who offers to sell or distribute or deliver on consignment for sale magazines or other periodicals to a retailer.

KSA 21-6506 — Commercial bribery

Commercial bribery.

(a) Commercial bribery is conferring, offering or agreeing to confer, or soliciting, accepting or agreeing to accept, any benefit as consideration for knowingly violating or agreeing to violate a duty of fidelity or trust by:

(1) An agent or employee of another;

(2) a person acting in a fiduciary capacity;

(3) a lawyer, physician, accountant, appraiser or other professional adviser;

(4) an officer, director, partner, manager or other participant in the affairs of a corporation, partnership or unincorporated association; or

(5) an arbitrator or other purportedly disinterested adjudicator or referee.

(b) Commercial bribery 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 theft.

KSA 21-6507 — Sports bribery

Sports bribery.

(a) Sports bribery is:

(1) Conferring, or offering or agreeing to confer, any benefit upon a sports participant with intent to influence such participant not to give such participant's best efforts in a sports contest;

(2) conferring or offering or agreeing to confer, any benefit upon a sports official with intent to influence such official to perform such official's duties improperly;

(3) accepting, agreeing to accept or soliciting by a sports participant of any benefit from another person upon an understanding that such sports participant will thereby be influenced not to give such participant's best efforts in a sports contest;

(4) accepting, agreeing to accept or soliciting by a sports official any benefit from another person upon an understanding that such official will perform such official's duties improperly; or

(5) match-fixing, as defined in K.S.A.

74-8702

, and amendments thereto.

(b) Sports bribery as defined in:

(1) Subsection (a)(1) or (a)(2) is a severity level 9, nonperson felony;

(2) subsection (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(3) subsection (a)(5) is a severity level 5, nonperson felony.

(c) As used in this section and K.S.A.

21-6508

, and amendments thereto:

(1) "Sports contest" means any professional or amateur sports or athletic game or contest viewed by the public;

(2) "sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team; and

(3) "sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, judge or otherwise to officiate at a sports contest.

KSA 21-6508 — Tampering with a sports contest

Tampering with a sports contest.

(a) Tampering with a sports contest is seeking to influence a sports participant or sports official, or tampering with any animal or equipment or other thing involved in the conduct or operation of a sports contest, in a manner known to be contrary to the rules and usages governing such contest and with intent to influence the outcome of such contest.

(b) Tampering with a sports contest is a severity level 8, nonperson felony.

KSA 21-6509 — Knowingly employing an alien illegally within the territory of the United States

Knowingly employing an alien illegally within the territory of the United States.

(a) Knowingly employing an alien illegally within the territory of the United States is the employment of such alien within the state of Kansas by an employer who knows such person to be illegally within the territory of the United States.

(b) Knowingly employing an alien illegally within the territory of the United States is a class C misdemeanor.

(c) The provisions of this section shall not apply to aliens who have entered the United States illegally and thereafter are permitted to remain within the United States, temporarily or permanently, pursuant to federal law.

KSA 21-6601 — Construction

Construction.

K.S.A.

21-6601

through

21-6629

, and amendments thereto, shall be liberally construed to the end that persons convicted of crime shall be dealt with in accordance with their individual characteristics, circumstances, needs and potentialities as revealed by case studies; that dangerous offenders shall be correctively treated in custody for long terms as needed; and that other offenders shall be dealt with by probation, suspended sentence, fine or assignment to a community correctional services program whenever such disposition appears practicable and not detrimental to the needs of public safety and the welfare of the offender, or shall be committed for at least a minimum term within the limits provided by law.

KSA 21-6602 — Classification of misdemeanors and terms of confinement; possible disposition

Classification of misdemeanors and terms of confinement; possible disposition.

(a) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(2) class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(3) class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month; and

(4) unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(b) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in K.S.A.

21-6611

, and amendments thereto, instead of or in addition to confinement, as provided in this section.

(c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary for aging and disability services.

(d) Except as provided in subsection (e), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under K.S.A.

8-1599

,

41-719

or

41-727

or K.S.A.

21-5701

through

21-5717

, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A.

8-1008

, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(e) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A.

41-727

, and amendments thereto, involving cereal malt beverage, the provisions of subsection (d) are permissive and not mandatory.

KSA 21-6603 — Definitions

Definitions.

As used in K.S.A.

21-6601

through

21-6616

,

21-6702

through

21-6712

, and

21-6801

through

21-6805

, and amendments thereto:

(a) "Court" means any court having jurisdiction and power to sentence offenders for violations of the laws of this state;

(b) "community correctional services program" means a program which operates under the community corrections act and to which a defendant is assigned for supervision, confinement, detention, care or treatment, subject to conditions imposed by the court. A defendant assigned to a community correctional services program shall be subject to the continuing jurisdiction of the court and in no event shall be considered to be in the custody of or under the supervision of the secretary of corrections;

(c) "correctional institution" means any correctional institution established by the state for the confinement of offenders, and under control of the secretary of corrections;

(d) "house arrest" is an individualized program in which the freedom of an inmate is restricted within the community, home or noninstitutional residential placement and specific sanctions are imposed and enforced. "House arrest" may include:

(1) Electronic monitoring which requires a transmitter to be worn by the defendant or inmate which broadcasts an encoded signal to the receiver located in the defendant's or inmate's home. The receiver is connected to a central office computer and is notified of any absence of the defendant or inmate; or

(2) voice identification-encoder which consists of an encoder worn by the defendant or inmate. A computer is programmed to randomly call the defendant or inmate and such defendant or inmate is required to provide voice identification and then insert the encoder into the verifier box, confirming identity;

(e) "parole" means the release of a prisoner to the community by the prisoner review board prior to the expiration of such prisoner's term, subject to conditions imposed by the board and to the secretary of correction's supervision. Parole also means the release by a court of competent jurisdiction of a person confined in the county jail or other local place of detention after conviction and prior to expiration of such person's term, subject to conditions imposed by the court and its supervision. Where a court or other authority has filed a warrant against the prisoner, the prisoner review board or paroling court may release the prisoner on parole to answer the warrant of such court or authority;

(f) "postrelease supervision," for crimes committed on or after July 1, 1993, means the same as in K.S.A.

21-6803

, and amendments thereto;

(g) "probation" means a procedure under which a defendant, convicted of a crime, is released by the court after imposition of sentence, without imprisonment except as provided in felony cases, subject to conditions imposed by the court and subject to the supervision of the probation service of the court or community corrections. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence pursuant to subsection (b)(3) of K.S.A.

21-6702

, and amendments thereto; and

(h) "suspension of sentence" means a procedure under which a defendant, convicted of a crime, is released by the court without imposition of sentence. The release may be with or without supervision in the discretion of the court. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence pursuant to subsection (b)(4) of K.S.A.

21-6702

, and amendments thereto.

KSA 21-6604 — Authorized dispositions; crimes committed on or after July 1, 1993

Authorized dispositions; crimes committed on or after July 1, 1993.

(a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court

may deem appropriate. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A.

75-5291

, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A.

21-6602

(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity that materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A.

21-5911

, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire that has been determined to be arson or aggravated arson as defined in K.S.A.

21-5812

, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation that leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A.

22-4529

, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A.

20-369

, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in K.S.A.

21-6804

(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A.

75-5202

, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A.

8-1567

, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A.

22-2802

, and amendments thereto;

(13) order the defendant to participate in a specialty court program pursuant to K.S.A.

20-173

, and amendments thereto;

(14) impose any appropriate combination of paragraphs (1) through (13); or

(15) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime.

(2) (A) For a violation of K.S.A.

21-6107

, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section.

(B) For a violation of K.S.A.

21-5801

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21-5807

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21-5813

or

21-5818

, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

(C) For a violation of K.S.A.

21-6416

, and amendments thereto, such damage or loss shall include the cost for veterinary medical treatment, reasonable funeral and burial expenses and replacement of the police dog, arson dog, assistance dog, game warden dog, search and rescue dog or police horse. Replacement costs shall include, but not be limited to, training costs, personnel expenses and costs associated with boarding the animal during training.

(3) If the court orders restitution, the restitution shall be a judgment against the defendant that may be collected by the court by garnishment as provided in article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or other execution. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the restitution order, the court shall assign an agent procured by the judicial administrator pursuant to K.S.A.

20-169

, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of collection proceedings.

(4) Restitution shall be due immediately unless:

(A) The court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments; or

(B) the court finds compelling circumstances that would render restitution unworkable, either in whole or in part.

(5) If the court finds restitution unworkable, either in whole or in part, the court shall state on the record in detail the reasons therefor.

(6) If a restitution order entered prior to June 11, 2020, does not give the defendant a specified time to pay or set payment in specified installments, the defendant may file a motion with the court prior to December 31, 2020, proposing payment of restitution in specified installments. The court may recall the restitution order from the agent assigned pursuant to K.S.A.

20-169

, and amendments thereto, until the court rules on such motion. If the court does not order payment in specified installments or if the defendant does not file a motion prior to December 31, 2020, the restitution shall be due immediately.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A.

21-6602

(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A.

21-6606

, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time when the offender would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the offender not been granted release by the court pursuant to K.S.A.

21-6608

(d), and amendments thereto, or the prisoner review board pursuant to K.S.A.

22-3717

, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A.

38-1671

, prior to its repeal, or K.S.A.

38-2373

, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A.

21-6606

, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A.

21-6824

, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A.

21-6824

, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A.

75-52,127

, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court

that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A.

22-4522

, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) (1) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A.

75-52,127

, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(A) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A.

21-6824

, and amendments thereto; and

(B) otherwise meets admission criteria of the camp.

(2) If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A.

21-6608

, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp.

21-4628

, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by K.S.A.

21-6630

and

21-6805

(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A.

21-5706

, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A.

21-6824

, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A.

75-52,144

, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A.

22-3716

, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A.

21-6805

, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to K.S.A.

22-3716

(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A.

22-3716

(c)(1), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A.

21-5706

, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, 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.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order that 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.

(B) 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 paragraph 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 paragraph.

(C) 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 paragraph, 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.

(4) As used in this subsection, "highway" and "street" mean the same as defined in K.S.A.

8-1424

and

8-1473

, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A.

22-4616

, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, 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 by the later of one year after the fine is imposed or one year after release from imprisonment or jail, 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 shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission 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. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A.

21-4643

, prior to its repeal, or K.S.A.

21-6627

, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review

board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in K.S.A.

22-3716

(c)(1)(B), and amendments thereto, without further order of the court, unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A.

22-3716

(b), and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in K.S.A.

22-3716

(c)(1)(B), and amendments thereto, without further order of the court unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A.

22-3716

(b), and amendments thereto, refuses to waive such right.

(u) In addition to any of the above, the court shall authorize an additional 18 days of confinement in a county jail to be reserved for sanctions as set forth in K.S.A.

22-3716

(b)(3)(B), (b)(4) or (c)(1)(B), and amendments thereto.

KSA 21-6605 — Custody of persons sentenced to confinement; notice of modification of sentence

Custody of persons sentenced to confinement; notice of modification of sentence.

(a) When a person is sentenced to imprisonment upon conviction of a felony, the judgment of the court shall order that such person be committed, for such term or terms as the court may direct, to the custody of the secretary of corrections. When such person is sentenced to the custody of the secretary of corrections and such sentence is subsequently modified in any respect, including discharge of such defendant from custody, by a court of this state having jurisdiction of such matter, such court shall thereupon notify the secretary of corrections of the nature of such modification.

(b) The secretary of corrections may designate as the place of confinement any available and suitable correctional institution or facility maintained by the state of Kansas or a political subdivision thereof.

(c) Any person serving a sentence of imprisonment may be transferred from one institution to another by order of the secretary of corrections.

KSA 21-6606 — Multiple sentences; defendant subject to or under sentence in federal court or court of another state

Multiple sentences; defendant subject to or under sentence in federal court or court of another state.

(a) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, including sentences for crimes for which suspended sentences, probation or assignment to a community correctional services program have been revoked, such sentences shall run concurrently or consecutively as the court directs. Whenever the record is silent as to the manner in which two or more sentences imposed at the same time shall be served, they shall be served concurrently, except as otherwise provided in subsections (c), (d) and (e).

(b) Any person who is convicted and sentenced for a crime committed while on probation, assignment to a community correctional services program, parole or conditional release for a misdemeanor shall serve the sentence concurrently with or consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release, as the court directs.

(c) Any person who is convicted and sentenced for a crime committed while on probation, assigned to a community correctional services program, on parole, on conditional release or on postrelease supervision for a felony shall serve the

sentence consecutively to the term or terms under which the person was on probation, assigned to a community correctional services program or on parole or conditional release.

(d) Any person who is convicted and sentenced for a crime committed while on release for a felony pursuant to article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall serve the sentence consecutively to the term or terms under which the person was released.

(e) (1) Any person who is convicted and sentenced for a crime committed while such person is incarcerated and serving a sentence for a felony in any place of incarceration shall serve the sentence consecutively to the term or terms under which the person was incarcerated.

(2) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while the person was imprisoned for an offense committed prior to July 1, 1993, and the person is not eligible for the retroactive application of the sentencing guidelines act, the new sentence shall not be aggregated with the old sentence but shall begin when the person is paroled or reaches the conditional release date on the old sentence, whichever is earlier. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of post incarceration supervision shall be based on the longest term of post incarceration supervision imposed for all crimes upon which sentence was imposed or until discharged from supervision by the prisoner review board. The term of post incarceration supervision imposed by this paragraph shall apply retroactively to crimes committed prior to July 1, 2008.

(3) As used in this subsection, "post incarceration supervision" includes parole and postrelease supervision.

(f) The provisions of this subsection relating to parole eligibility shall be applicable to persons convicted of crimes committed prior to January 1, 1979, but shall be applicable to persons convicted of crimes committed on or after that date only to the extent that the terms of this subsection are not in conflict with the provisions of K.S.A.

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, and amendments thereto. In calculating the time to be served on concurrent and consecutive sentences, the following rules shall apply:

(1) When indeterminate terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum term and the shorter maximum terms merge in and are satisfied by conditional release or discharge on the longest maximum term if the terms are imposed on the same date.

(2) When concurrent terms are imposed on different dates, computation will be made to determine which term or terms require the longest period of imprisonment to reach parole eligibility, conditional release and maximum dates, and that sentence will be considered the controlling sentence. The parole eligibility date may be computed and projected on one sentence and the conditional release date and maximum may be computed and projected from another to determine the controlling sentence.

(3) When indeterminate terms imposed on the same date are to be served consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms.

(4) When indeterminate sentences are imposed to be served consecutively to sentences previously imposed in any other court or the sentencing court, the aggregated minimums and maximums shall be computed from the effective date of the subsequent sentences which have been imposed as consecutive. For the purpose of determining the sentence begins date and the parole eligibility and conditional release dates, the inmate shall be given credit on the aggregate sentence for time spent imprisoned on the previous sentences, but not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned on the minimum sentence. For the purpose of computing the maximum date, the inmate shall be given credit for all time spent imprisoned on the previous sentence. This method for computation of the maximum sentence shall be utilized for all sentences computed pursuant to this subsection after July 1, 1983.

Nothing in this subsection (f)(4) shall affect the authority of the prisoner review board to determine the parole eligibility of inmates pursuant to subsection (d) of K.S.A.

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, and amendments thereto.

(5) When consecutive sentences are imposed which are to be served consecutive to sentences for which a prisoner has been on probation, assigned to a community correctional services program, on parole or on conditional release, the amount of time served on probation, on assignment to a community correctional services program, on parole or on conditional release shall not be credited as service on the aggregate sentence in determining the parole eligibility, conditional release and maximum dates, except that credit shall be given for any amount of time spent in a residential facility while on probation or assignment to a community correctional residential services program.

(g) When a definite and an indefinite term run consecutively, the period of the definite term is added to both the minimum and maximum of the indeterminate term and both sentences are satisfied by serving the indeterminate term. The provisions of this subsection shall not apply to crimes committed on or after July 1, 1993.

(h) When a defendant is sentenced in a state court and is also under sentence from a federal court or other state court or is subject to sentence in a federal court or other state court for an offense committed prior to the defendant's sentence in a Kansas state court, the court may direct that custody of the defendant may be relinquished to federal or other state authorities and that such state sentences as are imposed may run concurrently with any federal or other state sentence imposed.

KSA 21-6607 — Conditions of probation, suspension of sentence or assignment to community correctional services program; correctional supervision fee; correctional supervision fund; searches; written reports

Conditions of probation, suspension of sentence or assignment to community correctional services program; correctional supervision fee; correctional supervision fund; searches; written reports.

(a) Except as required by subsection (c), nothing in this section shall be construed to limit the authority of the court to impose or modify any general or specific conditions of probation, suspension of sentence or assignment to a community correctional services program. The court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation, suspension of sentence or assignment to a community correctional services program. For crimes committed on or after July 1, 1993, in presumptive nonprison cases, the court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation or assignment to a community correctional services program. The court may at any time order the modification of such conditions, after notice to the court services officer or community correctional services officer and an opportunity for such officer to be heard thereon. The court shall cause a copy of any such order to be delivered to the court services officer and the probationer or to the community correctional services officer and the community corrections participant, as the case may be. The provisions of K.S.A.

75-5291

, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The court may impose any conditions of probation, suspension of sentence or assignment to a community correctional services program that the court deems proper, including, but not limited to, requiring that the defendant:

(1) Obey all laws and ordinances and report any law enforcement contact to the defendant's supervision officer within 24 hours after such contact;

(2) not engage in physical violence or threats of violence of any kind and, if the defendant is being supervised for conviction of a felony, not purchase or possess a dangerous weapon, including a firearm, while on supervision;

(3) report to the defendant's supervision officer as directed and be truthful in all matters;

(4) remain within the state of Kansas or other specified areas as defined by the defendant's supervision officer;

(5) reside at the defendant's approved residence unless the defendant receives permission from the defendant's supervision officer to relocate and notify the defendant's supervision officer within 24 hours after any emergency changes in residence or contact information;

(6) not possess, use or distribute any controlled substances except those prescribed by a licensed medical professional;

(7) not possess or consume any form of alcohol or intoxicating substance or enter any establishment where alcohol is sold or consumed as the primary business;

(8) submit to any form of alcohol or substance use testing directed by the defendant's supervision officer and not alter or tamper with the specimen or test;

(9) participate in assessment, treatment, programming and other directives of the court or the defendant's supervision officer;

(10) be subject to searches of the defendant's person, effects, vehicle, residence and property by a court services officer, community correctional services officer or any other law enforcement officer based on reasonable suspicion that the defendant violated conditions of probation or engaged in criminal activity; or

(11) refrain from contacting victims unless authorized by the court to contact a victim as part of rehabilitative or therapeutic purposes.

(c) In addition to any conditions of probation, suspension of sentence or assignment to a community correctional services program ordered pursuant to subsection (b), the court shall order the defendant to:

(1) Make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime in accordance with K.S.A.

21-6604

(b), and amendments thereto;

(2) (A) pay a correctional supervision fee of $60 if the person was convicted of a misdemeanor or a fee of $120 if the person was convicted of a felony. In any case the amount of the correctional supervision fee specified by this paragraph may be reduced or waived by the judge if the person is unable to pay that amount;

(B) the correctional supervision fee imposed by this paragraph shall be charged and collected by the district court. The clerk of the district court shall remit all revenues received under this paragraph from correctional supervision 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 state general fund, a sum equal to 41.67% of such remittance, and to the correctional supervision fund, a sum equal to 58.33% of such remittance;

(C) this paragraph shall apply to persons placed on felony or misdemeanor probation or released on misdemeanor parole to reside in Kansas and supervised by Kansas court services officers under the interstate compact for offender supervision; and

(D) this paragraph shall not apply to persons placed on probation or released on parole to reside in Kansas under the uniform act for out-of-state parolee supervision; and

(3) reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A.

22-4522

, and amendments thereto, whichever is less.

(d) The office of judicial administration and the department of corrections shall collaborate to develop documentation related to conditions of supervision.

(e) Any law enforcement officer who conducts a search pursuant to subsection (b)(10) shall submit a written report to the appropriate court services officer or community correctional services officer not later than the close of business the next day after such search is conducted. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(f) There is hereby established in the state treasury the correctional supervision fund. All moneys credited to the correctional supervision fund shall be used for: (1) The implementation of and training for use of a statewide, mandatory, standardized risk assessment tool or instrument as specified by the Kansas sentencing commission, pursuant to K.S.A.

75-5291

, and amendments thereto; (2) the implementation of and training for use of a statewide, mandatory, standardized risk assessment tool or instrument for juveniles adjudicated to be juvenile offenders; and (3) evidence-based adult and juvenile offender supervision programs by judicial branch personnel. If all expenditures for the program have been paid and moneys remain in the correctional supervision fund for a fiscal year, remaining moneys may be expended from the correctional supervision fund to support adult and juvenile offender supervision by court services officers. All expenditures from the correctional supervision fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

KSA 21-6608 — Period of suspension of sentence, probation or assignment to community corrections; parole of misdemeanant; duration of probation in felony cases, modification or extension

Period of suspension of sentence, probation or assignment to community corrections; parole of misdemeanant; duration of probation in felony cases, modification or extension.

(a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed two years in misdemeanor cases, subject to renewal and extension for additional fixed periods of two years. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probation is:

(A) 36 months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7;

(2) for drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2 committed prior to July 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or after July 1, 2012;

(3) except as provided further, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes, severity level 4 on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, and severity level 5 of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation of up to 12 months in length;

(4) in felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes, severity level 3 on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, and severity level 4 of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and felony cases sentenced pursuant to K.S.A.

21-6824

, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A.

75-5291

et seq., and amendments thereto, of up to 18 months in length;

(5) if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be

considered a departure and shall not be subject to appeal;

(6) except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time;

(7) if the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid; and

(8) the court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) In addition to the provisions of subsection (a), a defendant who has a risk assessment of low risk, has paid all restitution and has been compliant with the terms of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction for a period of 12 months shall be eligible for discharge from such period of supervision by the court. The court shall grant such discharge unless the court finds by clear and convincing evidence that denial of such discharge will serve community safety interests.

KSA 21-6609 — House arrest program; eligibility; methods; notice to law enforcement officers; administration

House arrest program; eligibility; methods; notice to law enforcement officers; administration.

(a) The court or the secretary of corrections may implement a house arrest program for defendants or inmates being sentenced by the court or in the custody of the secretary of corrections or as a sanction for offenders who have failed to comply with the conditions of probation, parole or postrelease supervision, except:

(1) No defendant shall be placed by the court under house arrest if found guilty of:

(A) Any crime designated as a class A or B felony in article 34 or 35 of the Kansas Statutes Annotated, prior to their repeal;

(B) subsection (b) of K.S.A.

21-5604

, and amendments thereto;

(C) K.S.A.

21-5602

, and amendments thereto;

(D) any off-grid felony; or

(E) any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, unless the offender has been sentenced to probation;

(2) no inmate shall be placed under house arrest if such inmate's security status is greater than minimum security; or

(3) no inmate shall be placed under house arrest who has been denied parole by the prisoner review board within the last six months. Any inmate who, while participating in the house arrest program, is denied parole by the prisoner review board shall be allowed to remain under house arrest until the completion of the sentence or until the inmate is otherwise removed from the program.

(b) At the time of placement of an inmate under house arrest, the court, secretary or house arrest staff shall provide written notification to the sheriff and district or county attorney of the county in which any person under house arrest is to be placed and to the chief law enforcement officer of any incorporated city or town in which such person is to be placed of the placement of the person under house arrest within the county or incorporated city or town.

(c) House arrest sanctions shall be administered by the court and the secretary of corrections, respectively, through rules and regulations, and may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver's license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the inmate's liberty.

(d) Upon placement in a house arrest program, the court, secretary or house arrest staff shall inform the offender, and any other people residing with such offender, of the nature and extent of such house arrest monitoring, and shall obtain the written agreement of such offender to comply with all requirements of the program.

(e) The offender shall remain within the property boundaries of the offender's residence at all times during the term of house arrest, except as provided under the house arrest agreement with such offender.

(f) The offender shall allow any law enforcement officer, community corrections officer, court services officer or duly authorized agent of the department of corrections, to enter such offender's residence at any time to verify the offender's compliance with the conditions of the house release.

(g) As a condition of house arrest, the court or secretary may require an offender placed under house arrest to pay any supervision costs associated with the house arrest program.

(h) The offender shall consent to be monitored by:

(1) An electronic monitoring device on such offender's person;

(2) an electronic monitoring device in such offender's home;

(3) a remote blood alcohol monitoring device;

(4) a home telephone verification procedure;

(5) radio frequency devices; or

(6) any combination of monitoring methods as the court, secretary or house arrest staff finds necessary.

(i) The secretary or the court may contract for independent monitoring services. Such independent monitoring service shall be able to provide monitoring 24 hours a day, every day of the year, and any other services as determined by the secretary or the court.

(j) An offender violating the provisions of K.S.A.

8-1567

, and amendments thereto, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. On a second or subsequent conviction of K.S.A.

8-1567

, and amendments thereto, an offender placed under house arrest shall serve the total number of hours of confinement mandated by that section.

(k) As used in this section:

(1) "House arrest staff" means an independent contractor or government entity, and agents thereof, utilized by the secretary or court to administer the provisions of a house arrest program;

(2) "electronic monitoring device" means:

(A) An active or passive global positioning system-enabled device capable of recording and transmitting an offender's location at all times or at designated intervals. Such monitoring device may record or transmit sound, visual images or other information regarding such offender's location, via wireless communication; or

(B) a radio frequency device capable of monitoring an offender's location; and

(3) "remote alcohol monitoring device" means a device capable of monitoring an offender's blood alcohol content via micro fuel cell or deep lung tissue sample. Such monitoring devices shall be of comparable accuracy to roadside breath alcohol testing devices utilized by law enforcement, and shall have wireless or landline telephone transmission capabilities. Such device may be used in conjunction with an alcohol and drug-sensing bracelet to monitor such offender's compliance with the terms of house arrest.

KSA 21-6610 — Transfer of supervision of person paroled, on probation, assigned to community corrections or under suspended sentence; transfer of jurisdiction of a person sentenced to participate in a certified drug abuse treatment program; supervision under two or more supervision entities or agencies, consolidation

Transfer of supervision of person paroled, on probation, assigned to community corrections or under suspended sentence; transfer of jurisdiction of a person sentenced to participate in a certified drug abuse treatment program;

supervision under two or more supervision entities or agencies, consolidation.

(a) When a defendant is placed on parole by the district court, on probation, assigned to a community correctional services program by a district court or under suspended sentence and such defendant is permitted to go from the judicial district of that court, supervision over the defendant may be transferred from that judicial district to another with the concurrence of the receiving chief court services officer, or if in a community corrections services program, by the concurrence of the director of the receiving program.

(b) When a defendant described in subsection (a) is sentenced pursuant to K.S.A.

21-6824

, and amendments thereto, the district court from which the defendant is on parole, on probation, assigned to a community correctional services program or under suspended sentence may transfer jurisdiction of the defendant with the concurrence of the receiving district court and all parties.

(c) (1) When a defendant described in subsection (a) is being sentenced and is already being supervised on parole, probation, assignment to a community correctional services program or under suspended sentence, the district court by which the defendant is currently being supervised may use the guidelines provided in this subsection to determine whether it is appropriate to transfer jurisdiction of the defendant to a different district court.

(2) If the new sentence would place the defendant under the supervision of two supervision entities or agencies, the court may consider:

(A) Granting jurisdiction to the court with jurisdiction over the offense that has the longest underlying sentence of imprisonment; and

(B) whether the severity of the new offense requires a higher level of supervision. If a higher level of supervision is not required, there may be a preference for maintaining supervision of the defendant by the current supervising entity or agency for the duration of supervision. If a higher level of supervision is required, there may be a preference for transferring supervision responsibility of the defendant to the appropriate supervision entity or agency for the duration of supervision.

(3) If two or more supervision entities or agencies are supervising the defendant for sentences that are equal, the court may consider:

(A) The residency of the defendant;

(B) the ability of the defendant to travel to the supervision office from the defendant's residence, place of employment and school;

(C) resources for residential and nonresidential sanctions or rehabilitative treatment available from each supervision entity or agency; and

(D) the level of supervision available to the defendant by each supervision entity or agency.

(d) The district court from which the defendant is on parole, probation, assignment to a community correctional services program or suspended sentence may retain jurisdiction of the defendant. If the court retains jurisdiction, the defendant shall be supervised by one supervision entity or agency. The department of corrections and the office of judicial administration shall enter into a memorandum of understanding providing that a defendant on parole, probation, assignment to a community correctional services program or suspended sentence shall be supervised by one supervision entity or agency. Such memorandum of understanding shall include, but not be limited to, provisions related to:

(1) The criteria for determining the most appropriate supervision entity or agency;

(2) how the financial obligations of supervision will be managed;

(3) conditions of supervision;

(4) sanctions for violation of supervision;

(5) standards for seeking revocation of parole, probation, assignment to a community correctional services program or suspended sentence;

(6) termination of supervision; and

(7) information sharing between supervision entities or agencies.

KSA 21-6611 — Fines; crimes committed on or after July 1, 1993

Fines; crimes committed on or after July 1, 1993.

(a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) For any off-grid felony crime, or any felony ranked in severity level 1 of the drug grid committed prior to July 1, 2012, or in severity levels 1 or 2 of the drug grid committed on or after July 1, 2012, as provided in K.S.A.

21-6805

, and amendments thereto, a sum not exceeding $500,000;

(2) for any felony ranked in severity levels 1 through 5 of the nondrug grid as provided in K.S.A.

21-6804

, and amendments thereto, or in severity levels 2 or 3 of the drug grid committed prior to July 1, 2012, or in severity levels 3 or 4 of the drug grid committed on or after July 1, 2012, as provided in K.S.A.

21-6805

, and amendments thereto, a sum not exceeding $300,000; and

(3) for any felony ranked in severity levels 6 through 10 of the nondrug grid as provided in K.S.A.

21-6804

, and amendments thereto, or in severity level 4 of the drug grid committed prior to July 1, 2012, or in severity level 5 of the drug grid committed on or after July 1, 2012, as provided in K.S.A.

21-6805

, and amendments thereto, a sum not exceeding $100,000.

(b) A person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding $2,500;

(2) for a class B misdemeanor, a sum not exceeding $1,000;

(3) for a class C misdemeanor, a sum not exceeding $500; and

(4) for an unclassified misdemeanor, any sum authorized by the statute that defines the crime. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(c) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(d) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding $500.

(e) A person who has been convicted of a cigarette or tobacco infraction shall be sentenced to pay a fine of $25.

(f) The provisions of this section shall apply to crimes committed on or after July 1, 1993.

KSA 21-6612 — Criteria for imposing fines

Criteria for imposing fines.

(a) When the law authorizes any other disposition, a fine shall not be imposed as the sole and exclusive punishment unless having regard to the nature and circumstances of the crime and to the history and character of the defendant, the court finds that the fine alone suffices for the protection of the public.

(b) The court shall not sentence a defendant to pay a fine in addition to a sentence of imprisonment, probation or assignment to a community correctional services program unless:

(1) The defendant has derived a pecuniary gain from the crime; or

(2) the court finds that a fine is adapted to deterrence of the crime involved or to the correction of the offender.

(c) In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.

(d) If a fine is ordered pursuant to subsection (b), the court's findings regarding the requirements of subsections (b) and (c) shall be stated on the record.

KSA 21-6613 — Rights of imprisoned persons; restoration

Rights of imprisoned persons; restoration.

(a) A person who has been convicted in any state or federal court of a felony shall, by reason of such conviction, be ineligible to hold any public office under the laws of the state of Kansas, or to register as a voter or to vote in any election held under the laws of the state of Kansas or to serve as a juror in any civil or criminal case.

(b) The ineligibilities imposed by this section shall attach upon conviction and shall continue until such person has completed the terms of the authorized sentence.

(c) The ineligibilities imposed upon a convicted person by this section shall be in addition to such other penalties as may be provided by law.

KSA 21-6614 — Expungement of certain convictions, arrest records and diversion agreements; procedure; restoration of person's right to keep and bear arms

Expungement of certain convictions, arrest records and diversion agreements; procedure; restoration of person's right to keep and bear arms.

(a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(3) Notwithstanding the provisions of subsection (a)(1), and except as provided in subsections (b), (c), (d), (e) and (f), any person who has completed the requirements of a specialty court program established pursuant to K.S.A.

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, and amendments thereto, may petition the district court for the expungement of the conviction and related arrest records. The court may waive all or part of the docket fee imposed for filing a petition pursuant to this subsection.

(b) Any person convicted of prostitution, as defined in K.S.A.

21-3512

, prior to its repeal, convicted of a violation of K.S.A.

21-6419

, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from

probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any felony ranked in severity levels 1 through 5 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A.

21-3405

, prior to its repeal, or K.S.A.

21-5406

, and amendments thereto, or as prohibited by any law of another state that is in substantial conformity with that statute;

(2) 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 as prohibited by any law of another state that is in substantial conformity with that statute;

(3) 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 that is in substantial conformity with that statute;

(4) violating the provisions of K.S.A.

8-142

Fifth

, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state that is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A.

8-1603

, prior to its repeal, or K.S.A.

8-1602

or

8-1604

, and amendments thereto, or required by a law of another state that is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A.

40-3104

, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A.

21-3405b

, prior to its repeal.

(d) (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a first violation of K.S.A.

8-1567

, and amendments thereto, including any diversion for such violation.

(2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of K.S.A.

8-1567

, and amendments thereto.

(3) Except as provided further, the provisions of this subsection shall apply to all violations committed on or after July 1, 2006. The provisions of subsection (d)(2) shall not apply to violations committed on or after July 1, 2014, but prior to July 1, 2015.

(e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(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 or aggravated indecent liberties with a child, as defined in K.S.A.

21-3503

or

21-3504

, prior to their repeal, or K.S.A.

21-5506

, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A.

21-3505

(a)(2) or (a)(3), prior to its repeal, or K.S.A.

21-5504

(a)(3) or (a)(4), and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A.

21-3506

, prior to its repeal, or K.S.A.

21-5504

, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A.

21-3510

or

21-3511

, prior to their repeal, or K.S.A.

21-5508

, and amendments thereto;

(6) 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;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 21-5604, and amendments thereto;

(9) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto;

(12) 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;

(13) 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;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A.

21-3404

, prior to its repeal, or K.S.A.

21-5405

, and amendments thereto;

(16) sexual battery, as defined in K.S.A.

21-3517

, prior to its repeal, or K.S.A.

21-5505

, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A.

21-3518

, prior to its repeal, or K.S.A.

21-5505

, and amendments thereto;

(18) a violation of K.S.A.

8-2,144

, and amendments thereto, including any diversion for such violation; or

(19) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

(f) Except as provided in K.S.A.

22-4908

, and amendments thereto, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A.

22-4901

et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

(D) crime for which the defendant was arrested, convicted or diverted;

(E) date of the defendant's arrest, conviction or diversion; and

(F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of $176. On and after July 1, 2019, through June 30, 2025, the supreme court may impose a charge, not to exceed $19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) (A) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner if the petition is filed under subsection (a)(1) or (a)(2); or

(B) no proceeding involving a felony is presently pending or being instituted against the petitioner if the petition is filed under subsection (a)(3);

(2) the circumstances and behavior of the petitioner warrant the expungement;

(3) the expungement is consistent with the public welfare; and

(4) with respect to petitions seeking expungement of a felony conviction, possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public.

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation that shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency that may have a record of the arrest, conviction or diversion. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A.

75-7b21

, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A.

75-7b01

, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A.

75-7b01

, and amendments thereto; or with an institution, as defined in K.S.A.

76-12a01

, and amendments thereto, of the Kansas department for aging and disability services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A.

8-2,125

through

8-2,142

, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A.

17-12a102

, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A.

22-2202

or

74-5602

, and amendments thereto; or

(K) to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A.

75-7e01

through

75-7e09

, and amendments thereto, and K.S.A.

50-6,141

, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense that requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime.

(2) A person whose arrest record, conviction or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but not be limited to, the right to use, transport, receive, purchase, transfer and possess firearms. The provisions of this paragraph shall apply to all orders of expungement, including any orders issued prior to July 1, 2021.

(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person

whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A.

76-12a01

, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A.

74-5601

et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A.

22-2202

, and amendments thereto;

(16) (A) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to act as a bail enforcement agent pursuant to K.S.A.

75-7e01

through

75-7e09

, and amendments thereto, and K.S.A.

50-6,141

, and amendments thereto; or

(B) the attorney general for any other purpose authorized by law, except that an expungement record shall not be the basis for denial of a license to carry a concealed handgun under the personal and family protection act; or

(17) the Kansas bureau of investigation, for the purpose of completing a person's criminal history record information within the central repository, in accordance with K.S.A.

22-4701

et seq., and amendments thereto.

(m) (1) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

(2) Upon the issuance of an order of expungement that resulted in the restoration of a person's right to keep and bear arms, the Kansas bureau of investigation shall report to the federal bureau of investigation that such expunged record be withdrawn from the national instant criminal background check system. The Kansas bureau of investigation shall include such order of expungement in the person's criminal history record for purposes of documenting the restoration of such person's right to keep and bear arms.

KSA 21-6615 — Deduction of time spent incarcerated or in confinement, residential facility or community correctional residential services program

Deduction of time spent incarcerated or in confinement, residential facility or community correctional residential services program.

(a) (1) In any criminal action in which the defendant is convicted, the judge, if the judge sentences the defendant to confinement, shall direct that for the purpose of computing the defendant's sentence and parole eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order of the journal entry of judgment. Such date shall be established to reflect and shall be computed as an allowance for the time that the defendant has spent incarcerated pending the disposition of the defendant's case. The defendant shall be entitled to have credit applied for each day spent incarcerated. In recording the commencing date of such sentence the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances as are authorized by the secretary of corrections are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any of the institutions of the state correctional system.

(2) When computing the defendant's sentence, the following shall not be considered time spent incarcerated pending disposition of the defendant's case:

(A) Any time awarded as credit in another case when consecutive sentences are imposed on a defendant; or

(B) any time spent incarcerated in another jurisdiction if no hold has been issued in such jurisdiction for the case being sentenced.

(b) In any criminal action in which probation or assignment to community corrections is revoked and the defendant is sentenced to confinement, for the purpose of computing the defendant's sentence and parole eligibility and conditional release date, the defendant's sentence is to be computed from a date, hereafter to be specifically designated in the sentencing order of the journal entry of judgment. Such date shall be established to reflect and shall be computed as an allowance for the time that the defendant has spent in a residential facility while on probation or assignment to community correctional residential services program. The commencing date of such sentence shall be used as the date of sentence and all good time allowances as are authorized by law are to be allowed on such sentence from such date as though the defendant were actually incarcerated in a correctional institution.

(c) Such credit is not to be considered to reduce the minimum or maximum terms of confinement authorized by law for the offense of which the defendant has been convicted.

KSA 21-6616 — Parole from sentence imposed by district magistrate judge

Parole from sentence imposed by district magistrate judge.

Any person confined in jail under judgment of conviction before a district magistrate judge may be paroled, such person's parole terminated and absolute discharge granted by a district judge having jurisdiction of appeals from such district magistrate judge in criminal cases, in the same manner and subject to the same restrictions as if such person had been convicted in and placed on probation by such district judge.

KSA 21-6617 — Persons convicted of capital murder; proceeding to determine if person shall be sentenced to death; notice; trial judge; jury; imprisonment for life without the possibility of parole

Persons convicted of capital murder; proceeding to determine if person shall be sentenced to death; notice; trial judge; jury; imprisonment for life without the possibility of parole.

(a) If a defendant is charged with capital murder, the county or district attorney shall file written notice if such attorney intends, upon conviction of the defendant, to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death. In cases where the county or district attorney or a court determines that a conflict exists, such notice may be filed by the attorney general. Such notice shall be filed with the court and served on the defendant or the defendant's attorney not later than seven days after the time of arraignment. If such notice is not filed and served as required by this subsection, the prosecuting attorney may not request such a sentencing proceeding and the defendant, if convicted of capital murder, shall be sentenced to life without the possibility of parole, and no sentence of death shall be imposed hereunder.

(b) Except as provided in K.S.A.

21-6618

and

21-6622

, and amendments thereto, upon conviction of a defendant of capital murder, the court, upon motion of the prosecuting attorney, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the sentencing proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the sentencing proceeding, the trial judge may summon a special jury of 12 persons which shall determine the question of whether a sentence of death shall be imposed. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such special jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A.

22-3403

, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived or the trial jury has been waived, the sentencing proceeding shall be conducted by the court.

(c) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state has made known to the defendant prior to the sentencing proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the sentencing proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(d) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations.

(e) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced to death; otherwise, the defendant shall be sentenced to life without the possibility of parole. The jury, if its verdict is a unanimous recommendation of a sentence of death, shall designate in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict, the judge shall dismiss the jury and impose a sentence of life without the possibility of parole and shall commit the defendant to the custody of the secretary of corrections. In nonjury cases, the court shall follow the requirements of this subsection in determining the sentence to be imposed.

(f) Notwithstanding the verdict of the jury, the trial court shall review any jury verdict imposing a sentence of death hereunder to ascertain whether the imposition of such sentence is supported by the evidence. If the court determines that the imposition of such a sentence is not supported by the evidence, the court shall modify the sentence and sentence the defendant to life without the possibility of parole, and no sentence of death shall be imposed hereunder. Whenever the court enters a judgment modifying the sentencing verdict of the jury, the court shall set forth its reasons for so doing in a written memorandum which shall become part of the record.

(g) A defendant who is sentenced to imprisonment for life without the possibility of parole shall spend the remainder of the defendant's natural life incarcerated and in the custody of the secretary of corrections. A defendant who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, functional incapacitation release pursuant to K.S.A.

22-3728

, and amendments thereto, or suspension, modification or reduction of sentence. Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

KSA 21-6618 — Sentencing

Sentencing.

Upon conviction of a defendant of capital murder and a finding that the defendant was less than 18 years of age at the time of the commission thereof, the court shall sentence the defendant as otherwise provided by law, and no sentence of death or life without the possibility of parole shall be imposed hereunder.

KSA 21-6619 — Automatic review by and appeal to supreme court

Automatic review by and appeal to supreme court.

(a) A judgment of conviction resulting in a sentence of death shall be subject to automatic review by and appeal to the supreme court of Kansas in the manner provided by the applicable statutes and rules of the supreme court governing appellate procedure. The review and appeal shall be expedited in every manner consistent with the proper presentation thereof and given priority pursuant to the statutes and rules of the supreme court governing appellate procedure.

(b) The supreme court of Kansas shall consider the question of sentence as well as any errors asserted in the review and appeal and shall be authorized to notice unassigned errors appearing of record if the ends of justice would be served thereby.

(c) With regard to the sentence, the court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice or any other arbitrary factor; and

(2) whether the evidence supports the findings that an aggravating circumstance or circumstances existed and that any mitigating circumstances were insufficient to outweigh the aggravating circumstances.

(d) The court shall be authorized to enter such orders as are necessary to effect a proper and complete disposition of the review and appeal.

KSA 21-6620 — Sentencing of certain persons to mandatory minimum term of imprisonment of 25, 40 or 50 years or life without the possibility of parole; determination; evidence presented

Sentencing of certain persons to mandatory minimum term of imprisonment of 25, 40 or 50 years or life without the possibility of parole; determination; evidence presented.

(a) (1) Except as provided in subsection (a)(2) and K.S.A.

21-6618

and

21-6622

, and amendments thereto, if a defendant is convicted of the crime of capital murder and a sentence of death is not imposed pursuant to K.S.A.

21-6617

(e), and amendments thereto, or requested pursuant to K.S.A.

21-6617

(a) or (b), and amendments thereto, the defendant shall be sentenced to life without the possibility of parole.

(2) (A) Except as provided in subsection (a)(2)(B), a defendant convicted of attempt to commit the crime of capital murder shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (a)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(b) The provisions of this subsection shall apply only to the crime of murder in the first degree as described in K.S.A.

21-5402

(a)(2), and amendments thereto, committed on or after July 1, 2014.

(1) Except as provided in subsection (b)(2), a defendant convicted of murder in the first degree as described in K.S.A.

21-5402

(a)(2), and amendments thereto, shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(2) The provisions of subsection (b)(1) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(c) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after July 1, 2014.

(1) (A) Except as provided in subsection (c)(1)(B), a defendant convicted of murder in the first degree based upon the finding of premeditated murder shall be sentenced pursuant to K.S.A.

21-6623

, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in subsection (c)(2).

(B) The provisions of subsection (c)(1)(A) requiring the court to impose the mandatory minimum term of imprisonment required by K.S.A.

21-6623

, and amendments thereto, shall not apply if the court finds the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 600 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(2) (A) If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A.

21-6623

, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and, except as provided in subsection (c)(2)(B), the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (c)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(d) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after September 6, 2013, but prior to July 1, 2014.

(1) If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall determine, in accordance with this subsection, whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.

(2) The court shall conduct a separate proceeding following the determination of the defendant's guilt for the jury to determine whether one or more aggravating circumstances exist. Such proceeding shall be conducted by the court before a jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the proceeding, the court may conduct such proceeding before a jury which may have 12 or less jurors, but at no time less than six jurors. If the jury has been discharged prior to the proceeding, a new jury shall be impaneled. Any decision of the jury regarding the existence of an aggravating circumstance shall be beyond a reasonable doubt. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the proceeding may be waived in the manner provided by K.S.A.

22-3403

, and amendments thereto, for waiver of a trial jury. If the jury at the proceeding has been waived, such proceeding shall be conducted by the court.

(3) In the proceeding, evidence may be presented concerning any matter relating to any of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the time of the proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on K.S.A.

21-6624

(a), and amendments thereto, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, exist, the jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate, in writing, the specific circumstance or circumstances which the court found beyond a reasonable doubt.

(6) If one or more of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, are found to exist beyond a reasonable doubt pursuant to this subsection, the defendant shall be sentenced pursuant to K.S.A.

21-6623

, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in this paragraph. If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A.

21-6623

, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(e) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed prior to September 6, 2013.

(1) If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall conduct a separate sentencing proceeding in accordance with this subsection to determine whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 40 years or for crimes committed on and after July 1, 1999, a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.

(2) The sentencing proceeding shall be conducted by the court before a jury as soon as practicable. If the trial jury has been discharged prior to sentencing, a new jury shall be impaneled. Any decision to impose a mandatory minimum term of imprisonment of 40 or 50 years shall be by a unanimous jury. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A.

22-3403

, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived, such proceeding shall be conducted by the court.

(3) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.

21-4636

, prior to its repeal, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the sentencing proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. Only such evidence of mitigating circumstances subject to discovery pursuant to K.S.A.

22-3212

, and amendments thereto, that the defendant has made known to the prosecuting attorney prior to the sentencing proceeding shall be admissible. No testimony by the defendant at the time of sentencing shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on K.S.A.

21-6624

(a), and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.

21-4636

(a), prior to its repeal, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A.

21-6624

, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.

21-4636

, prior to its repeal, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced pursuant to K.S.A.

21-6623

, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The sentencing jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. The trier of fact may make the findings required by this subsection for the purpose of determining whether to sentence a defendant pursuant to K.S.A.

21-6623

, and amendments thereto, notwithstanding contrary findings made by the jury or court pursuant to K.S.A.

21-6617

(e), and amendments thereto, for the purpose of determining whether to sentence such defendant to death. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate in writing the specific circumstance or circumstances which the court found beyond a reasonable doubt.

KSA 21-6621 — Sentencing of certain persons to mandatory term of imprisonment of 40 years; juveniles prosecuted as adults

Sentencing of certain persons to mandatory term of imprisonment of 40 years; juveniles prosecuted as adults.

If the court authorizes prosecution as an adult of a juvenile pursuant to K.S.A.

38-2347

, and amendments thereto, the county or district attorney may proceed pursuant to K.S.A.

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, and amendments thereto.

KSA 21-6622 — Sentencing for capital murder and mandatory terms of imprisonment; determination if defendant is a person with intellectual disability

Sentencing for capital murder and mandatory terms of imprisonment; determination if defendant is a person with intellectual disability.

(a) If, under K.S.A.

21-6617

, and amendments thereto, the county or district attorney has filed a notice of intent to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death and the defendant is convicted of the crime of capital murder, the defendant's counsel or the warden of the correctional institution or sheriff having custody of the defendant may request a determination by the court of whether the defendant is a person with intellectual disability. If the court determines that there is not sufficient reason to believe that the defendant is a person with intellectual disability, the court shall so find and the defendant shall be sentenced in accordance with K.S.A.

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, and amendments thereto. If the court determines that there is sufficient reason to believe that the defendant is a person with intellectual disability, the court shall conduct a hearing to determine whether the defendant is a person with intellectual disability.

(b) If a defendant is convicted of the crime of capital murder and a sentence of death is not imposed, or if a defendant is convicted of the crime of murder in the first degree based upon the finding of premeditated murder, the defendant's

counsel or the warden of the correctional institution or sheriff having custody of the defendant may request a determination by the court of whether the defendant is a person with intellectual disability. If the court determines that there is not sufficient reason to believe that the defendant is a person with intellectual disability, the court shall so find and the defendant shall be sentenced in accordance with K.S.A.

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, and amendments thereto. If the court determines that there is sufficient reason to believe that the defendant is a person with intellectual disability, the court shall conduct a hearing to determine whether the defendant is a person with intellectual disability.

(c) At the hearing, the court shall determine whether the defendant is a person with intellectual disability. The court shall order a psychiatric or psychological examination of the defendant. For that purpose, the court shall appoint two licensed physicians or licensed psychologists, or one of each, qualified by training and practice to make such examination, to examine the defendant and report their findings in writing to the judge within 14 days after the order of examination is issued. The defendant shall have the right to present evidence and cross-examine any witnesses at the hearing. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

(d) If, at the conclusion of a hearing pursuant to subsection (a), the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A.

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, and amendments thereto.

(e) If, at the conclusion of a hearing pursuant to subsection (b), the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A.

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, and amendments thereto.

(f) If, at the conclusion of a hearing pursuant to this section, the court determines that the defendant is a person with intellectual disability, the court shall sentence the defendant as otherwise provided by law, and no sentence of death, life without the possibility of parole, or mandatory term of imprisonment pursuant to K.S.A.

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and

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, and amendments thereto, shall be imposed hereunder.

(g) Unless otherwise ordered by the court for good cause shown, the provisions of subsection (b) shall not apply if it has been determined, pursuant to a hearing granted under the provisions of subsection (a), that the defendant is not a person with intellectual disability.

(h) As used in this section, "intellectual disability" means having significantly subaverage general intellectual functioning, as defined by K.S.A.

76-12b01

, and amendments thereto, to an extent which substantially impairs one's capacity to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law.

KSA 21-6623 — Imposition of sentence of mandatory imprisonment of 40 or 50 years

Imposition of sentence of mandatory imprisonment of 40 or 50 years.

When it is provided by law that a person shall be sentenced pursuant to this section, such person shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. Except as otherwise provided in this section, in addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 40 years' imprisonment, and such 40 years' imprisonment shall not be reduced by the application of good time credits. For crimes committed on or after July 1, 1999, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 50 years' imprisonment, and such 50 years' imprisonment shall not be reduced by the application of good time credits. For crimes committed on or after July 1, 2006, a mandatory minimum term of imprisonment of 50 years shall not apply if the court finds that the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 600 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range, the defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted. Upon sentencing a defendant pursuant to this section, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to K.S.A. 21-6623, and amendments thereto.

KSA 21-6624 — Aggravating circumstances

Aggravating circumstances.

Aggravating circumstances shall be limited to the following:

(a) The defendant was previously convicted of a felony in which the defendant inflicted great bodily harm, disfigurement, dismemberment or death on another.

(b) The defendant knowingly or purposely killed or created a great risk of death to more than one person.

(c) The defendant committed the crime for the defendant's self or another for the purpose of receiving money or any other thing of monetary value.

(d) The defendant authorized or employed another person to commit the crime.

(e) The defendant committed the crime in order to avoid or prevent a lawful arrest or prosecution.

(f) The defendant committed the crime in an especially heinous, atrocious or cruel manner. A finding that the victim was aware of such victim's fate or had conscious pain and suffering as a result of the physical trauma that resulted in the victim's death is not necessary to find that the manner in which the defendant killed the victim was especially heinous, atrocious or cruel. Conduct which is heinous, atrocious or cruel may include, but is not limited to:

(1) Prior stalking of or criminal threats to the victim;

(2) preparation or planning, indicating an intention that the killing was meant to be especially heinous, atrocious or cruel;

(3) infliction of mental anguish or physical abuse before the victim's death;

(4) torture of the victim;

(5) continuous acts of violence begun before or continuing after the killing;

(6) desecration of the victim's body in a manner indicating a particular depravity of mind, either during or following the killing; or

(7) any other conduct the trier of fact expressly finds is especially heinous.

(g) The defendant committed the crime while serving a sentence of imprisonment on conviction of a felony.

(h) The victim was killed while engaging in, or because of the victim's performance or prospective performance of, the victim's duties as a witness in a criminal proceeding.

KSA 21-6625 — Mitigating circumstances

Mitigating circumstances.

(a) Mitigating circumstances shall include, but are not limited to, the following:

(1) The defendant has no significant history of prior criminal activity.

(2) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under extreme distress or under the substantial domination of another person.

(6) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.

(7) The age of the defendant at the time of the crime.

(8) At the time of the crime, the defendant was suffering from posttraumatic stress syndrome caused by violence or abuse by the victim.

(b) Pursuant to hearing under K.S.A.

21-6617

, and amendments thereto, mitigating circumstances shall include circumstances where a term of imprisonment is found to be sufficient to defend and protect the people's safety from the defendant.

KSA 21-6626 — Aggravated habitual sex offender; sentence to imprisonment for life without the possibility of parole

Aggravated habitual sex offender; sentence to imprisonment for life without the possibility of parole.

(a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, functional incapacitation release pursuant to K.S.A.

22-3728

, and amendments thereto, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment

form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006:

(A) Has been convicted in this state of a sexually violent crime, as described in subsection (c)(2)(A) through (c)(2)(J) or (c)(2)(L); and

(B) prior to the conviction of the felony under subparagraph (A), has been convicted of two or more sexually violent crimes;

(2) "Sexually violent crime" means:

(A) Rape, as defined in K.S.A.

21-3502

, prior to its repeal, or K.S.A.

21-5503

, and amendments thereto;

(B) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A.

21-3503

or

21-3504

, prior to their repeal, or K.S.A.

21-5506

, and amendments thereto;

(C) criminal sodomy, as defined in K.S.A.

21-3505

(a)(2) or (3), prior to its repeal, or K.S.A.

21-5504

(a)(3) or (4), and amendments thereto;

(D) aggravated criminal sodomy, as defined in K.S.A.

21-3506

, prior to its repeal, or K.S.A.

21-5504

, and amendments thereto;

(E) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A.

21-3510

or

21-3511

, prior to their repeal, or K.S.A.

21-5508

, and amendments thereto;

(F) 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;

(G) aggravated sexual battery, as defined in K.S.A.

21-3518

, prior to its repeal, or K.S.A.

21-5505

, and amendments thereto;

(H) aggravated incest, as defined in K.S.A.

21-3603

, prior to its repeal, or K.S.A.

21-5604

, and amendments thereto;

(I) aggravated human trafficking, as defined in K.S.A.

21-3447

, prior to its repeal, or K.S.A.

21-5426

(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(J) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto;

(K) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

, and amendments thereto;

(L) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.

21-3301

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21-3302

or

21-3303

, prior to their repeal, or K.S.A.

21-5301

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or

21-5303

, and amendments thereto, of a sexually violent crime as defined in this section; or

(N) 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.

KSA 21-6627 — Mandatory term of imprisonment of 25 or 40 years for certain offenders; exceptions

Mandatory term of imprisonment of 25 or 40 years for certain offenders; exceptions.

(a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in K.S.A.

21-5426

(b), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in K.S.A.

21-5503

(a)(3), and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in K.S.A.

21-5506

(b)(3), and amendments thereto;

(D) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b)(1) or (b)(2), and amendments thereto;

(E) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto, if the victim is less than 14 years of age;

(F) sexual exploitation of a child, as defined in K.S.A

21-5510

(a)(1) or (a)(4), and amendments thereto, if the child is less than 14 years of age;

(G) aggravated internet trading in child pornography, as defined in K.S.A.

21-5514

(b), and amendments thereto, if the child is less than 14 years of ages*; and

(H) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.

21-5301

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21-5302

or

21-5303

, and amendments thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(G).

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A.

21-6626

, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any

time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A.

21-5507

, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A.

21-5507

, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A.

21-6626

, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, would be subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range would exceed 480 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits. Except as provided in subsection (d), no other sentence shall be permitted.

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A.

21-6818

, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, "mitigating circumstances" shall include, but are not limited to, the following:

(A) The defendant has no significant history of prior criminal activity;

(B) the crime was committed while the defendant was under the influence of extreme mental or emotional disturbances;

(C) the victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor;

(D) the defendant acted under extreme distress or under the substantial domination of another person;

(E) the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired; and

(F) the age of the defendant at the time of the crime.

(e) The provisions of K.S.A.

21-3301

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21-3302

or

21-3303

, prior to their repeal, or K.S.A.

21-5301

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or

21-5303

, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.

KSA 21-6628 — Provisions of certain sentencing rules held unconstitutional; modification of sentence previously determined

Provisions of certain sentencing rules held unconstitutional; modification of sentence previously determined.

(a) In the event the term of imprisonment for life without the possibility of parole or any provision of K.S.A.

21-6626

or

21-6627

, and amendments thereto, authorizing such term is held to be unconstitutional by the supreme court of Kansas or the United States supreme court, the court having jurisdiction over a person previously sentenced shall cause such person to be brought before the court and shall modify the sentence to require no term of imprisonment for life without the possibility of parole and shall sentence the defendant to the maximum term of imprisonment otherwise provided by law.

KSA 21-6629 — Application of prior law and current law

Application of prior law and current law.

(a) The provisions of K.S.A.

21-4622

through

21-4630

, as they existed immediately prior to July 1, 1994, shall be applicable only to persons convicted of crimes committed on or after July 1, 1990, and before July 1, 1994.

(b) The provisions of K.S.A.

21-4622

through

21-4627

and

21-4629

and

21-4630

, as amended on July 1, 1994 and prior to their repeal, and K.S.A.

21-6617

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21-6618

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21-6619

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21-6622

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21-6624

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21-6625

and subsection (b) of

21-6628

, and amendments thereto, shall be applicable only to persons convicted of crimes committed on or after July 1, 1994.

(c) K.S.A.

21-4633

through

21-4640

, prior to their repeal, and K.S.A.

21-6620

through

21-6625

and subsection (c) of

21-6628

, and amendments thereto, shall be applicable only to persons convicted of crimes committed on or after July 1, 1994.

KSA 21-6630 — Sentencing of certain veterans; mental health treatment; drug abuse treatment

Sentencing of certain veterans; mental health treatment; drug abuse treatment.

(a) Upon motion of the defendant at the time of conviction or prior to sentencing, a defendant convicted of a criminal offense may assert that such defendant committed such offense as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone in the armed forces of the United States of America. The court shall hold a hearing to determine whether the defendant:

(1) Has served in the armed forces of the United States of America in a combat zone, as defined in section 112 of the federal internal revenue code of 1986. Proof of such service shall consist of a certification by the director of the Kansas office of veterans services in accordance with K.S.A.

73-1209

, and amendments thereto;

(2) suffers from injury; and

(3) such injury was connected to service in a combat zone in the armed forces of the United States of America.

(b) (1) Except as provided in subsection (b)(2), if the court determines that such defendant meets the criteria provided in subsection (a) and such defendant's current crime of conviction and criminal history fall within a presumptive nonprison category under the sentencing guidelines, the court may order such defendant to undergo inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard, if the defendant is eligible for and consents to such treatment.

(2) If the court determines that such defendant meets the criteria provided in subsection (a), such defendant is ineligible for treatment pursuant to subsection (b)(1) and such defendant meets the requirements established in K.S.A.

21-6824

, and amendments thereto, the provisions of K.S.A.

21-6824

, and amendments thereto, shall apply.

(c) Nothing in this section shall be construed to limit the court's authority to:

(1) Order any other sanction pursuant to K.S.A.

21-6602

or

21-6604

, and amendments thereto;

(2) order a mental examination pursuant to K.S.A.

22-3429

, and amendments thereto;

(3) order commitment pursuant to K.S.A.

22-3430

et seq., and amendments thereto; or

(4) determine that a person is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A.

59-2946

, and amendments thereto.

(d) As used in this section:

(1) "Major depressive disorder" and "post-traumatic stress disorder" mean the same as such terms are defined in the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5, 2013), of the American psychiatric association and that occurred as a result of events during the defendant's service in one or more combat zones.

(2) "Polytrauma" means injury to multiple body parts and organ systems that occurred as a result of events during the defendant's service in one or more combat zones.

(3) "Traumatic brain injury" means injury to the brain caused by physical trauma that occurred as a result of events during the defendant's service in one or more combat zones.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

KSA 21-6701 — Classes of felonies and terms of imprisonment; crimes committed prior to July 1, 1993

Classes of felonies and terms of imprisonment; crimes committed prior to July 1, 1993.

For the purpose of sentencing, the following classes of felonies and terms of imprisonment authorized for each class are established:

(a) Class A, the sentence for which shall be imprisonment for life.

(b) Class B, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than five years nor more than 15 years and the maximum of which shall be fixed by the court at not less than 20 years nor more than life.

(c) Class C, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than three years nor more than five years and the maximum of which shall be fixed by the court at not less than 10 years nor more than 20 years.

(d) Class D, the sentence for which shall be an indeterminate term of imprisonment fixed by the court as follows:

(1) For a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to such section's repeal a minimum of not less than two years nor more than three years and a maximum of not less than five years nor more than 10 years; and

(2) for any other crime, a minimum of not less than one year nor more than three years and a maximum of not less than five years nor more than 10 years.

(e) Class E, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be one year and the maximum of which shall be fixed by the court at not less than two years nor more than five years.

(f) Unclassified felonies, which shall include all crimes declared to be felonies without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime. If no sentence is provided in the statute, the offender shall be sentenced as for a class E felony.

(g) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6702 — Authorized disposition; crimes committed prior to July 1, 1993

Authorized disposition; crimes committed prior to July 1, 1993.

(a) Whenever any person has been found guilty of a crime and the court finds that an adequate presentence investigation cannot be conducted by resources available within the judicial district, including mental health centers and mental health clinics, the court may require that a presentence investigation be conducted by the Topeka correctional facility or by the state security hospital. If the offender is sent to the Topeka correctional facility or the state security hospital for a presentence investigation under this section, the correctional facility or hospital may keep the offender confined for a maximum of 60 days, except that an inmate may be held for a longer period of time on order of the secretary, or until the court calls for the return of the offender. While held at the Topeka correctional facility or the state security hospital the defendant may be treated the same as any person committed to the secretary of corrections or secretary for aging and disability services for purposes of maintaining security and control, discipline, and emergency medical or psychiatric treatment, and general population management except that no such person shall be transferred out of the state or to a federal institution or to any other location unless the transfer is between the correctional facility and the state security hospital. The correctional facility or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its findings and recommendations known to the court in the presentence report.

(b) Except as provided in subsection (c), whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one year, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence;

(4) suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence;

(5) assign the defendant to a community correctional services program subject to the provisions of K.S.A.

75-5291

, and amendments thereto, and such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(6) assign the defendant to a conservation camp for a period not to exceed six months;

(7) assign the defendant to a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto;

(8) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (c) of K.S.A.

21-6602

, and amendments thereto;

(9) order the defendant to pay the administrative fee authorized by K.S.A.

22-4529

, and amendments thereto, unless waived by the court; or

(10) impose any appropriate combination of subsections (b)(1) through (b)(9).

In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (d) of K.S.A.

21-6602

, and amendments thereto.

In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A.

22-4522

, and amendments thereto, whichever is less.

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

The court in committing a defendant to the custody of the secretary of corrections shall fix a maximum term of confinement within the limits provided by law. In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

(c) Whenever any juvenile felon, as defined in K.S.A.

38-16,112

, prior to its repeal, has been found guilty of a class A or B felony, the court shall commit the defendant to the custody of the secretary of corrections and may impose the fine applicable to the offense.

(d) (1) Except when an appeal is taken and determined adversely to the defendant as provided in subsection (d)(2), at any time within 120 days after a sentence is imposed, after probation or assignment to a community correctional services program has been revoked, the court may modify such sentence, revocation of probation or assignment to a community correctional services program by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits and shall modify such sentence if recommended by the Topeka correctional facility unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification.

(2) If an appeal is taken and determined adversely to the defendant, such sentence may be modified within 120 days after the receipt by the clerk of the district court of the mandate from the supreme court or court of appeals.

(e) The court shall modify the sentence at any time before the expiration thereof when such modification is recommended by the secretary of corrections unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification. The court shall have the power to impose a less severe penalty upon the inmate, including the power to reduce the minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections, the hearing on the recommendation and the order of modification shall be made in open court. Notice of the recommendation of modification of sentence and the time and place of the hearing thereon shall be given by the inmate, or by the inmate's legal counsel, at least 21 days prior to the hearing to the county or district attorney of the county where the inmate was convicted. After receipt of such notice and at least 14 days prior to

the hearing, the county or district attorney shall give notice of the recommendation of modification of sentence and the time and place of the hearing thereon to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's next of kin if the next of kin's address is known to the county or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.

(f) After such defendant has been assigned to a conservation camp but prior to the end of 180 days, the chief administrator of such camp shall file a performance report and recommendations with the court. The court shall enter an order based on such report and recommendations modifying the sentence, if appropriate, by sentencing the defendant to any of the authorized dispositions provided in subsection (b), except to reassign such person to a conservation camp as provided in subsection (b)(6).

(g) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(h) An application for or acceptance of probation, suspended sentence or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(i) When it is provided by law that a person shall be sentenced pursuant to K.S.A.

21-4628

, prior to its repeal, the provisions of this section shall not apply.

(j) The provisions of this section shall apply to crimes committed before July 1, 1993.

KSA 21-6703 — Presentence investigation and report

Presentence investigation and report.

(a) Whenever a defendant is convicted of a misdemeanor, the court before which the conviction is had may request a presentence investigation by a court services officer. Whenever a defendant is convicted of a felony, the court shall require that a presentence investigation be conducted by a court services officer or in accordance with K.S.A.

21-6702

, and amendments thereto, unless the court finds that adequate and current information is available in a previous presentence investigation report or from other sources.

(b) Whenever a presentence report is requested, the court services officer, with the assistance of the county or district attorney, shall secure, except for good cause shown, information concerning:

(1) The circumstances of the offense and any mitigating or aggravating factors involved in the defendant's behavior;

(2) the attitude of the complainant or victim and, if possible in homicide cases, the victim's immediate family;

(3) the criminal record, social history and present condition of the defendant; and

(4) any other facts or circumstances that may aid the court in sentencing, which may include, but is not limited to, the financial, social, psychological, physical or other harm or loss suffered by victims of the offense and the restitution needs of such victims. Except where specifically prohibited by law, all local governmental and state agencies shall furnish to the officer conducting the presentence investigation any records requested by the officer. If ordered by the court, the presentence investigation shall include a physical and mental examination of the defendant.

(c) Presentence investigation reports shall be in the form and contain the information prescribed by rule of the supreme court, and shall contain any other information prescribed by the district court.

(d) The judicial administrator of the courts shall confer and consult with the secretary of corrections when considering changes or revisions in the form and content of presentence investigation reports so that the reports will be in such form and contain such information as will be of assistance to the secretary in exercising or performing the secretary's functions, powers and duties.

(e) The provisions of this section shall not apply to felony crimes committed on or after July 1, 1993.

KSA 21-6704 — Availability of reports to counsel; exception

Availability of reports to counsel; exception.

(a) (1) The judge shall make available to the attorney for the state or counsel for the defendant the presentence report, any report that may be received from the Topeka correctional facility or the state security hospital and other diagnostic reports and shall allow the attorney or counsel a reasonable time to review the report before sentencing the defendant.

(2) The court shall permit the attorney for the state or the counsel for the defendant to copy and retain any of the reports under subsection (a)(1). Any reports copied and retained shall be kept in the records of the attorney for the state or the counsel for the defendant. All costs of copying such reports shall be paid by the office of the attorney for the state or the counsel for the defendant making the request.

(b) The presentence report shall become part of the court record and shall be accessible to the public, except that the official version, the defendant's version, the victim's statement, any psychological reports and any drug and alcohol reports shall be accessible only to the attorney for the state and the counsel for the defendant, the sentencing judge, the department of corrections and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A.

75-5220

, and amendments thereto, to the warden of the state correctional institution to which the defendant is conveyed.

(c) For felony crimes committed on or after July 1, 1993, the provisions of this section are not applicable to the presentence investigation report.

KSA 21-6705 — Criteria for fixing minimum terms

Criteria for fixing minimum terms.

(a) In sentencing a person to prison, the court, having regard to the nature and circumstances of the crime and the history, character and condition of the defendant, shall fix the lowest minimum term which, in the opinion of such court, is consistent with the public safety, the needs of the defendant, and the seriousness of the defendant's crime.

(b) The following factors, while not controlling, shall be considered by the court in fixing the minimum term of imprisonment:

(1) The defendant's history of prior criminal activity;

(2) the extent of the harm caused by the defendant's criminal conduct;

(3) whether the defendant intended that the defendant's criminal conduct would cause or threaten serious harm;

(4) the degree of the defendant's provocation;

(5) whether there were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;

(6) whether the victim of the defendant's criminal conduct induced or facilitated its commission; and

(7) whether the defendant has compensated or will compensate the victim of the defendant's criminal conduct for the damage or injury that the victim sustained.

(c) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6706 — Conviction of second and subsequent felonies; exceptions

Conviction of second and subsequent felonies; exceptions.

(a) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, the punishment for which is confinement in the custody of the secretary of corrections after having previously been convicted of any such felony or comparable felony under the laws of another state, the federal government or a foreign government, the trial judge may sentence the defendant as follows, upon motion of the prosecutor:

(1) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A.

21-6701

, and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided for the crime by K.S.A.

21-6701

, and amendments thereto.

(b) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecutor:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A.

21-6701

, and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than three times the greatest maximum sentence provided for the crime by K.S.A.

21-6701

, and amendments thereto.

(c) If a defendant is convicted of a felony other than a felony specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecutor:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than two times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A.

21-6701

, and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than two times the greatest maximum sentence provided for the crime by K.S.A.

21-6701

, and amendments thereto.

(d) If any portion of a sentence imposed under K.S.A.

21-107a

, prior to their repeal, or under this section, is determined to be invalid by any court because a prior felony conviction is itself invalid, upon resentencing the court may consider evidence of any other prior felony conviction that could have been utilized under K.S.A.

21-107a

, prior to their repeal, or under this section, at the time the original sentence was imposed, whether or not it was introduced at that time, except that if the defendant was originally sentenced as a second offender, the defendant shall not be resentenced as a third offender.

(e) The provisions of this section shall not be applicable to:

(1) Any person convicted of a felony of which a prior conviction of a felony is a necessary element;

(2) any person convicted of a felony for which a prior conviction of such felony is considered in establishing the class of felony for which the person may be sentenced; or

(3) any felony committed on or after July 1, 1993.

(f) A judgment may be rendered pursuant to this section only after the court finds from competent evidence the fact of former convictions for a felony committed by the prisoner, in or out of the state.

KSA 21-6707 — Mandatory imprisonment for crimes involving firearms

Mandatory imprisonment for crimes involving firearms.

(a) Except as provided in subsection (c), probation, assignment to a community correctional services program or suspension of sentence shall not be granted to any defendant who is convicted of the commission of the crime of rape, the crime of aggravated sodomy or any crime set out in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, in which the defendant used any firearm in the commission thereof and such defendant shall be sentenced to not less than the minimum sentence of imprisonment authorized by law for that crime. This section shall not apply to any crime committed by a person under 18 years of age.

(b) When a court has sentenced a defendant as provided above, the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to this section based on a finding by the court that a firearm was so used.

(c) The provisions of this section shall not apply to any crime committed by a person where such application would result in a manifest injustice.

(d) The provisions of this section shall not apply to any crime committed on or after July 1, 1993.

KSA 21-6708 — Presumptive sentence of probation for certain class D or E felons

Presumptive sentence of probation for certain class D or E felons.

The presumptive sentence for a person who has never before been convicted of a felony, but has now been convicted of a class D or E felony or convicted of an attempt to commit a class D felony shall be probation, unless the conviction is of a crime or of an attempt to commit a crime specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, or in the uniform controlled substances act or the person convicted is a juvenile offender in the custody of the Kansas department for children and families. In determining whether to impose the presumptive sentence, the court shall consider any prior record of the person's having been convicted or having been adjudicated to have committed, while a juvenile, an offense which would constitute a felony if committed by an adult. If the presumptive sentence provided by this section is not imposed, the provisions of K.S.A.

21-6709

, and amendments thereto, shall apply. The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6709 — Presumptive sentence of assignment to community correctional services program for certain class D or E felons; aggravating circumstances to be considered

Presumptive sentence of assignment to community correctional services program for certain class D or E felons; aggravating circumstances to be considered.

(a) If probation is not granted pursuant to K.S.A.

21-6708

, and amendments thereto, subject to the provisions of K.S.A.

75-5291

, and amendments thereto, the presumptive sentence for a person convicted of a class D or E felony shall be assignment to a community correctional services program on terms the court determines.

(b) In determining whether to impose the presumptive sentence provided by this section, the court shall consider whether any of the following aggravating circumstances existed:

(1) Whether the crime is a felony violation of the uniform controlled substances act or an attempt to commit such an offense;

(2) whether the crime is a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or an attempt to commit such an offense; or

(3) any prior record of the person's having been convicted of a felony or having been adjudicated to have committed, while a juvenile, an offense which would constitute a felony if committed by an adult.

(c) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6710 — Fines; crimes committed prior to July 1, 1993

Fines; crimes committed prior to July 1, 1993.

(a) Except as provided in subsection (b), a person who has been convicted of a felony may, in addition to or instead of the imprisonment authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class B or C felony, a sum not exceeding $15,000.

(2) For a class D or E felony, a sum not exceeding $10,000.

(b) A person who has been convicted of a felony violation of or any attempt or conspiracy to commit a felony violation of any provision of the uniform controlled substances act may, in addition to or instead of the imprisonment authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A felony, a sum not exceeding $500,000.

(2) For a class B or C felony, a sum not exceeding $300,000.

(3) For a class D or E felony, a sum not exceeding $100,000.

(c) A person who has been convicted of a misdemeanor may, in addition to or instead of the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding $2,500.

(2) For a class B misdemeanor, a sum not exceeding $1,000.

(3) For a class C misdemeanor, a sum not exceeding $500.

(4) For an unclassified misdemeanor, any sum authorized by the statute that defines the crime; if no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(d) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(e) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court not exceeding $500.

(f) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6711 — Defendants sentenced to custody of secretary of corrections; judgment form and contents; diagnostic reports to accompany defendant

Defendants sentenced to custody of secretary of corrections; judgment form and contents; diagnostic reports to accompany defendant.

(a) If the defendant is to be sentenced to the custody of the secretary of corrections, the court may prepare a judgment form which shall be signed by the court and filed with the clerk. If prepared, the judgment form shall reflect the conviction, the sentence and the commitment, and shall contain the following:

(1) The pronouncement of guilt including:

(A) The title of the crime;

(B) the statute violated; and

(C) the date the offense occurred.

(2) The sentence imposed including:

(A) The terms as required by subsection (b) of K.S.A.

21-6702

, and amendments thereto;

(B) if applicable, a description of any increase in sentence because of previous felony conviction pursuant to K.S.

21-6706

, and amendments thereto;

(C) if applicable, a statement that this defendant has been convicted of a class A, B or C felony by reason of aiding, abetting, advising, or counseling another to commit a crime, or by reason of the principle provided for in subsection (2) of K.S.A.

21-3205

, prior to its repeal;

(D) if applicable, a statement that this defendant, age 18 or over, has been mandatorily sentenced pursuant to K.S.A.

21-6707

, and amendments thereto, for use of a firearm in a crime under article 34 of chapter 21, prior to its repeal, or the crime of rape or aggravated sodomy; and

(E) a statement of the effective date of the sentence indicating whether it is the date of imposition or some date earlier to give credit for time confined pending disposition of the case pursuant to K.S.A.

21-6615

, and amendments thereto, or credit for time on probation or assignment to community corrections pursuant to K.S.A.

21-6615

, and amendments thereto.

(3) The order of commitment to the custody of the secretary, if not issued as a separate order.

(b) The court may attach to or include in the judgment form any of the following:

(1) A statement of reasons for imposing the sentence as ordered other than those reasons required above to be stated;

(2) a description of aggravating or mitigating circumstances the court took into consideration when ordering the commitment;

(3) recommendations on a program of rehabilitation for the offender, based on presentence investigation reports and any other information available. Such recommendations may include desirable treatment for corrections of physical deformities or disfigurement that may, if possible, be corrected by medical or surgical procedures or by prosthesis;

(4) a recommendation for further evaluation at the Topeka correctional facility, even though the defendant was committed for presentence investigation;

(5) the copy of the evidence from trial or part thereof transmitted pursuant to K.S.A.

75-5219

, and amendments thereto.

(c) The court shall forward a copy of all presentence investigation reports and other diagnostic reports on the offender received by the district court, including any reports received from the Topeka correctional facility or the state security hospital, to the officer having the offender in custody for delivery with the offender to the correctional institution.

(d) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KSA 21-6712 — Order transferring custody to corrections

Order transferring custody to corrections.

If the defendant is to be sentenced to the secretary of corrections, the court shall issue an order of commitment to cause the transfer of custody of the defendant over to the secretary. Such order may be made part of the sentencing document whether that be the judgment form or the journal entry. The commitment order shall be supported by the record of judgment of conviction and sentence, whether by judgment form or by journal entry, and delivered with the defendant to the correctional institution.

KSA 21-6801 — Citation of article

Citation of article.

K.S.A. 21-6801 through

21-6824

, and amendments thereto, shall be known and may be cited as the revised Kansas sentencing guidelines act.

KSA 21-6802 — Basis for applying sentencing guidelines and prosecuting standards; sentencing court to consider alternatives determining appropriate sentence; determination of time when crime committed; law applicable

Basis for applying sentencing guidelines and prosecuting standards; sentencing court to consider alternatives determining appropriate sentence; determination of time when crime committed; law applicable.

(a) The sentencing guidelines and prosecuting standards, as contained in K.S.A.

21-6801

through

21-6824

, and amendments thereto, shall apply equally to all offenders in all parts of the state.

(b) The sentencing court may consider in all cases a range of alternatives with gradations of supervisory, supportive and custodial facilities at its disposal so as to permit a sentence appropriate for each individual case, consistent with these guidelines and the permitted dispositional and durational departures contained in K.S.A.

21-6801

through

21-6824

, and amendments thereto.

(c) Except as otherwise provided, the sentencing guidelines and prosecuting standards shall be applicable to felony crimes committed on or after July 1, 1993, and shall have no application to crimes committed prior to July 1, 1993. If it cannot be determined whether the crime was committed on or after July 1, 1993, the person convicted of committing such crime shall be sentenced as if such crime had been committed prior to July 1, 1993. A crime is committed prior to July 1, 1993, if any of the essential elements of the crime as then defined occurred before July 1, 1993. Except as provided in K.S.A.

21-4724

, prior to its repeal, prosecutions for prior crimes shall be governed, prosecuted and punished under the laws existing at the time such crimes were committed.

KSA 21-6803 — Definitions

Definitions.

As used in K.S.A.

21-6801

through

21-6824

, and amendments thereto:

(a) "Aggravating factor" means a substantial and compelling reason justifying an exceptional sentence whereby the sentencing court may impose a departure sentence outside the standard sentencing range for a crime. An aggravating factor may result in a dispositional or durational departure;

(b) "commission" means the Kansas sentencing commission;

(c) "criminal history" means and includes an offender's criminal record of adult felony, class A misdemeanor, class B person misdemeanor or select misdemeanor convictions and comparable juvenile adjudications at the time such offender is sentenced;

(d) "criminal history score" means the summation of the convictions described as criminal history that place an offender in one of the criminal history score categories listed on the horizontal axis of the sentencing guidelines grids;

(e) "decay factor" means prior convictions that are no longer considered as part of an offender's criminal history score;

(f) "departure" means a sentence which is inconsistent with the presumptive sentence for an offender;

(g) "dispositional departure" means a departure sentence imposing a nonprison sanction when the presumptive sentence is prison or prison when the presumptive sentence is nonimprisonment;

(h) "dispositional line" means the solid black line on the sentencing guidelines grids which separates the grid blocks in which the presumptive sentence is a term of imprisonment and postrelease supervision from the grid blocks in which the

presumptive sentence is nonimprisonment;

(i) "durational departure" means a departure sentence which is inconsistent with the presumptive term of imprisonment or nonimprisonment;

(j) "good time" means a method of behavior control or sanctions utilized by the department of corrections;

(k) "grid" means the sentencing guidelines grid for nondrug crimes as provided in K.S.A.

21-6804

, and amendments thereto, or the sentencing guidelines grid for drug crimes as provided in K.S.A.

21-6805

, and amendments thereto, or both;

(l) "grid block" means a box on the grid formed by the intersection of the crime severity ranking of a current crime of conviction and an offender's criminal history classification;

(m) "imprisonment" means imprisonment in a facility operated by the Kansas department of corrections;

(n) "mitigating factor" means a substantial and compelling reason justifying an exceptional sentence whereby the sentencing court may impose a departure sentence outside of the standard sentencing range for a crime. A mitigating factor may result in a dispositional or durational departure;

(o) "nonimprisonment," "nonprison" or "nonprison sanction" means probation, community corrections, conservation camp, house arrest or any other community based disposition;

(p) "postrelease supervision" means the release of a prisoner to the community after having served a period of imprisonment or equivalent time served in a facility where credit for time served is awarded as set forth by the court, subject to conditions imposed by the prisoner review board and to the secretary of correction's supervision;

(q) "presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime severity ranking of the offender's current crime of conviction and the offender's criminal history;

(r) "prison" means a facility operated by the Kansas department of corrections; and

(s) "sentencing range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

KSA 21-6804 — Sentencing grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition

Sentencing grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition.

(a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A.

21-3415

, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of K.S.A.

21-5412

(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A.

21-5414

(c)(1)(C),

21-5823

(b)(3) and (b)(4),

21-6412

and

21-6416

, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A.

21-6807

, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A.

21-6807

, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A.

21-5823

, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A.

21-5414

(c)(1)(C),

21-5823

(b)(3) and (b)(4),

21-6412

and

21-6416

, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A.

22-3717

, and amendments thereto; and

(ii) at the time of the conviction under clause (i) has at least one conviction for a sexually violent crime, as defined in K.S.A.

22-3717

, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A.

21-3502

, prior to its repeal, or K.S.A.

21-5503

, and amendments thereto; and

(ii) at the time of the conviction under clause (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation 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, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its 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 or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of K.S.A.

21-5807

(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A.

21-5301

and

21-5302

, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A.

21-3715

(a) or (b), prior to its repeal,

21-3716

, prior to its repeal, K.S.A.

21-5807

(a)(1) or (a)(2) or

21-5807

(b), and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A.

22-4903

or K.S.A.

21-5913

(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A.

21-5803

, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of K.S.A.

21-3705

(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A.

21-5803

, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) (1) The sentence for a felony violation of theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary as defined in K.S.A.

21-5807

(a), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A.

21-3701

or

21-3715

, prior to their repeal, or theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary as defined in K.S.A.

21-5807

(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A.

21-5801

, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A.

21-3701

,

21-3715

or

21-3716

, prior to their repeal, or theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A.

21-5807

, and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A.

21-5807

(a), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A.

21-3701

,

21-3715

or

21-3716

, prior to their repeal, or theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A.

21-5807

, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved aftercare plan, if the court makes the following findings on the record:

(A) Substance abuse was an underlying factor in the commission of the crime;

(B) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(C) participation in an intensive substance abuse treatment program will serve community safety interests.

(2) A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of K.S.A.

21-6824

(f)(1), and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) (1) The sentence for a felony violation of theft of property as defined in K.S.A.

21-5801

, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A.

21-3701

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21-3715

or

21-3716

, prior to their repeal, or theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A.

21-5807

, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A.

21-5807

(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A.

21-3701

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21-3715

and

21-3716

, prior to their repeal, or theft of property as defined in K.S.A.

21-5801

, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A.

21-5807

, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(A) Substance abuse was an underlying factor in the commission of the crime;

(B) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(C) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

(2) The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be

considered a departure and shall not be subject to appeal.

(q) (1) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(A) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(B) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(C) the nonprison sanction will serve community safety interests by promoting offender reformation.

(2) Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of K.S.A.

21-5413

(c)(2), and amendments thereto, shall be presumptive imprisonment and 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.

(s) The sentence for a violation of K.S.A.

21-5512

, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding beyond a reasonable doubt that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment and 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.

(3) As used in this subsection, "ballistic resistant material" means any:

(A) Commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and

(B) homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A.

21-6107

, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A.

21-5301

and

21-5302

, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A.

21-4018

, prior to its repeal, or K.S.A.

21-6107

, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A.

8-1568

, and amendments thereto, shall be presumptive imprisonment and 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.

(w) The sentence for aggravated criminal damage to property as defined in K.S.A.

21-5813

(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(x) The sentence for a violation of K.S.A.

21-5807

(a)(1), and amendments thereto, shall be presumptive imprisonment if the offense under such paragraph is classified in grid blocks 7-C, 7-D or 7-E. Such sentence shall not be considered a departure and shall not be subject to appeal.

(y) (1) Except as provided in paragraph (3), if the trier of fact makes a finding beyond a reasonable doubt that an offender committed a nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A.

21-5301

and

21-5302

, and amendments thereto, to commit a nondrug felony offense, against a law enforcement officer, as defined in K.S.A.

21-5111

(p)(1) and (3), and amendments thereto, while such officer was engaged in the performance of such officer's duty, or in whole or in any part because of such officer's status as a law enforcement officer, the sentence for such offense shall be:

(A) If such offense is classified in severity level 2 through 10, one severity level above the appropriate level for such offense; and

(B) (i) if such offense is classified in severity level 1, except as otherwise provided in clause (ii), imprisonment for life, and such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(ii) The provisions of clause (i) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) The sentence imposed pursuant to paragraph (1) shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to an offense described in paragraph (1) if the factual aspect concerning a law enforcement officer is a statutory element of such offense.

(z) (1) Notwithstanding K.S.A.

21-5109

(b)(2), and amendments thereto, or any other provision of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon as defined in K.S.A.

21-6304

, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed if the trier of fact makes a finding beyond a reasonable doubt that:

(A) The weapon the offender possessed during such violation was a firearm; and

(B) such firearm was used by the offender during the commission of any violent felony.

(2) The sentence imposed pursuant to paragraph (1) shall not be considered a departure and shall not be subject to appeal. No other sentence shall be permitted.

(3) The provisions of this subsection shall not apply to an offender who is prohibited from possessing a weapon pursuant to K.S.A.

21-6304

, and amendments thereto, as a result of a juvenile adjudication.

(4) As used in this subsection, "violent felony" means any of the following:

(A) Capital murder, as defined in K.S.A.

21-5401

, and amendments thereto;

(B) murder in the first degree, as defined in K.S.A.

21-5402

, and amendments thereto;

(C) murder in the second degree, as defined in K.S.A.

21-5403

, and amendments thereto;

(D) voluntary manslaughter, as defined in K.S.A.

21-5404

, and amendments thereto;

(E) kidnapping, as defined in K.S.A.

21-5408

(a)(1), and amendments thereto, or aggravated kidnapping, as defined in K.S.A.

21-5408

(b), and amendments thereto;

(F) aggravated assault, as defined in K.S.A.

21-5412

(b)(1), and amendments thereto, and aggravated assault of a law enforcement officer, as defined in K.S.A.

21-5412

(d)(1), and amendments thereto;

(G) aggravated battery, as defined in K.S.A.

21-5413

(b)(1)(A) or (b)(1)(B), and amendments thereto, and aggravated battery against a law enforcement officer, as defined in K.S.A.

21-5413

(d)(1) or (d)(2), and amendments thereto;

(H) mistreatment of a dependent adult or mistreatment of an elder person, as defined in K.S.A.

21-5417

(a)(1), and amendments thereto;

(I) rape, as defined in K.S.A.

21-5503

, and amendments thereto;

(J) aggravated criminal sodomy, as defined in K.S.A.

21-5504

(b), and amendments thereto;

(K) abuse of a child, as defined in K.S.A.

21-5602

(a)(1) or (a)(3), and amendments thereto;

(L) any felony offense described in K.S.A.

21-5703

or

21-5705

, and amendments thereto;

(M) treason, as defined in K.S.A.

21-5901

, and amendments thereto;

(N) criminal discharge of a firearm, as defined in K.S.A.

21-6308

(a)(1), and amendments thereto;

(O) fleeing or attempting to elude a police officer, as defined in K.S.A.

8-1568

(b), and amendments thereto;

(P) any felony that includes the domestic violence designation pursuant to K.S.A.

22-4616

, and amendments thereto; or

(Q) any attempt, conspiracy or criminal solicitation, as defined in K.S.A.

21-5301

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21-5302

and

21-5303

, and amendments thereto, of any felony offense defined in this subsection.

(aa) (1) The sentence for a violation of K.S.A.

21-6308

(a)(1)(A) or (a)(1)(B), and amendments thereto, if the trier of fact makes a finding beyond a reasonable doubt that the offender discharged a firearm and that the offender knew or reasonably should have known that:

(A) A person was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm, shall be presumptive imprisonment and, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 60 months of imprisonment; and

(B) a person less than 14 years of age was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm, shall be presumptive imprisonment and, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 120 months of imprisonment.

(2) The sentence imposed pursuant to paragraph (1) 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.

(bb) (1) If the trier of fact makes a finding beyond a reasonable doubt that an offender committed any act described in K.S.A.

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21-5604
or
21-5605
, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A.
21-5301

and

21-5302

, and amendments thereto, to commit any such act with knowledge that a woman is pregnant and with the intent that such act will compel such woman to obtain an abortion when such woman has expressed her desire to not obtain an abortion, the sentence for such offense shall be:

(A) If such offense is classified in severity level 2 through 10, one severity level above the appropriate level for such offense; and

(B) (i) if such offense is classified in severity level 1, except as otherwise provided in clause (ii), imprisonment for life, and such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(ii) The provisions of clause (i) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) The sentence imposed pursuant to paragraph (1) shall not be considered a departure and shall not be subject to appeal.

KSA 21-6805 — Sentencing grid for drug crimes; authority and responsibility of sentencing court; presumptive disposition

Sentencing grid for drug crimes; authority and responsibility of sentencing court; presumptive disposition.

(a) The provisions of this section shall be applicable to the sentencing guidelines grid for drug crimes. The following sentencing guidelines grid for drug crimes shall be applicable to felony crimes under K.S.A.

21-5701

through

21-5717

, and amendments thereto, except as otherwise provided by law:

(b) Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the court may impose an optional nonprison sentence as provided in K.S.A.

21-6804

(q), and amendments thereto.

(e) The sentence for a second or subsequent conviction for unlawful manufacturing of a controlled substance, K.S.A.

65-4159

, prior to its repeal, K.S.A. 2010 Supp.

21-36a03

, prior to its transfer, K.S.A.

21-5703

, and amendments thereto, or a substantially similar offense from another jurisdiction, if the controlled substance in any prior conviction was methamphetamine, as defined by K.S.A.

65-4107

(d)(3) or (f)(1), and amendments thereto, or an analog thereof, shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A.

21-6815

, and amendments thereto, justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A.

65-4160

or

65-4162

, prior to their repeal, K.S.A. 2010 Supp.

21-36a06

, prior to its transfer, or K.S.A.

21-5706

, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. The defendant's term of imprisonment shall be served in the custody of the secretary of corrections in a facility designated by the secretary. Subject to appropriations therefore, the defendant shall participate in an intensive substance abuse treatment program, of at least four months duration, selected by the secretary of corrections. If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

(2) Such defendant's term of imprisonment shall not be subject to modification under paragraph (1) if:

(A) The defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A.

75-52,144

, and amendments thereto;

(B) has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A.

75-52,144

, and amendments thereto;

(C) has completed an intensive substance abuse treatment program under paragraph (1); or

(D) has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1).

(3) The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to K.S.A.

21-6801

through

21-6824

, and amendments thereto, the offender shall be sentenced to:

(A) Except as provided in subsection (g)(1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to subsection (g)(1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of K.S.A.

21-5706

or

21-5713

, and amendments thereto.

(h) (1) The sentence for a violation of the following with respect to material containing any quantity of a fentanyl-related controlled substance shall be presumed imprisonment and shall be two times the maximum duration of the presumptive term of imprisonment:

(A) K.S.A.

21-5703

, and amendments thereto; and

(B) K.S.A.

21-5705

, and amendments thereto, if the violation is classified as a drug severity level 1, 2 or 3 felony.

(2) Such sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for a violation of K.S.A.

21-5703

or

21-5705

, and amendments thereto, shall be presumed imprisonment and shall be two times the maximum duration of the presumptive term of imprisonment if the trier of fact makes a finding beyond a reasonable doubt that the controlled substance involved, because of its appearance or packaging, was likely to be attractive to minors. Such sentence shall not be considered a departure and shall not be subject to appeal.

KSA 21-6806 — Sentences of imprisonment, good time; pronouncement of sentence in felony cases; off-grid crimes

Sentences of imprisonment, good time; pronouncement of sentence in felony cases; off-grid crimes.

(a) Sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of the primary sentence for good time as authorized by K.S.A.

21-6821

, and amendments thereto.

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A.
21-5401
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21-5402
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21-5421
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21-5422
and
21-5901
, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A.
21-6617
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21-6618
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21-6619
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21-6622
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21-6624
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21-6625
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21-6628
and
21-6629
, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) As identified in K.S.A.
21-5426
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21-5503
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21-5504
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21-5506
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21-5510
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21-5514
and
21-6422

, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in K.S.A.

21-6626

, and amendments thereto, the sentence shall be imprisonment for life pursuant to K.S.A.

21-6627

, and amendments thereto.

KSA 21-6807 — Crime severity scale for nondrug crimes, application to specific crimes; ranking offenses, provision; unranked offenses; unclassified felonies; prior convictions discovered after the plea

Crime severity scale for nondrug crimes, application to specific crimes; ranking offenses, provision; unranked offenses; unclassified felonies; prior convictions discovered after the plea.

(a) The crime severity scale contained in the sentencing guidelines grid for nondrug crimes as provided in K.S.A.

21-6804

, and amendments thereto, consists of 10 levels of crimes. Crimes listed within each level are considered to be relatively equal in severity. Level 1 crimes are the most severe crimes and level 10 crimes are the least severe crimes. If a person is convicted of two or more crimes, then the severity level shall be determined by the most severe crime of conviction.

(b) When the statutory definition of a crime includes a broad range of criminal conduct, the crime may be subclassified factually in more than one crime category to capture the full range of criminal conduct covered by the crime.

(c) The provisions of this subsection shall be applicable with regard to ranking offenses according to the crime severity scale as provided in this section:

(1) When considering an unranked offense in relation to the crime severity scale, the sentencing judge should refer to comparable offenses on the crime severity scale.

(2) Except for off-grid felony crimes, which are classified as person felonies, all felony crimes omitted from the crime severity scale shall be considered nonperson felonies.

(3) All unclassified felonies shall be scored as level 10 nonperson crimes.

(4) The offense severity level of a crime for which the court has accepted a plea of guilty or nolo contendere pursuant to K.S.A.

22-3210

, and amendments thereto, or of a crime of which the defendant has been convicted shall not be elevated or enhanced for sentencing purposes as a result of the discovery of prior convictions or any other basis for such enhancement subsequent to the acceptance of the plea or conviction. Any such prior convictions discovered after the plea has been accepted by the court shall be counted in the determination of the criminal history of the offender.

KSA 21-6808 — Crime severity scale for drug crimes, application; presumptive sentences

Crime severity scale for drug crimes, application; presumptive sentences.

(a) The crime severity scale contained in the sentencing guidelines grid for drug offenses as provided in K.S.A.

21-6805

, and amendments thereto, consists of 5 levels of crimes. Crimes listed within each level are considered to be relatively equal in severity. Level 1 crimes are the most severe crimes and level 5 crimes are the least severe crimes.

(b) The provisions of this section shall also be applicable to the presumptive sentences for anticipatory crimes as provided in K.S.A.

21-5301

,

21-5302

and

21-5303

, and amendments thereto.

KSA 21-6809 — Criminal history categories in criminal history scale

Criminal history categories in criminal history scale.

The criminal history scale is represented in abbreviated form on the horizontal axis of the sentencing guidelines grids. The relative severity of each criminal history category decreases from left to right on such grids. Criminal history category A is the most serious classification. Criminal history category I is the least serious classification. The criminal history categories in the criminal history scale are:

Criminal

History

Category

Descriptive Criminal History

(A)

The offender's criminal history includes three or more adult convictions or juvenile adjudications, in any combination, for person felonies.

(B)

The offender's criminal history includes two adult convictions or juvenile adjudications, in any combination, for person felonies.

(C)

The offender's criminal history includes one adult conviction or juvenile adjudication for a person felony, and one or more adult conviction or juvenile adjudication for a nonperson felony.

(D)

The offender's criminal history includes one adult conviction or juvenile adjudication for a person felony, but no adult conviction or juvenile adjudications for a nonperson felony.

(E)

The offender's criminal history includes three or more adult convictions or juvenile adjudications for nonperson felonies, but no adult conviction or juvenile adjudication for a person felony.

(F)

The offender's criminal history includes one adult conviction or juvenile adjudication for a nonperson felony, but no adult conviction or juvenile adjudication for a person felony.

(G)

The offender's criminal history includes one adult conviction or juvenile adjudication for a nonperson felony, but no adult conviction or juvenile adjudication for a person felony.

(H)

The offender's criminal history includes two or more adult convictions or juvenile adjudications for nonperson and/or select misdemeanors, and no more than two adult convictions or juvenile adjudications for person misdemeanors, but no adult conviction or juvenile adjudication for either a person or nonperson felony.

(I)

The offender's criminal history includes no prior record; or, one adult conviction or juvenile adjudication for a person, nonperson, or select misdemeanor, but no adult conviction or juvenile adjudication for either a person or nonperson felony.

KSA 21-6810 — Criminal history categories, basis; determination of offenders classification; decay factors; prior convictions

Criminal history categories, basis; determination of offenders classification; decay factors; prior convictions.

(a) Criminal history categories contained in the sentencing guidelines grids are based on the following types of prior convictions: Person felony adult convictions, nonperson felony adult convictions, person felony juvenile adjudications,

nonperson felony juvenile adjudications, person misdemeanor adult convictions, nonperson class A misdemeanor adult convictions, person misdemeanor juvenile adjudications, nonperson class A misdemeanor juvenile adjudications, select class B nonperson misdemeanor adult convictions, select class B nonperson misdemeanor juvenile adjudications and convictions and adjudications for violations of municipal ordinances or county resolutions which are comparable to any crime classified under the state law of Kansas as a person misdemeanor, select nonperson class B misdemeanor or nonperson class A misdemeanor. A prior conviction is any conviction, other than another count in the current case, which was brought in the same information or complaint or which was joined for trial with other counts in the current case pursuant to K.S.A.

22-3203

, and amendments thereto, which occurred prior to sentencing in the current case, regardless of whether the offense that led to the prior conviction occurred before or after the current offense or the conviction in the current case.

(b) A class B nonperson select misdemeanor is a special classification established for weapons violations. Such classification shall be considered and scored in determining an offender's criminal history classification.

(c) Except as otherwise provided, all convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.

(d) Except as provided in K.S.A.

21-6815

, and amendments thereto, the following are applicable to determining an offender's criminal history classification:

(1) Only verified convictions will be considered and scored.

(2) All prior adult felony convictions, including expungements, will be considered and scored. Prior adult felony convictions for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.

(3) There will be no decay factor applicable for:

(A) Adult convictions;

(B) a juvenile adjudication for an offense committed before July 1, 1993, which would have been a class A, B or C felony, if committed by an adult. Prior juvenile adjudications for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed; or

(C) a juvenile adjudication for an offense committed on or after July 1, 1993, which would be an off-grid felony or a nondrug severity level 1 through 4 felony, if committed by an adult.

(4) Except as otherwise provided, a juvenile adjudication will decay if the current crime of conviction is committed after the offender reaches the age of 25, and the juvenile adjudication is for an offense:

(A) Committed before July 1, 1993, which would have been a class D or E felony, if committed by an adult;

(B) committed on or after July 1, 1993, which would be a nondrug severity level 5 through 10 felony, a nongrid felony or any drug felony, if committed by an adult; or

(C) which would be a misdemeanor, if committed by an adult.

(5) A juvenile adjudication will not be considered and scored if:

(A) The current crime of conviction is committed at least five years after the date of the prior adjudication;

(B) the offender has no new adjudications or convictions during such five-year period; and

(C) the juvenile adjudication is for an offense that would be a nondrug severity level 5 through 10 felony, drug felony, nongrid felony or misdemeanor, if committed by an adult.

(6) All person misdemeanors, class A nonperson misdemeanors and class B select nonperson misdemeanors, and all municipal ordinance and county resolution violations comparable to such misdemeanors, shall be considered and scored. Prior misdemeanors for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.

(7) Unless otherwise provided by law, unclassified felonies and misdemeanors, shall be considered and scored as nonperson crimes for the purpose of determining criminal history.

(8) Prior convictions of a crime defined by a statute that has since been repealed shall be scored using the classification assigned at the time of such conviction.

(9) Prior convictions of a crime defined by a statute that has since been determined unconstitutional by an appellate court shall not be used for criminal history scoring purposes.

(10) Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored.

KSA 21-6811 — Determination of offender's criminal history classification in presumptive sentencing guidelines grids

Determination of offender's criminal history classification in presumptive sentencing guidelines grids.

In addition to the provisions of K.S.A.

21-6810

, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A.

21-3408

, prior to its repeal, or K.S.A.

21-5412

(a), and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal possession of a firearm as defined in K.S.A.

21-4204

(a)(1) or (a)(5), prior to its repeal, criminal use of weapons as defined in K.S.A.

21-6301

(a)(10) or (a)(11), and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A.

21-4218

, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for K.S.A.

21-3404

(b), as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A.

8-1567

, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of K.S.A.

21-5405

(a)(3) or (a)(5), and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) Any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto, shall count as one person felony for criminal history purposes.

(3) If the current crime of conviction is for a violation of K.S.A.

21-5413

(b)(3) or (b)(4), and amendments thereto:

(A) The first prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one nonperson felony for criminal history purposes: (i) Any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto; and

(B) each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one person felony for criminal history purposes: (i) Any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A.

8-2,144

or

8-1567

, and amendments thereto.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A.

21-3715

(a), prior to its repeal, or K.S.A.

21-5807

(a)(1), and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A.

21-3715

(b) or (c), prior to its repeal, or K.S.A.

(a)(2) or (a)(3), and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) (1) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history.

(2) An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction.

(A) If a crime is a felony in the convicting jurisdiction, it will be counted as a felony in Kansas.

(B) If a crime is a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable offense in the state of Kansas is a felony, the out-of-state crime shall be classified as a class A misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(C) If a crime is not classified as either a felony or a misdemeanor in the convicting jurisdiction, the state of Kansas shall refer to the comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed to classify the out-of-state crime as either a felony or a misdemeanor. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall not be used in classifying the offender's criminal history.

(3) The state of Kansas shall classify the crime as person or nonperson.

(A) In designating a misdemeanor as person or nonperson, comparable offenses under the Kansas criminal code in effect on the date the current crime of conviction was committed shall be referred to. If the state of Kansas does not have a comparable person offense in effect on the date the current crime of conviction was committed, the out-of-state crime shall be classified as a nonperson crime.

(B) In designating a felony crime as person or nonperson, the felony crime shall be classified as follows:

(i) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if one or more of the following circumstances is present as defined by the convicting jurisdiction in the elements of the out-of-state offense:

(a) Death or killing of any human being;

(b) threatening or causing fear of bodily or physical harm or violence, causing terror, physically intimidating or harassing any person;

(c) bodily harm or injury, physical neglect or abuse, restraint, confinement or touching of any person, without regard to degree;

(d) the presence of a person, other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance;

(e) possessing, viewing, depicting, distributing, recording or transmitting an image of any person;

(f) lewd fondling or touching, sexual intercourse or sodomy with or by any person or an unlawful sexual act involving a child under the age of consent;

(g) being armed with, using, displaying or brandishing a firearm or other weapon, excluding crimes of mere unlawful possession; or

(h) entering or remaining within any residence, dwelling or habitation.

(ii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if the elements of the out-of-state felony offense that resulted in the conviction or adjudication necessarily prove that a person was present during the commission of the offense. For purposes of this clause, the person present must be someone other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance. The presence of a person includes physical presence and presence by electronic or telephonic communication.

(iii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a nonperson felony if the elements of the offense do not require proof of any of the circumstances in subparagraph (B)(i) or (ii).

(4) Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications.

(5) The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in K.S.A.

21-4710

(d)(4), (d)(5) and (d)(6), prior to its repeal, or K.S.A.

21-6810

(d)(3)(B), (d)(3)(C), (d)(3)(D), (d)(4) and (d)(5), and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A.

21-3301

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21-3302

or

21-3303

, prior to their repeal, or K.S.A.

21-5301

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21-5302

or

21-5303

, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of K.S.A.

8-1602

(b)(3) through (b)(5), and amendments thereto, each of the following prior convictions for offenses committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A.

8-235

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8-262

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8-287

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8-291

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8-1566

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8-1567

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8-1568

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8-1602

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8-1605

and

40-3104

, and amendments thereto, and K.S.A.

21-5405

(a)(3) or (a)(5) and

21-5406

, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

KSA 21-6811b — Determination of offender's criminal history; severability

Determination of offender's criminal history; severability.

If any provision of this act* is held invalid, the invalidity shall not affect other provisions or applications of the act, and to this end the provisions of this act are severable.

KSA 21-6811d — Calculating an offender's criminal history; severability

Calculating an offender's criminal history; severability.

If the amendments made to K.S.A.

21-6811

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21-6820

and

22-3504

are, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the amendments made to K.S.A.

21-6811

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21-6820

and

22-3504

that can be given effect without the invalid provision or provisions or application, and to this end the amendments made to K.S.A.

21-6811

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21-6820

and

22-3504

are severable.

KSA 21-6812 — Actions which prosecutors may take under agreements with defendants for plea; exceptions relating to prior convictions

Actions which prosecutors may take under agreements with defendants for plea; exceptions relating to prior convictions.

The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea to a charged offense or to a lesser or related offense, the prosecutor may do any of the following:

(a) Move for dismissal of other charges or counts;

(b) recommend a particular sentence within the sentencing range applicable to the offense or to the offense to which the offender pled guilty;

(c) recommend a particular sentence outside of the sentencing range only when departure factors exist and such factors are stated on the record;

(d) agree to file a particular charge or count;

(e) agree not to file charges or counts; or

(f) make any other promise to the defendant, except that the prosecutor shall not enter into any agreement to decline to use a prior drug conviction of the defendant to elevate or enhance the severity level of a drug crime as provided in K.S.A.

21-5703

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21-5705

or

21-5706

, and amendments thereto, or make any agreement to exclude any prior conviction from the criminal history of the defendant.

KSA 21-6813 — Presentence investigation report; information included; part of court record; confidential information, disclosure to certain parties; report format

Presentence investigation report; information included; part of court record; confidential information, disclosure to certain parties; report format.

(a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence investigation report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block that presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A.

65-4160

or

65-4162

, prior to their repeal, or K.S.A.

21-5706

, and amendments thereto, and meet the requirements of K.S.A.

21-6824

, and amendments thereto, the drug abuse assessment as provided in K.S.A.

21-6824

, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A.

65-4160

or

65-4162

, prior to their repeal, or K.S.A.

21-5706

, and amendments thereto, the drug abuse assessment as provided in K.S.A.

21-6824

, and amendments thereto.

(c) The presentence investigation report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to: The parties; the sentencing judge; the department of corrections; community correctional services; any entity required to receive the information under the interstate compact for adult offender supervision; and, if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A.

75-5220

, and amendments thereto, to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence investigation report.

(e) The presentence investigation report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) Except as provided in K.S.A.

21-6814

, and amendments thereto, the court may take judicial notice in a subsequent felony proceeding of an earlier presentence investigation report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence investigation reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

KSA 21-6814 — Offender's criminal history; admission in court or determined by judge; burden of proof; notice of error by offender; challenge for first time on appeal, burden of proof and procedure

Offender's criminal history; admission in court or determined by judge; burden of proof; notice of error by offender; challenge for first time on appeal, burden of proof and procedure.

(a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of proving the disputed portion of the offender's criminal history. The sentencing judge shall allow the state reasonable time to produce evidence to establish its burden of proof. If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.

(d) If an offender raises a challenge to the offender's criminal history for the first time on appeal, the offender shall have the burden of designating a record that shows prejudicial error. If the offender fails to provide such record, the appellate court shall dismiss the claim. In designating a record that shows prejudicial error, the offender may provide the appellate court with journal entries of the challenged criminal history that were not originally attached to the criminal history worksheet, and the state may provide the appellate court with journal entries establishing a lack of prejudicial error. The court may take judicial notice of such journal entries, complaints, plea agreements, jury instructions and verdict forms for Kansas convictions when determining whether prejudicial error exists. The court may remand the case if there is a reasonable question as to whether prejudicial error exists.

KSA 21-6815 — Imposition of presumptive sentence; jury requirements; departure sentencing; substantial and compelling reasons for departure; mitigating and aggravating factors

Imposition of presumptive sentence; jury requirements; departure sentencing; substantial and compelling reasons for departure; mitigating and aggravating factors.

(a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of K.S.A.

21-6817

(b), and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction, except that this factor shall not apply to a sexually violent crime as defined in K.S.A.

22-3717

, and amendments thereto, or electronic solicitation as defined in K.S.A.

21-5509

, and amendments thereto, when: (i) The victim is less than 14 years of age and the offender is 18 or more years of age; or (ii) the offender hires any person by giving, or offering to or agreeing to give, anything of value to the person to engage in an unlawful sex act.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(F) The offender committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America. As used in this subsection, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A.

21-6630

, and amendments thereto.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

(i) Commit any person felony;

(ii) assist in avoiding detection or apprehension for commission of any person felony; or

(iii) attempt, conspire or solicit, as defined in K.S.A.

21-5301

,

21-5302

and

21-5303

, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age;

(d) aggravated human trafficking, as defined in K.S.A.

21-5426

(b), and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in K.S.A.

21-6422

, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;

(2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;

(3) the nature and extent of the defendant's assistance;

(4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and

(5) the timeliness of the defendant's assistance.

KSA 21-6816 — Departure sentencing for drug crimes; finding substantial and compelling reasons for departure; aggravating factors considered in determining if reasons exist

Departure sentencing for drug crimes; finding substantial and compelling reasons for departure; aggravating factors considered in determining if reasons exist.

(a) The following aggravating factors apply to drug crimes and may be considered in determining whether substantial and compelling reasons for departure exist:

(1) The crime was committed as part of a major organized drug manufacture, cultivation or distribution activity. Two or more of the following nonexclusive factors constitute evidence of major organized drug manufacture, cultivation or distribution activity:

(A) The offender derived a substantial amount of money or asset ownership from the illegal drug activity.

(B) The presence of a substantial quantity or variety of weapons or explosives at the scene of arrest or associated with the illegal drug activity.

(C) The presence of drug transaction records or customer lists that indicate a drug activity of major size.

(D) The presence of manufacturing or distribution materials such as, but not limited to, drug recipes, precursor chemicals, laboratory equipment, lighting, irrigation systems, ventilation, power-generation, scales or packaging material.

(E) Building acquisitions or building modifications including, but not limited to, painting, wiring, plumbing or lighting which advanced or facilitated the commission of the offense.

(F) Possession of large amounts of illegal drugs or substantial quantities of controlled substances.

(G) A showing that the offender has engaged in repeated criminal acts associated with the manufacture, cultivation or distribution of controlled substances.

(2) The offender possessed illegal drugs with the intent to distribute, which were distributed, or offered for distribution:

(A) To a person under 18 years of age; or

(B) in the immediate presence of a person under 18 years of age.

(3) The offender, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age:

(A) To violate any provision of K.S.A.

21-5701

through

21-5717

, and amendments thereto;

(B) to assist in avoiding detection or apprehension for violation of any provision of K.S.A.

21-5701

through

21-5717

, and amendments thereto; or

(C) to attempt, conspire or solicit, as defined in K.S.A.

21-5301

,

21-5302

or

21-5303

, and amendments thereto, to commit a violation of any provision of K.S.A.

21-5701

through

21-5717

, and amendments thereto.

That the offender did not know the age of the individual under 16 years of age shall not be a consideration.

(4) The offender was incarcerated during the commission of the offense.

(b) In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

KSA 21-6817 — Departure sentencing; hearing; notice; findings of fact and conclusions of law; order; upward durational departure sentencing; procedures and jury requirements

Departure sentencing; hearing; notice; findings of fact and conclusions of law; order; upward durational departure sentencing; procedures and jury requirements.

(a) (1) Whenever a person is convicted of a felony, the court upon motion of either the defendant or the state, shall hold a hearing to consider imposition of a departure sentence other than an upward durational departure sentence. The motion shall state the type of departure sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issues of departure sentencing. The county or district attorney shall notify the victim of a crime or the victim's family of the right to be present at the hearing. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement. Prior to the hearing, the court shall transmit to the defendant or the defendant's attorney and the prosecutor copies of the presentence investigation report.

(2) At the conclusion of the hearing or within 21 days thereafter, the court shall issue findings of fact and conclusions of law regarding the issues submitted by the parties, and shall enter an appropriate order.

(3) If the court decides to depart on its own volition, without a motion from the state or the defendant, the court shall notify all parties of its intent and allow reasonable time for either party to respond if requested. The notice shall state the type of departure intended by the court and the reasons and factors relied upon.

(4) In each case in which the court imposes a sentence that deviates from the presumptive sentence, the court shall make findings of fact as to the reasons for departure as provided in this subsection regardless of whether a hearing is requested.

(b) (1) Upon motion of the county or district attorney to seek an upward durational departure sentence, the court shall consider imposition of such upward durational departure sentence in the manner provided in subsection (b)(2). The county or district attorney shall file such motion to seek an upward durational departure sentence not less than 30 days prior to the date of trial or if the trial date is to take place in less than 30 days then within seven days from the date of the arraignment.

(2) The court shall determine if the presentation of any evidence regarding the alleged fact or factors that may increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be presented to a jury and proved beyond a reasonable doubt during the trial of the matter or whether such evidence should be submitted to the jury in a separate departure sentencing hearing following the determination of the defendant's innocence or guilt.

(3) If the presentation of the evidence regarding the alleged fact or factors is submitted to the jury during the trial of the matter as determined by the court, then the provisions of subsections (b)(5), (b)(6) and (b)(7) shall be applicable.

(4) If the court determines it is in the interest of justice, the court shall conduct a separate departure sentence proceeding to determine whether the defendant may be subject to an upward durational departure sentence. Such proceeding shall be conducted by the court before a jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the upward durational departure sentence proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the upward durational departure sentence proceeding, the court may conduct such upward durational departure sentence proceeding before a jury which may have 12 or less jurors, but at no time less than six jurors. Any decision of an upward durational departure sentence proceeding shall be decided by a unanimous decision of the jury. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the upward durational departure sentence proceeding may be waived in the manner provided by K.S.A.

22-3403

, and amendments thereto, for waiver of a trial jury. If the jury at the upward durational departure sentence proceeding has been waived, the upward durational departure sentence proceeding shall be conducted by the court.

(5) In the upward durational departure sentence proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of determining if any specific factors exist that may serve to enhance the maximum sentence as provided by K.S.A.

21-6815

or

21-6816

, and amendments thereto. Only such evidence as the state has made known to the defendant prior to the upward durational departure sentence proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the upward durational departure sentence proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral arguments.

(6) The court shall provide oral and written instructions to the jury to guide its deliberations.

(7) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more specific factors exist that may serve to enhance the maximum sentence, the defendant may be sentenced pursuant to K.S.A.

21-6815

through

21-6818

, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The jury, if its verdict is a unanimous recommendation that one or more of the specific factors that may serve to enhance the maximum sentence exists, shall designate in writing, signed by the foreman of the jury, the specific factor or factors which the jury found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict of finding any of the specific factors, the court shall dismiss the jury and shall only impose a sentence as provided by law. In nonjury cases, the court shall follow the requirements of this subsection in determining if one or more of the specific factors exist that may serve to enhance the maximum sentence.

KSA 21-6818 — Departure sentencing; limitations

Departure sentencing; limitations.

(a) When a departure sentence is appropriate, the sentencing judge may depart from the sentencing guidelines as provided in this section. The sentencing judge shall not impose a downward dispositional departure sentence for any crime of extreme sexual violence, as defined in K.S.A.

21-6815

, and amendments thereto. The sentencing judge shall not impose a downward durational departure sentence for any crime of extreme sexual violence, as defined in K.S.A.

21-6815

, and amendments thereto, to less than 50% of the center of the range of the sentence for such crime.

(b) When a sentencing judge departs in setting the duration of a presumptive term of imprisonment:

(1) The judge shall consider and apply the sentencing guidelines, to impose a sentence that is proportionate to the severity of the crime of conviction and the offender's criminal history; and

(2) the presumptive term of imprisonment set in such departure shall not total more than double the maximum duration of the presumptive imprisonment term.

(c) When a sentencing judge imposes a prison term as a dispositional departure:

(1) The judge shall consider and apply the sentencing guidelines to impose a sentence that is proportionate to the severity of the crime of conviction; and

(2) the term of imprisonment shall not exceed the maximum duration of the presumptive imprisonment term listed within the sentencing grid. Any sentence inconsistent with the provisions of this section shall constitute an additional departure and shall require substantial and compelling reasons independent of the reasons given for the dispositional departure.

(d) If the sentencing judge imposes a nonprison sentence as a dispositional departure from the guidelines, the recommended duration shall be as provided in subsection (c) of K.S.A.

21-6608

, and amendments thereto.

KSA 21-6819 — Sentencing in multiple conviction cases; discretion of judge to impose concurrent or consecutive sentences; requirements applicable; departure sentencing based on aggravating factors

Sentencing in multiple conviction cases; discretion of judge to impose concurrent or consecutive sentences; requirements applicable; departure sentencing based on aggravating factors.

(a) The provisions of subsections (a), (b), (c), (d), (e) and (h) of K.S.A.

21-6606

, and amendments thereto, regarding multiple sentences shall apply to the sentencing of offenders pursuant to the sentencing guidelines. The mandatory consecutive sentence requirements contained in subsections (c), (d) and (e) of K.S.A.

21-6606

, and amendments thereto, shall not apply if such application would result in a manifest injustice.

(b) The sentencing judge shall otherwise have discretion to impose concurrent or consecutive sentences in multiple conviction cases. The sentencing judge may consider the need to impose an overall sentence that is proportionate to the harm and culpability and shall state on the record if the sentence is to be served concurrently or consecutively. In cases where consecutive sentences may be imposed by the sentencing judge, the following shall apply:

(1) When the sentencing judge imposes multiple sentences consecutively, the consecutive sentences shall consist of an imprisonment term which may not exceed the sum of the consecutive imprisonment terms, and a supervision term. The sentencing judge shall have the discretion to impose a consecutive term of imprisonment for a crime other than the primary crime of any term of months not to exceed the nonbase sentence as determined under subsection (b)(5). The postrelease supervision term will be based on the longest supervision term imposed for any of the crimes.

(2) The sentencing judge shall establish a base sentence for the primary crime. The primary crime is the crime with the highest crime severity ranking. An off-grid crime shall not be used as the primary crime in determining the base sentence when imposing multiple sentences. If sentences for off-grid and on-grid convictions are ordered to run consecutively, the offender shall not begin to serve the on-grid sentence until paroled from the off-grid sentence, and the postrelease supervision term will be based on the off-grid crime. If more than one crime of conviction is classified in the same crime category, the sentencing judge shall designate which crime will serve as the primary crime. In the instance of sentencing with both the drug grid and the nondrug grid and simultaneously having a presumption of imprisonment and probation, the sentencing judge shall use the crime which presumes imprisonment as the primary crime. In the instance of sentencing with both the drug grid and the nondrug grid and simultaneously having a presumption of either both probation or both imprisonment, the sentencing judge shall use the crime with the longest sentence term as the primary crime.

(3) The base sentence is set using the total criminal history score assigned.

(4) The total prison sentence imposed in a case involving multiple convictions arising from multiple counts within an information, complaint or indictment cannot exceed twice the base sentence. This limit shall apply only to the total sentence, and it shall not be necessary to reduce the duration of any of the nonbase sentences imposed to be served consecutively to the base sentence. The postrelease supervision term will reflect only the longest such term assigned to any of the crimes for which consecutive sentences are imposed. Supervision periods shall not be aggregated.

(5) Nonbase sentences shall not have criminal history scores applied, as calculated in the criminal history I column of the grid, but base sentences shall have the full criminal history score assigned. In the event a conviction designated as the primary crime in a multiple conviction case is reversed on appeal, the appellate court shall remand the multiple conviction case for resentencing. Upon resentencing, if the case remains a multiple conviction case the court shall follow all of the provisions of this section concerning the sentencing of multiple conviction cases.

(6) If the sentence for the primary crime is a prison term, the entire imprisonment term of the consecutive sentences will be served in prison.

(7) If the sentence for the consecutive sentences is a prison term, the postrelease supervision term is a term of postrelease supervision as established for the primary crime.

(8) If the sentence for the primary crime is a nonprison sentence, a nonprison term will be imposed for each crime conviction, but the nonprison terms shall not be aggregated or served consecutively even though the underlying prison sentences have been ordered to be served consecutively. Upon revocation of the nonprison sentence, the offender shall serve the prison sentences consecutively as provided in this section.

(c) The following shall apply for a departure from the presumptive sentence based on aggravating factors within the context of consecutive sentences:

(1) The court may depart from the presumptive limits for consecutive sentences only if the judge finds substantial and compelling reasons to impose a departure sentence for any of the individual crimes being sentenced consecutively.

(2) When a departure sentence is imposed for any of the individual crimes sentenced consecutively, the imprisonment term of that departure sentence shall not exceed twice the maximum presumptive imprisonment term that may be imposed for that crime.

(3) The total imprisonment term of the consecutive sentences, including the imprisonment term for the departure crime, shall not exceed twice the maximum presumptive imprisonment term of the departure sentence following aggravation.

KSA 21-6820 — Departure sentence or ruling on motion for correction of sentence subject to appeal; confinement or release of defendant pending review; scope of review; action by court; written opinion, when; summary disposition; correction of illegal sentence or clerical error

Departure sentence or ruling on motion for correction of sentence subject to appeal; confinement or release of defendant pending review; scope of review; action by court; written opinion, when; summary disposition; correction of illegal sentence or clerical error.

(a) A departure sentence or a ruling on a motion filed pursuant to K.S.A.

22-3504

, and amendments thereto, is subject to appeal by the defendant or the state. The appeal shall be to the appellate courts in accordance with rules adopted by the supreme court.

(b) Pending review of the sentence, the sentencing court or the appellate court may order the defendant confined or placed on conditional release, including bond.

(c) On appeal from a judgment of conviction entered for a felony committed on or after July 1, 1993, the appellate court shall not review:

(1) Any sentence that is within the presumptive sentence for the crime; or

(2) any sentence resulting from an agreement between the state and the defendant which the sentencing court approves on the record.

(d) In any appeal from a judgment of conviction imposing a sentence that departs from the presumptive sentence prescribed by the sentencing grid for a crime, sentence review shall be limited to whether the sentencing court's findings of fact and reasons justifying a departure:

(1) Are supported by the evidence in the record; and

(2) constitute substantial and compelling reasons for departure.

(e) In any appeal from a judgment of conviction, the appellate court may review a claim that:

(1) A sentence that departs from the presumptive sentence resulted from partiality, prejudice, oppression or corrupt motive;

(2) the sentencing court erred in either including or excluding recognition of a prior conviction or juvenile adjudication for criminal history scoring purposes; or

(3) the sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(f) The appellate court may reverse or affirm the sentence. If the appellate court concludes that the trial court's factual findings are not supported by evidence in the record or do not establish substantial and compelling reasons for a departure, it shall remand the case to the trial court for resentencing.

(g) The appellate court shall issue a written opinion whenever the judgment of the sentencing court is reversed. The court may issue a written opinion in any other case when it is believed that a written opinion will provide guidance to sentencing judges and others in implementing the sentencing guidelines adopted by the Kansas sentencing commission. The appellate courts may provide by rule for summary disposition of cases arising under this section when no substantial question is presented by the appeal.

(h) A review under summary disposition shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required unless ordered by the appellate court and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(i) The sentencing court shall retain authority irrespective of any appeal to correct an illegal sentence or clerical error pursuant to K.S.A.

22-3504

, and amendments thereto. Notwithstanding the provisions of K.S.A.

22-3504

, and amendments thereto, if a motion to correct an illegal sentence is filed while a direct appeal is pending, any change in the law that occurs during the pending direct appeal shall apply.

KSA 21-6821 — Good time and program credits; calculation; forfeiture; rules and regulations of secretary; liability

Good time and program credits; calculation; forfeiture; rules and regulations of secretary; liability.

(a) The secretary of corrections is hereby authorized to adopt rules and regulations providing for a system of good time calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn good time credits and for the forfeiture of earned credits. Such circumstances may include factors related to program and work participation and conduct and the inmate's willingness to examine and confront past behavioral patterns that resulted in the commission of the inmate's crimes.

(b) For purposes of determining release of an inmate, the following shall apply with regard to good time calculations:

(1) Good behavior by inmates is the expected norm and negative behavior will be punished; and

(2) the amount of good time which can be earned by an inmate and subtracted from any sentence is limited to:

(A) For a crime committed on or after July 1, 1993, an amount equal to 15% of the prison part of the sentence;

(B) for a nondrug severity level 7 through 10 crime committed on or after January 1, 2008, an amount equal to 20% of the prison part of the sentence; or

(C) for a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or a drug severity level 3 through 5 crime committed on or after July 1, 2012, an amount equal to 20% of the prison part of the sentence.

(c) The postrelease supervision term of a person sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A.

22-3717

, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A.

22-3717

(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.

21-3523

, prior to its repeal, or K.S.A.

21-5509

, and amendments thereto, or unlawful sexual relations, K.S.A.

21-3520

, prior to its repeal, or K.S.A.

21-5512

, and amendments thereto, shall have any time which is earned and subtracted from the prison part of such sentence and any other consecutive or concurrent sentence pursuant to good time calculation added to such inmate's postrelease supervision term.

(d) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

(1) Filed a false or malicious action or claim with the court;

(2) brought an action or claim with the court solely or primarily for delay or harassment;

(3) testified falsely or otherwise submitted false evidence or information to the court;

(4) attempted to create or obtain a false affidavit, testimony or evidence; or

(5) abused the discovery process in any judicial action or proceeding.

(e) (1) For purposes of determining release of an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 through 5 crime committed on or after July 1, 2012, the secretary of corrections is hereby authorized to adopt rules and regulations regarding program credit calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn program credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program participation and conduct. In addition to any good time credits earned and retained, the following shall apply with regard to program credit calculations:

(A) A system shall be developed whereby program credits may be earned by inmates for the successful completion of requirements for a general education diploma, a technical or vocational training program, a substance abuse treatment program or any other program designated by the secretary which has been shown to reduce offenders' risk after release; and

(B) the amount of time which can be earned and retained by an inmate for the successful completion of programs and subtracted from any sentence is limited to not more than 120 days.

(2) Any time which is earned and subtracted from the prison part of the sentence of any inmate pursuant to program credit calculation shall not be added to such inmate's postrelease supervision term, if applicable, except that the postrelease supervision term of a person sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A.

22-3717

, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A.

22-3717

(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.

21-3523

, prior to its repeal, or K.S.A.

21-5509

, and amendments thereto, or unlawful sexual relations, K.S.A.

21-3520

, prior to its repeal, or K.S.A.

21-5512

, and amendments thereto, shall have any time which is earned and subtracted from the prison part of such sentence and any other consecutive or concurrent sentence pursuant to program credit calculation added to such inmate's postrelease supervision term.

(3) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, a defendant shall only be eligible for program credits if such crimes are a nondrug severity level 4 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or a drug severity level 3 through 5 committed on or after July 1, 2012.

(4) Program credits shall not be earned by any offender successfully completing a sex offender treatment program.

(5) The secretary of corrections shall report to the Kansas sentencing commission and the Kansas reentry policy council the data on the program credit calculations.

(f) The state of Kansas, the secretary of corrections and the secretary's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission in making the good time and program credit calculations authorized by this section.

KSA 21-6822 — Sentencing guidelines; changes in; duties of sentencing commission and secretary of corrections; submission to legislature

Sentencing guidelines; changes in; duties of sentencing commission and secretary of corrections; submission to legislature.

The Kansas sentencing commission shall meet as necessary for the purpose of modifying and improving the guidelines. The secretary of corrections shall notify the commission at any time when it is determined that prisons in the state have been filled to 90% or more of their overall capacity. The commission shall then propose modifications which amend the sentencing guidelines grid, including severity levels, criminal history scores or other factors which would result in the reduction of any sentence, as deemed necessary to maintain the prison population within the reasonable management capacity of the prisons as determined after consultation with the secretary of corrections. Such proposed modifications shall be submitted to the legislature by February 1 in any year in which the commission proposes to make the change. No change will be in effect without the approval of the legislature and the governor.

KSA 21-6823 — Costs and expenses associated with postconviction sanctions for felony convictions

Costs and expenses associated with postconviction sanctions for felony convictions.

All costs and expenses associated with postconviction prison and nonprison sanctions imposed for felony convictions and time spent in a county jail pursuant to a nonprison sanction imposed for felony convictions shall be the responsibility of and paid by the state of Kansas.

KSA 21-6824 — Nonprison sanction; certified drug abuse treatment programs; assessment; supervision by community corrections or court services; discharge from program; exceptions to placement in program; transfer of supervision

Nonprison sanction; certified drug abuse treatment programs; assessment; supervision by community corrections or court services; discharge from program; exceptions to placement in program; transfer of supervision.

(a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders who meet the requirements of this subsection.

(1) Offenders convicted of a felony violation of K.S.A.

21-5705

or

21-5706

, and amendments thereto, whose offense is classified in grid blocks:

(A) 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A.

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or

65-4164
, prior to their repeal, K.S.A. 2010 Supp.
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or
21-36a16
, prior to their transfer, or K.S.A.
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or
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, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(B) 5-A, 5-B, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes and:

(i) Such offender has no felony conviction of K.S.A.
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, prior to their repeal, K.S.A. 2010 Supp.
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, prior to their transfer, or K.S.A.
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, and amendments thereto, or any substantially similar offense from another jurisdiction;

(ii) the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes; and

(iii) the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(2) Offenders convicted of a nonperson felony whose offense is classified in grid blocks:

(A) 10-C, 10-D, 10-E, 10-F, 10-G, 10-H, 10-I, 9-C, 9-D, 9-E, 9-F, 9-G, 9-H, 9-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, 8-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes and such offender has no felony conviction of K.S.A.
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, prior to their repeal, K.S.A. 2010 Supp.
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, prior to their transfer, or K.S.A.
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, and amendments thereto, or any substantially similar offense from another jurisdiction; or
(B) 10-A, 10-B, 9-A, 9-B, 8-A, 8-B, 7-A or 7-B of the sentencing guidelines grid for nondrug crimes and:
(i) Such offender has no felony conviction of K.S.A.
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, prior to their repeal, K.S.A. 2010 Supp.
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, prior to their transfer, or K.S.A.

21-5703

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21-5716

, and amendments thereto, or any substantially similar offense from another jurisdiction;

(ii) the person felonies in the offender's criminal history were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes; and

(iii) the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement in a drug abuse treatment program.

(b) As a part of the presentence investigation pursuant to K.S.A.

21-6813

, and amendments thereto, offenders who meet the requirements of subsection (a), unless otherwise specifically ordered by the court, shall be subject to:

(1) A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

(2) a criminal risk-need assessment. The criminal risk-need assessment shall assign a risk status to the offender.

(c) If the offender is assigned a risk status as determined by the drug abuse assessment performed pursuant to subsection (b)(1) and a risk status as determined by the criminal risk-need assessment performed pursuant to subsection (b)(2) that meets the criteria for participation in a drug abuse treatment program as determined by the Kansas sentencing commission, the sentencing court shall commit the offender to treatment in a drug abuse treatment program until the court determines the offender is suitable for discharge by the court. The term of treatment shall not exceed 18 months. The court may extend the term of probation pursuant to K.S.A.

21-6608

(c)(3), and amendments thereto. The term of treatment may not exceed the term of probation.

(d) (1) Offenders who are committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services.

(2) Offenders who are not committed to a drug abuse treatment program pursuant to subsection (c) shall be supervised by community correctional services or court services based on the result of the criminal risk assessment.

(3) If the offender is permitted to go from the judicial district of the sentencing court, the court may, pursuant to K.S.A.

21-6610

, and amendments thereto:

(A) Transfer supervision of the offender from that judicial district to another; and

(B) either transfer or retain jurisdiction of the offender.

(e) Placement of offenders under subsection (a)(1)(B) or (a)(2)(B) shall be subject to the departure sentencing statutes of the revised Kansas sentencing guidelines act.

(f) (1) Offenders in drug abuse treatment programs shall be discharged from such program if the offender:

(A) Is convicted of a new felony; or

(B) has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding.

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of K.S.A.

21-6604

(n), and amendments thereto.

(g) As used in this section, "mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug

abuse counselors licensed or certified as addiction counselors who have been certified by the Kansas sentencing commission to treat offenders pursuant to K.S.A.

75-52,144

, and amendments thereto.

(h) (1) Offenders who meet the requirements of subsection (a) shall not be subject to the provisions of this section and shall be sentenced as otherwise provided by law, if such offenders:

(A) Are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision;

(B) are not lawfully present in the United States and being detained for deportation; or

(C) do not meet the risk assessment levels provided in subsection (c).

(2) Such sentence shall not be considered a departure and shall not be subject to appeal.

(i) The court may order an offender who otherwise does not meet the requirements of subsection (c) to undergo one additional drug abuse assessment while such offender is on probation. Such offender may be ordered to undergo drug abuse treatment pursuant to subsection (a) if such offender is determined to meet the requirements of subsection (c). The cost of such assessment shall be paid by such offender.

KSA 21-6825 — Certified drug abuse treatment program for persons who have entered into a diversion agreement; supervision by community corrections or court services; discharge from program; exceptions to placement in program

Certified drug abuse treatment program for persons who have entered into a diversion agreement; supervision by community corrections or court services; discharge from program; exceptions to placement in program.

(a) There is hereby established a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings on and after July 1, 2021. Placement of divertees in a certified drug abuse treatment program pursuant to a diversion agreement shall be limited to placement of adults, on a complaint alleging a felony violation of K.S.A.

21-5706

, and amendments thereto, whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes who have no felony conviction of K.S.A.

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or

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, prior to their repeal, K.S.A. 2010 Supp.

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or

21-36a16

, prior to their transfer, or K.S.A.

21-5703

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21-5705

or

21-5716

, and amendments thereto, or any substantially similar offense from another jurisdiction.

(b) As part of the consideration of whether or not to allow diversion to the defendant, a divertee who meets the requirements of subsection (a) shall be subject to:

(1) A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the divertee; and

(2) a standardized criminal risk-need assessment specified by the Kansas sentencing commission.

(c) The diversion agreement shall require the divertee to comply with and participate in a certified drug abuse treatment program if the divertee meets the assessment criteria set by the Kansas sentencing commission. The term of treatment shall not exceed 18 months.

(d) Divertees who are committed to a certified drug abuse treatment program pursuant to subsection (c) may be supervised by community correctional services or court services pursuant to a memorandum of understanding entered into pursuant to K.S.A.

22-2907

, and amendments thereto.

(e) (1) Divertees in a certified drug abuse treatment program shall be discharged from the program if the divertee:

(A) Is convicted of a new felony; or

(B) has a pattern of intentional conduct that demonstrates the divertee's refusal to comply with or participate in the treatment program in the opinion of the county or district attorney.

(2) Divertees who are discharged from such program pursuant to paragraph (1) shall be subject to the revocation provisions of the divertee's diversion agreement.

(f) For the purposes of this section:

(1) "Mental health professional" includes licensed social workers, persons licensed to practice medicine and surgery, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the Kansas sentencing commission to treat persons pursuant to K.S.A. 2025 Supp.

75-52,144

, and amendments thereto.

(2) "Divertee" means a person who has entered into a diversion agreement pursuant to K.S.A.

22-2909

, and amendments thereto.

KSA 21-6902 — Kansas criminal justice reform commission; duties; members; report

Kansas criminal justice reform commission; duties; members; report.

(a) There is hereby created the Kansas criminal justice reform commission.

(b) The commission shall:

(1) Analyze the sentencing guidelines grids for drug and nondrug crimes and make recommendations for legislation that would ensure sentences are appropriate;

(2) review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;

(3) analyze diversion programs utilized throughout the state and make recommendations for legislation that:

(A) Requires pre-filing and post-filing diversion be an option in all counties;

(B) establishes minimum statewide standards for diversion; and

(C) provides a method for sealing or otherwise removing diversion records from criminal records;

(4) review supervision practices for offenders who serve sentences for felony offenses on community supervision, including supervision by court services, community corrections and parole;

(5) discuss and develop detailed recommendations for legislation that establishes research-based standards and practices for all community supervision programs that:

(A) Provide for incentives for compliant offenders to earn early discharge from supervision;

(B) create standardized terms and conditions for community supervision and provide for a method that courts may utilize to use special terms as indicated through the introduction of compelling evidence;

(C) create standardized effective responses to behavior through a system of incentives and graduated sanctions; and

(D) provide for a means to consolidate concurrent supervision into one supervision agency; and

(6) monitor the implementation of previously endorsed commission recommendations, including those developed through justice reinvestment, and receive updates, review data and identify opportunities for coordination, collaboration or legislation as needed.

(c) The commission shall be made of the following members:

(1) One member of the Kansas senate appointed by the president of the senate;

(2) one member of the Kansas senate appointed by the minority leader of the senate;

(3) one member of the Kansas house of representatives appointed by the speaker of the Kansas house of representatives;

(4) one member of the Kansas house of representatives appointed by the minority leader of the Kansas house of representatives;

(5) one member of the judicial branch court services appointed by the chief justice of the supreme court;

(6) one criminal defense attorney or public defender appointed by the governor;

(7) one public defender appointed by the executive director of the board of indigents' defense services;

(8) one county or district attorney from an urban area and one county attorney from a rural area appointed by the Kansas county and district attorneys association;

(9) one sheriff and one chief of police appointed by the attorney general;

(10) one professor of law from the university of Kansas school of law and one professor of law from Washburn university school of law, appointed by the deans of such schools;

(11) one drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program appointed by the Kansas sentencing commission;

(12) one district judge appointed by the Kansas district judges association;

(13) one district magistrate judge appointed by the Kansas district magistrate judges association;

(14) one member representative of the faith-based community appointed by the governor;

Chapter 22 — Criminal Procedure

KSA 22-2101 — Title

Title.

This code is called and may be cited as the Kansas code of criminal procedure.

KSA 22-2102 — Scope

Scope.

The provisions of this code shall govern proceedings in all criminal cases in the courts of the state of Kansas, but shall have application to proceedings in police and municipal courts only when specifically provided by law.

KSA 22-2103 — Purpose and construction

Purpose and construction.

This code is intended to provide for the just determination of every criminal proceeding. Its provisions shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

KSA 22-2104 — Prosecutions in the name of state

Prosecutions in the name of state.

All prosecutions for violations of the criminal laws of this state shall be in the name of the state of Kansas.

KSA 22-2201 — Interpretation of words and phrases

Interpretation of words and phrases.

(1) In interpreting this code, such words and phrases as are defined in this article shall be given the meanings indicated by their definitions, unless a particular context clearly requires a different meaning.

(2) Words or phrases not defined in this code but which are defined in the Kansas criminal code shall have the meanings given therein except when a particular context clearly requires different meanings.

(3) Words and phrases used in this code and not expressly defined shall be construed according to the rules governing the construction of statutes of this state.

KSA 22-2202 — General definitions

General definitions.

Subject to K.S.A.

22-2201

, and amendments thereto, as used in this code:

(a) "Absconds from supervision" means knowingly avoiding supervision or knowingly making the defendant's whereabouts unknown to the defendant's supervising court services officer or community correctional services officer.

(b) "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.

(c) "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.

(d) "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.

(e) "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.

(f) "Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.

(g) "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.

(h) "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.

(i) "Complaint" means a written statement under oath of the essential facts constituting a crime, except that the following shall be deemed a valid complaint if signed by the law enforcement officer:

(1) 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;

(2) a citation or notice to appear issued pursuant to and in compliance with K.S.A.

32-1049

, and amendments thereto; or

(3) a notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A.

22-2408

, and amendments thereto, for any unclassified misdemeanor or nonperson misdemeanor if:

(A) There is a memorandum of agreement between the law enforcement agency that employs such officer and the county or district attorney in the jurisdiction where the notice to appear is issued; and

(B) the notice to appear complies with the requirements of the memorandum of agreement and K.S.A.

22-3201

(b), and amendments thereto.

(j) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.

(k) "Detention" means the temporary restraint of a person by a law enforcement officer.

(l) "Indictment" means a written statement, presented by a grand jury to a court, that charges the commission of a crime.

(m) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas, presented to a court, that 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.

(n) "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, community corrections 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.

(o) "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.

(p) "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.

(q) "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 such felony.

(r) "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, "prosecuting attorney" means the city attorney or any assistant city attorney.

(s) "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.

(t) "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.

(u) "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.

KSA 22-2301 — Commencement of prosecution

Commencement of prosecution.

(1) Unless otherwise provided by law, a prosecution shall be commenced by filing a complaint with a magistrate. A copy of the complaint shall forthwith be supplied to the county attorney of the county and a copy thereof shall be furnished to the defendant or said defendant's attorney upon request.

(2) A judge of the district court may in extreme cases, upon affidavits filed with such judge of the commission of a crime, order the county attorney to institute criminal proceedings against any person, but any such judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with any other judge appointed to preside therein.

KSA 22-2302 — Issuance of warrant or summons; availability of affidavits and testimony in support of probable cause requirements; disclosure after execution, redaction

Issuance of warrant or summons; availability of affidavits and testimony in support of probable cause requirements; disclosure after execution, redaction.

(a) (1) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if:

(A) The prosecuting attorney so requests; or

(B) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued.

(2) More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) (1) Affidavits or sworn testimony in support of the probable cause requirement of this section shall be made available to law enforcement agencies prior to execution of the warrant or summons, but shall not be open to the general public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self, the clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A.

74-7335

, and amendments thereto.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions,

or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A.

21-6419

through

21-6422

, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

KSA 22-2303 — Prosecution begun by filing indictment or information; issuance of warrant; summons

Prosecution begun by filing indictment or information; issuance of warrant; summons.

(1) When an indictment is returned, as provided by K.S.A.

22-3011

, and amendments thereto, a prosecution shall be deemed to have been begun. In misdemeanor cases, cigarette or tobacco infraction cases and traffic infraction cases a prosecution may be begun by filing an information in the district court. Such information shall be verified positively or shall be accompanied by affidavits stating the facts constituting the crime charged. When an information is filed under this section further proceedings shall be had only after the judge has determined from the information, or from an affidavit or affidavits filed with the information or from other evidence that there is probable cause to believe both that a crime has been committed and that the defendant has committed it.

(2) Except in traffic infraction and cigarette or tobacco infraction cases, when a prosecution is begun by the filing of an indictment or information, upon which the judge has made a finding of probable cause as provided in subsection (1), a warrant for the arrest of the defendant shall issue forthwith unless otherwise directed by the court. In felony and misdemeanor cases, the court may order that a summons issue instead of a warrant. In traffic infraction and cigarette or tobacco infraction cases the court shall order that a summons issue instead of a warrant.

KSA 22-2304 — Form of warrant or summons

Form of warrant or summons.

(a) The warrant shall be signed by the magistrate and shall contain the name of the defendant, or, if such defendant's name is unknown, any name or description by which such defendant can be identified with reasonable certainty. A defendant may be identified with reasonable certainty by a description of the defendant's unique DNA profile, including, but not limited to, an analysis of short tandem repeats (STRs) amplified by the polymerase chain reaction (PCR) technique. The warrant shall describe the crime charged in the complaint. The warrant shall command that the defendant be arrested and brought before a magistrate, as provided by law. The amount of the appearance bond to be required shall be stated in the warrant.

(b) The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place. The summons shall be signed by the magistrate or the clerk of the court.

KSA 22-2305 — Execution or service and return of warrant or summons

Execution or service and return of warrant or summons.

(1) The warrant shall be executed by a law enforcement officer. The summons may be served by any person authorized to serve a summons in a civil action.

(2) The warrant may be executed or the summons may be served at any place within the jurisdiction of the state of Kansas.

(3) The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued.

(4) The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address.

(5) The officer executing the warrant shall make return thereof to the magistrate before whom the defendant is brought. At the request of the prosecuting attorney any unexecuted warrant shall be returned to the magistrate by whom it was issued and shall be cancelled by him. On or before the date set for appearance the person to whom a summons was delivered for service shall make return thereof to the magistrate before whom the summons is returnable. At the request of the prosecuting attorney made at any time while the complaint is pending, a warrant returned unexecuted and not cancelled or a summons returned unserved or a duplicate thereof may be delivered by the magistrate to the officer or other authorized person for execution or service.

KSA 22-2306 — Defective warrant

Defective warrant.

A warrant shall not be quashed or abated nor shall any person in custody for a crime be discharged from such custody because of any technical defect in the warrant.

KSA 22-2307 — Domestic violence calls; written policies to be adopted by law enforcement agencies; contents

Domestic violence calls; written policies to be adopted by law enforcement agencies; contents.

(a) All law enforcement agencies in this state shall adopt written policies regarding domestic violence calls as provided in subsections (b) and (c). These policies shall be made available to all officers of such agency.

(b) Such written policies shall include, but not be limited to, the following:

(1) A statement directing that when a law enforcement officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in K.S.A.

21-5111

, and amendments thereto, has been committed, the officer shall, without undue delay, arrest the person for which the officer has probable cause to believe committed the crime or offense if such person's actions were not an act of defense of a person or property as provided in K.S.A.

21-5222

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21-5223

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21-5225

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21-5230

or

21-5231

, and amendments thereto;

(2) a statement that nothing shall be construed to require a law enforcement officer to:

(A) Arrest either party involved in an alleged act of domestic violence when the law enforcement officer determines there is no probable cause to believe that a crime or offense has been committed; or

(B) arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence;

(3) a statement directing that if a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if there is probable cause that each accused person committed a crime or offense and their actions were not an act of defense of a person or property as provided in K.S.A.

21-5222

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21-5223

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21-5225

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21-5230

or

21-5231

, and amendments thereto;

(4) a statement defining domestic violence in accordance with K.S.A.

21-5111

, and amendments thereto;

(5) a statement describing the dispatchers' responsibilities;

(6) a statement describing the responding officers' responsibilities and procedures to follow when responding to a domestic violence call and the suspect is at the scene;

(7) a statement regarding procedures when the suspect has left the scene of the crime;

(8) procedures for both misdemeanor and felony cases;

(9) procedures for law enforcement officers to follow when handling domestic violence calls involving court orders, including protection from abuse orders, restraining orders and a protective order issued by a court of any state or Indian tribe;

(10) a statement that the law enforcement agency shall provide the following information to victims, in writing:

(A) Availability of emergency and medical telephone numbers, if needed;

(B) the law enforcement agency's report number;

(C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A.

74-7333

and

74-7335

, and amendments thereto;

(D) the name and address of the crime victims' compensation board and information about possible compensation benefits;

(E) advise the victim that the details of the crime may be made public;

(F) advise the victim of such victims' rights under K.S.A.

74-7333

and

74-7335

, and amendments thereto; and

(G) advise the victim of known available resources which may assist the victim; and

(11) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.

(c) Such written policies shall provide that when an arrest is made for a domestic violence offense as defined in K.S.A.

21-5111

, and amendments thereto, including an arrest for violation of a protection order as defined in K.S.A.

21-5924

, and amendments thereto, the officer shall provide the victim information related to:

(A) The fact that in some cases the person arrested can be released from custody in a short amount of time;

(B) the fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and that if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and

(C) any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas victim information and notification everyday service if available in such jurisdiction.

(d) All law enforcement agencies shall provide training to law enforcement officers about the policies adopted pursuant to this section.

KSA 22-2308 — Same; liability

Same; liability.

No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this act, including, but not limited to, the policy and procedure for law enforcement officers to follow when handling a protective order issued by a court of any state or Indian tribe, unless a duty of care, independent of such policy, is owed to the specific individual injured.

KSA 22-2309 — Prosecution of crimes related to domestic violence; written policies adopted by prosecuting attorneys; contents

Prosecution of crimes related to domestic violence; written policies adopted by prosecuting attorneys; contents.

On and after January 1, 1997, all prosecuting attorneys, as defined in K.S.A.

22-2202

, and amendments thereto, if such prosecuting attorney prosecutes crimes relating to domestic violence, shall adopt and put into effect written policies regarding the prosecution of crimes related to domestic violence. Such written policies shall include, but not be limited to, the effective prosecution of such crimes and the protection and safety of victims and such victim's children from domestic violence.

KSA 22-2310 — Stalking allegations; written policies to be adopted by law enforcement agencies; contents; liability

Stalking allegations; written policies to be adopted by law enforcement agencies; contents; liability.

(a) All law enforcement agencies in this state shall adopt written policies regarding allegations of stalking as provided in subsection (b). These policies shall be made available to all officers of such agency.

(b) Such written policies shall include, but not be limited to, the following:

(1) A statement directing that the officers shall make an arrest when they have probable cause to believe that a crime is being committed or has been committed;

(2) a statement defining stalking pursuant to K.S.A.

21-5427

, and amendments thereto;

(3) a statement describing the dispatchers' reponsibilities;

(4) a statement describing the responding officers' responsibilities and procedures to follow when responding to an allegation of stalking and the suspect is at the scene;

(5) a statement describing the responding officers' responsibilities and procedures to follow when responding to an allegation of stalking and the suspect has left the scene;

(6) procedures for both misdemeanor and felony cases;

(7) procedures for law enforcement officers to follow when handling an allegation of stalking involving court orders, including any protective order as defined by K.S.A.

21-5924

, and amendments thereto;

(8) a statement that the law enforcement agency shall provide the following information to victims, in writing:

(A) Availability of emergency and medical telephone numbers, if needed;

(B) the law enforcement agency's report number;

(C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A.

74-7333

and

74-7335

, and amendments thereto;

(D) the name and address of the crime victims' compensation board and information about possible compensation benefits;

(E) advise the victim that the details of the crime may be made public;

(F) advise the victim of such victims' rights under K.S.A.

74-7333

and

74-7335

, and amendments thereto; and

(G) advise the victim of known available resources which may assist the victim; and

(9) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.

(c) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.

KSA 22-2311 — Prosecution of crimes relating to stalking; written policies to be adopted by prosecuting attorneys; contents

Prosecution of crimes relating to stalking; written policies to be adopted by prosecuting attorneys; contents.

On and after January 1, 2009, all prosecuting attorneys, as defined in K.S.A.

22-2202

, and amendments thereto, if such prosecuting attorney prosecutes crimes relating to stalking, shall adopt and put into effect written policies regarding the prosecution of crimes related to stalking. Such written policies shall include, but not be limited to, the effective prosecution of such crimes and the protection and safety of victims and such victim's children from stalking.

KSA 22-2312 — Law enforcement officers to not place persons in custody in certain circumstances; immunity from criminal prosecution for certain drug offenses when person was seeking medical assistance for self or others; exceptions

Law enforcement officers to not place persons in custody in certain circumstances; immunity from criminal prosecution for certain drug offenses when person was seeking medical assistance for self or others; exceptions.

(a) A law enforcement officer shall not take a person into custody based solely on the commission of an offense described in subsection (b) if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that the person:

(1) (A) Initiated contact with a law enforcement officer, law enforcement agency or emergency medical services and requested medical assistance on the person's own behalf because the person reasonably believed they needed medical assistance as a result of the use of a controlled substance; and

(B) cooperated with law enforcement officers and emergency medical services personnel in providing such medical assistance;

(2) (A) was a person who rendered aid to another person who reasonably appeared to need medical assistance as a result of the use of a controlled substance or initiated contact with a law enforcement officer, law enforcement agency or emergency medical services and requested medical assistance for another person who reasonably appeared to need medical assistance as a result of the use of a controlled substance;

(B) provided such person's full name and any other relevant information that is necessary to provide the medical assistance described in paragraph (2)(A) as requested by law enforcement or emergency medical services;

(C) remained at the scene with the person who reasonably appeared to need medical assistance until emergency medical services personnel and law enforcement officers arrived; and

(D) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or

(3) (A) was the person who reasonably appeared to need medical assistance as a result of the use of a controlled substance as described in subsection (a)(2)(A); and

(B) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.

(b) (1) Except as provided in paragraph (2), each person who meets the criteria in subsection (a) is immune from criminal prosecution for a violation of K.S.A.

21-5706

or

21-5709

(b)(2), and amendments thereto, and any city ordinance or county resolution prohibiting the acts prohibited by K.S.A.

21-5706

or

21-5709

(b)(2), and amendments thereto.

(2) No person is immune from criminal prosecution as provided in paragraph (1) if the quantity of controlled substances found at the scene of the encounter with law enforcement would be sufficient to create a rebuttable presumption of an intent to distribute as described in K.S.A.

21-5705

(e), and amendments thereto.

(c) The provisions of this section shall not apply to a person seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

(d) Nothing in this section shall be construed to preclude a person who is immune from criminal prosecution pursuant to this section from being prosecuted based on evidence obtained from an independent source.

(e) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or the officer's employer, based on the officer's compliance or failure to comply with this section. Except in cases of reckless or intentional misconduct, a law enforcement officer shall be immune from liability for arresting a person who is later determined to be immune from prosecution pursuant to this section.

(f) As used in this section:

(1) "Controlled substance" means the same as defined in K.S.A.

21-5701

, and amendments thereto; and

(2) "law enforcement officer" means the same as defined in K.S.A.

21-5111

, and amendments thereto.

KSA 22-2401 — Arrest by law enforcement officer

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.

KSA 22-2401a — Jurisdiction of certain law enforcement officers; tribal law enforcement agency, liability insurance required, when; exercise of powers and authority of law enforcement officers

Jurisdiction of certain law enforcement officers; tribal law enforcement agency, liability insurance required, when; exercise of powers and authority of law enforcement officers.

(a) (1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise the powers and authority of law enforcement officers anywhere within their county.

(2) Law enforcement officers employed by any city may exercise the powers and authority of law enforcement officers anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city.

(b) (1) Law enforcement officers employed by a Native American Indian Tribe may exercise the powers and authority of law enforcement officers anywhere within the exterior limits of the reservation of the tribe employing such tribal law enforcement officer, subject to the following:

(A) The provisions of this paragraph shall be applicable only as long as such Native American Indian Tribe maintains in force a valid and binding agreement with an insurance carrier to provide liability insurance coverage for damages arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section and waives its tribal immunity, as provided in paragraph (2), for any liability for damages arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section. Such insurance policy shall: (i) (a) Be in an amount not less than $500,000 for any one person and $2,000,000 for any one occurrence for personal injury and $1,000,000 for any one occurrence for property damage; (b) be in an amount not less than $2,000,000 aggregate loss limit; and (c) carry an endorsement to provide coverage for mutual aid assistance; and (ii) include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy set forth herein. Any insurance carrier providing to a tribe the liability insurance coverage described in this subsection shall certify to the attorney general that the tribe has in effect coverage which complies with the requirements of this subsection. Such carrier shall notify the attorney general immediately by first class mail if for any reason such coverage terminates or no longer complies with the requirements of this subsection.

(B) The provisions of this paragraph shall be applicable only if such Native American Indian Tribe has filed with the county clerk a map clearly showing the boundaries of the tribe's reservation as defined in this section.

(2) If a claim is brought against any tribal law enforcement agency or officer for acts committed by such agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe was the state pursuant to the Kansas tort claims act, provided that such act shall not govern the tribe's purchase of insurance. The tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance, but not to exceed the policy limits.

(3) Nothing in this subsection shall be construed to prohibit any agreement between any state, county or city law enforcement agency and any Native American Indian Tribe.

(4) Nothing in this subsection shall be construed to affect the provision of law enforcement services outside the exterior boundaries of reservations so as to affect in any way the criteria by which the United States department of the interior makes a determination regarding placement of land into trust.

(5) Neither the state nor any political subdivision of the state shall be liable for any act or failure to act by any tribal law enforcement officer.

(c) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise the powers and authority of university police officers:

(1) On property owned, occupied or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an affiliated corporation, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university or at the site of a function or academic program sponsored by the state educational institution or municipal university;

(2) on the streets, property and highways immediately adjacent to and coterminous with the property described in paragraph (1);

(3) within the city or county where property described in paragraph (1) or (2) is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect;

(4) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in paragraph (1) or (2), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs; and

(5) additionally, pursuant to a written agreement between the university of Kansas hospital authority and the university of Kansas medical center, university police officers employed by the university of Kansas medical center may exercise their powers as law enforcement officers on property owned, occupied or operated by the university of Kansas healthcare system or university of Kansas hospital authority as authorized by this section and K.S.A.

76-726

and

76-3314

, and amendments thereto.

(d) (1) In addition to the areas where law enforcement officers may exercise the powers and authority of law enforcement officers pursuant to subsection (a)(2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise the powers and authority of law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(2) In addition to the areas where law enforcement officers may exercise the powers and authority of law enforcement officers pursuant to subsection (a)(2), law enforcement officers of any jurisdiction within Johnson county may exercise the powers and authority as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (a)(2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(e) Campus police officers employed by a community college or school district may exercise the powers and authority of law enforcement officers anywhere:

(1) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in paragraph (1);

(3) within the city or county where property described in paragraph (1) or (2) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved; and

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in paragraph (1) or (2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation.

(f) TAG law enforcement officers employed by the adjutant general may exercise the powers and authority of law enforcement officers anywhere:

(1) On property owned or under the control of the Kansas national guard or any component under the command of the adjutant general;

(2) on the streets, property and highways immediately adjacent to property owned or under the control of the Kansas national guard;

(3) within the city or county where property described in paragraph (1) or (2) is located, as necessary to protect such property; or to protect the health, safety and welfare of members of the national guard, reserve or employees of the United States department of defense, the United States department of homeland security or any branch of the United States military, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the adjutant general before such agreement may take effect; and

(4) additionally, when there is reason to believe that a violation of a state law, a county resolution or a city ordinance has occurred on property described inparagraph (1) or (2), after providing appropriate notification to, and coordination with, local law enforcement agencies or departments, such officers may investigate and arrest persons for such a violation anywhere within the city or county where such property, streets and highways are located.

(g) Horsethief reservoir benefit district law enforcement officers may exercise the powers and authority of law enforcement officers anywhere:

(1) On property owned, occupied or operated by the benefit district or at the site of a function sponsored by the benefit district;

(2) on the streets, property and highways immediately adjacent to and coterminous with property described in paragraph (1);

(3) within the city or county where property described in paragraph (1) or (2) is located, as necessary to protect the health, safety and welfare of benefit district employees, board members, volunteers and visitors, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the governing board of the horsethief reservoir benefit district; and

(4) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in paragraph (1) or (2) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation.

(h) All law enforcement officers not otherwise provided statewide jurisdiction may exercise the powers and authority of law enforcement officers anywhere when:

(1) A request for assistance has been made by law enforcement officers from the area for which assistance is requested;

(2) in fresh pursuit of a person;

(3) transporting persons in custody to an appropriate facility, wherever such facility may be located; and

(4) investigating a crime that occurred within the law enforcement officer's jurisdiction, with appropriate notification to and coordination with a local law enforcement agency with jurisdiction where the investigation is to be conducted.

(i) In addition to the jurisdictional authority provided in this section and any other provision of law, all law enforcement officers may exercise the powers and authority of law enforcement officers when outside their described jurisdiction and when an activity is observed leading the officer to reasonably suspect a person is committing, has committed or is about

to commit a crime and reasonably believe that a person is in imminent danger of death or bodily injury without immediate action, subject to the following:

(1) The officer is in an on-duty status, traveling in a law enforcement vehicle to or from work or traveling to a training or law enforcement function outside their jurisdiction;

(2) the officer reports the activity and their actions to a law enforcement agency with jurisdiction;

(3) the officer remains at the location of the activity and cooperates with officers responding from the jurisdiction of occurrence;

(4) the officer is in uniform or otherwise properly identified as a law enforcement officer; and

(5) the agency employing the officer may impose additional restrictions through written policies.

(j) As used in this section:

(1) "Law enforcement officer" means: (A) Any law enforcement officer as defined in K.S.A.

74-5602

, and amendments thereto, who is employed by a law enforcement agency described in this section; or (B) any tribal law enforcement officer who is employed by a Native American Indian Tribe and has completed successfully the initial and any subsequent law enforcement training required under the Kansas law enforcement training act.

(2) "University police officer" means a police officer employed by the chief executive officer of: (A) Any state educational institution under the control and supervision of the state board of regents; or (B) a municipal university.

(3) "Campus police officer" means a school security officer designated as a campus police officer pursuant to K.S.A.

72-6146

, and amendments thereto.

(4) "Fresh pursuit" means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(5) "Native American Indian Tribe" means the Prairie Band Potawatomi Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri and the Iowa Tribe of Kansas and Nebraska.

(6) "Reservation" means:

(A) With respect to the Iowa Tribe of Kansas and Nebraska, the reservation established by treaties with the United States concluded May 17, 1854, and March 6, 1861;

(B) with respect to the Kickapoo Nation, the reservation established by treaty with the United States concluded June 28, 1862;

(C) with respect to the Prairie Band Potawatomi Nation in Kansas, the reservation established by treaties with the United States concluded June 5, 1846, November 15, 1861, and February 27, 1867; and

(D) with respect to the Sac and Fox Nation of Missouri in Kansas and Nebraska: (i) The reservation established by treaties with the United States concluded May 18, 1854, and March 6, 1861, and by acts of Congress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208); and (ii) the premises of the gaming facility established pursuant to the gaming compact entered into between such nation and the state of Kansas, and the surrounding parcel of land held in trust which lies adjacent to and east of U.S. Highway 75 and adjacent to and north of Kansas Highway 20, as identified in such compact.

(7) "TAG law enforcement officer" means a police officer employed by the adjutant general pursuant to K.S.A.

48-204

, and amendments thereto.

(8) "Horsethief reservoir benefit district law enforcement officer" means a police officer employed by the horsethief reservoir benefit district pursuant to K.S.A.

82a-2212

, and amendments thereto.

KSA 22-2402 — Stopping of suspect

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.

KSA 22-2403 — Arrest by private person

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.

KSA 22-2404 — Arrest by law enforcement officer from another jurisdiction

Arrest by law enforcement officer from another jurisdiction.

(1) As used in this section:

(a) "State" means any state of the United States and the District of Columbia.

(b) "Law enforcement officer" means any member of any duly organized state, county or municipal law enforcement organization of another state.

(c) "Fresh pursuit" means the pursuit without unnecessary delay of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(2) Any law enforcement officer of another state who enters this state in fresh pursuit and continues within this state in fresh pursuit of a person in order to arrest him on the ground that he has committed a crime in the other state has the same authority to arrest and hold such person in custody as law enforcement officers of this state have to arrest and hold a person in custody.

(3) If an arrest is made in this state by a law enforcement officer of another state in accordance with the provisions of this section he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest is made. Such magistrate shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful, he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state, or the waiver thereof, or shall permit such person to go at large upon giving an appearance bond, with or without surety. If the magistrate determines that the arrest was unlawful, he shall order the discharge of the person arrested.

KSA 22-2405 — Method of arrest

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.

KSA 22-2406 — Release by officer of person arrested

Release by officer of person arrested.

A law enforcement officer having custody of a person arrested without a warrant is authorized to release the person without requiring him to appear before a court when the officer is satisfied that there are no grounds for criminal complaint

against the person arrested.

KSA 22-2407 — Assisting law enforcement officer

Assisting law enforcement officer.

(1) A law enforcement officer making an arrest may command the assistance of any person who may be in the vicinity.

(2) A person commanded to assist a law enforcement officer shall have the same authority to arrest as the officer who commands his assistance.

(3) A person commanded to assist a law enforcement officer in making an arrest shall not be civilly or criminally liable for any reasonable conduct in aid of the officer or any acts expressly directed by the officer.

KSA 22-2408 — Notice to appear

Notice to appear.

(a) Except as otherwise provided in subsection (f), whenever a law enforcement officer detains any person without a warrant, for any act punishable as a misdemeanor, and such person is not immediately taken before a magistrate for further proceedings, the officer may serve upon such person a written notice to appear in court. Such notice to appear shall contain the name and address of the person detained, the crime charged, and the time and place when and where such person shall appear in court.

(b) The time specified in such notice to appear must be at least seven days after such notice is given unless the person shall demand an earlier hearing.

(c) The place specified in such notice to appear must be before some court within the county in which the crime is alleged to have been committed which has jurisdiction of such crime.

(d) The person detained, in order to secure release as provided in this section, must give his or her written promise to appear in the court by signing the written notice prepared by the officer. The original of the notice shall be retained by the officer; a copy delivered to the person detained, and the officer shall forthwith release the person.

(e) (1) Except as provided in paragraph (2), such law enforcement officer shall cause to be filed, without unnecessary delay, a complaint in the court in which a person released under subsection (d) is given notice to appear, charging the crime stated in such notice.

(2) The provisions of paragraph (1) shall not apply if the notice to appear is a valid complaint pursuant to K.S.A.

22-2202

, and amendments thereto.

(3) If the person released fails to appear as required in the notice to appear, a warrant shall be issued for his or her arrest.

(f) The procedures prescribed by this section shall not apply to the detention or arrest of any person for the violation of any law regulating traffic on the highways of this state, and the provisions of K.S.A.

8-2104

through

8-2108

, and amendments thereto, and the code of procedure for municipal courts shall govern such procedures.

KSA 22-2409 — Crimes committed by corporations

Crimes committed by corporations.

(1) Upon the filing of a complaint, indictment or information charging a corporation with commission of a crime in a court having jurisdiction to try the offense charged, such court shall issue a summons setting forth the nature of the offense and commanding the corporation to appear before such court at a certain time and place for arraignment.

(2) The summons for the appearance of a corporation may be served in the manner provided for service of summons upon a corporation in a civil action.

(3) If, after being summoned, the corporation does not appear, the court shall proceed to trial and judgment without further process.

KSA 22-2410 — Expungement of arrest records; docket fee; disclosure limited upon filing of petition

Expungement of arrest records; docket fee; disclosure limited upon filing of petition.

(a) (1) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(2) (A) If a person has been arrested in this state as a result of mistaken identity or as a result of another person using the identifying information of the named person, and the charge against the named person is dismissed or not prosecuted, the prosecuting attorney or other judicial officer who ordered the dismissal or declined to prosecute shall provide notice to the court of such action and petition the district court for the expungement of such arrest record, and the court shall order the arrest record and subsequent court proceedings, if any, expunged and purged from all applicable state and federal systems pursuant to subsection (d).

(B) For purposes of this section, the term "mistaken identity" means the erroneous arrest of a person for a crime as a result of misidentification by a witness or law enforcement, confusion on the part of a witness or law enforcement as to the identity of the person who committed the crime, misinformation provided to law enforcement as to the identity of the person who committed the crime or some other mistake on the part of a witness or law enforcement as to the identity of the person who committed the crime. "Mistaken identity" shall not include any situation in which an arrestee intentionally provides false information to law enforcement officials in an attempt to conceal such person's identity.

(b) (1) When a petition for expungement is filed pursuant to subsection (a)(1), the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(2) When a petition for expungement is filed pursuant to subsection (a)(1) or (a)(2), the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order.

(3) (A) Except as otherwise provided by law, a petition for expungement pursuant to subsection (a)(1) shall be accompanied by a docket fee in the amount of $176. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys 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 July 1, 2019, through June 30, 2025, the supreme court may impose an additional charge, not to exceed $19 per docket fee, to fund the costs of non-judicial personnel.

(B) No surcharge or fee shall be imposed to any person filing a petition pursuant to subsection (a)(1), who was arrested as a result of being a victim of identity theft under K.S.A.

21-4018

, prior to its repeal, or K.S.A.

21-6107

(a), and amendments thereto, or who has had criminal charges dismissed because a court has found that there was no probable cause for the arrest, the petitioner was found not guilty in court proceedings or the charges have been dismissed.

(4) The petition filed pursuant to subsection (a)(1) or (a)(2) shall state:

(A) The petitioner's full name;

(B) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(C) the petitioner's sex, race and date of birth;

(D) the crime for which the petitioner was arrested;

(E) the date of the petitioner's arrest; and

(F) the identity of the arresting law enforcement agency.

(c) At the hearing on a petition for expungement pursuant to subsection (a)(1), the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding:

(1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and: (A) Charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) (1) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, on a petition for expungement pursuant to subsection (a)(1), the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received. If an order of expungement is entered, the petitioner pursuant to subsection (a)(1) shall be treated as not having been arrested.

(2) When the court has ordered expungement of arrest records on a petition for expungement pursuant to subsection (a)(2), the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (a)(2). The order shall also direct the Kansas bureau of investigation to purge the arrest information from the criminal justice information system central repository and all applicable state and federal databases. The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation, which shall carry out the order and shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency that may have a record of the arrest. If an order of expungement is entered, the person eligible for mandatory expungement pursuant to subsection (a)(2) shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes:

(1) In any application for employment as a detective with a private detective agency, as defined in K.S.A.

75-7b01

, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A.

75-7b01

, and amendments thereto; or with an institution, as defined in K.S.A.

76-12a01

, and amendments thereto, of the Kansas department for aging and disability services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A.

8-2,125

through

8-2,142

, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A.

22-4701

et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a person's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(i) The docket fee collected at the time the petition for expungement is filed pursuant to subsection (a)(1) shall be disbursed in accordance with K.S.A.

20-362

, and amendments thereto.

KSA 22-2411 — Arrest powers of federal law enforcement officers

Arrest powers of federal law enforcement officers.

(a) A federal law enforcement officer who enters this state may arrest a person, without a warrant, when in the judgment of the federal law enforcement officer a person:

(1) Asserts physical force or uses forcible compulsion likely to cause death or great bodily harm to any person; or

(2) is committing an inherently dangerous felony as defined in K.S.A.

21-5402

, and amendments thereto.

(b) To provide assistance to law enforcement officers, a federal law enforcement officer shall have the same authority as a law enforcement officer where:

(1) The federal law enforcement officer is rendering assistance at the request of any law enforcement officer; or

(2) the federal law enforcement officer is effecting an arrest or providing assistance as part of a bona fide task force or joint investigation in which law enforcement officers are participating.

(c) Any lawful actions pursuant to this section shall be deemed to be within the scope of the federal law enforcement officer's employment.

(d) As used in this section:

(1) "Federal law enforcement officer" means a person employed by the United States government and assigned to the federal bureau of investigation who is empowered to effect an arrest with or without a warrant for violation of the United States code and who is authorized to carry a firearm in the performance of the person's official duties as a federal law enforcement officer.

(2) "Law enforcement officer" has the meaning ascribed thereto in K.S.A.

21-5111

, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas code of criminal procedure.

KSA 22-2502 — Search warrants; issuance; proceedings authorized; availability of affidavits and testimony in support of probable cause requirement; use of electronic communications and tracking devices

Search warrants; issuance; proceedings authorized; availability of affidavits and testimony in support of probable cause requirement; use of electronic communications and tracking devices.

(a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of a law enforcement officer under oath or affirmation that states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement that is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for:

(1) The search or seizure of the following:

(A) Anything that can be seized under the fourth amendment of the United States constitution;

(B) anything that has been used in the commission of a crime, or any contraband or any property that constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term "fruits" as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted;

(C) any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state;

(D) any human fetus or human corpse;

(E) any biological material, DNA, cellular material, blood, hair or fingerprints;

(F) any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction; or

(G) (i) any information concerning the user of an electronic communication service, any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication, and any other information made through an electronic communications system; or

(ii) the jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant; or

(2) the installation, maintenance and use of a tracking device.

(b) (1) The search warrant under subsection (a)(2) shall authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specified period of time, not to exceed 30 days from the date of the installation of the device.

(2) The search warrant under subsection (a)(2) may authorize the retrieval of the tracking data recorded by the tracking device during the specified period of time for authorized use of such tracking device within a reasonable time after the expiration of such warrant, for good cause shown.

(3) The magistrate may, for good cause shown, grant one or more extensions of a search warrant under subsection (a)(2) for the use of a tracking device, not to exceed 30 days each.

(c) Before ruling on a request for a search warrant, the magistrate may require the affiant to appear personally and may examine under oath the affiant and any witnesses that the affiant may produce. Such proceeding shall be taken down by a certified shorthand reporter or recording equipment and made part of the application for a search warrant.

(d) For a warrant executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(e) (1) For a warrant executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be open to the public until the warrant has been executed. After the warrant has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A.

21-6419

through

21-6422

, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the search warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

(f) As used in this section:

(1) "Electronic communication" means the use of electronic equipment to send or transfer a copy of an original document;

(2) "electronic communication service" and "electronic communication system" have the meaning as defined in K.S.A.

22-2514

, and amendments thereto;

(3) "tracking data" means information gathered or recorded by a tracking device;

(4) "tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object. "Tracking device" includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and a device that allows for the real-time monitoring of movement; and

(5) "victim" shall include any victim of an alleged crime that resulted in the issuance of the search warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A.

74-7335

, and amendments thereto.

(g) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A.

22-4615

, and amendments thereto.

KSA 22-2503 — Territorial and time limitations on execution of certain search warrants

Territorial and time limitations on execution of certain search warrants.

(a) Except as provided in subsections (b) and (c), search warrants issued by a district magistrate judge may be executed only within the judicial district in which the judge resides or within the judicial district to which the judge has been assigned pursuant to K.S.A.

20-319

, and amendments thereto.

(b) Search warrants issued pursuant to K.S.A.

22-2502

(a)(2), and amendments thereto:

(1) That are issued by a district judge may be executed anywhere within the state; and

(2) shall be valid during the time period specified by the warrant regardless of whether the tracking device or the subject person or property leaves the issuing jurisdiction.

(c) Warrants issued for electronically stored information, electronic devices or media capable of storing electronically stored information located within Kansas authorize the transfer of such information, devices or media for further examination and review to anywhere within the state of Kansas or outside the state of Kansas at any time after the seizure unless otherwise specified in the warrant. The provisions of this subsection shall apply prospectively to warrants issued after July 1, 2019.

(d) As used in this section, "tracking data" and "tracking device" have the same meanings as defined in K.S.A.

22-2502

, and amendments thereto.

KSA 22-2504 — Issuance of search warrant

Issuance of search warrant.

All search warrants shall show the time and date of issuance and shall be the warrants of the magistrate issuing the same and not the warrants of the court in which he is then sitting and such warrants need not bear the seal of the court or clerk thereof. Such warrants may be transmitted by electronic communication, as defined in K.S.A.

22-2502

, and amendments thereto. The statement on which the warrant is issued need not be filed with the clerk of the court nor with the court if there is no clerk until the warrant has been executed or has been returned "not executed."

KSA 22-2505 — Persons authorized to execute search warrants

Persons authorized to execute search warrants.

A search warrant shall be issued in duplicate and shall be directed for execution to all law enforcement officers of the state, or to any law enforcement officer specifically named therein.

KSA 22-2506 — Execution of search warrants

Execution of search warrants.

(a) A search warrant shall be executed within 240 hours from the time of issuance. If the warrant is executed the duplicate copy shall be left with any person from whom any things are seized or if no person is available the copy shall be left at the place from which the things were seized. Any warrant not executed within such time shall be void and shall be returned to the court of the magistrate issuing the same as "not executed."

(b) (1) A search warrant for a tracking device issued pursuant to K.S.A.

22-2502

(a)(2), and amendments thereto, shall be sealed by the court and no copy left or served except as discovery in a criminal prosecution.

(2) The law enforcement officer executing a search warrant issued pursuant to K.S.A.

22-2502

(a)(2), and amendments thereto, shall complete the installation of the tracking device within 15 days from the date of issuance. Such officer shall record on such warrant the exact date and time such tracking device was installed and the entire period during which such tracking device was used.

(3) (A) A tracking device shall be deactivated and removed as soon as practicable after the search warrant has expired. If removal of such tracking device is not possible, such tracking device shall be deactivated and shall not be reactivated without an additional warrant or extension of the original warrant and the search warrant return shall state the reasons removal has not been completed.

(B) A tracking device which has been deactivated may be accessed after the authorized warrant has expired solely for the purpose of collecting or retrieving tracking data obtained during the period specified by the search warrant.

(c) As used in this section:

(1) "Deactivate" means to discontinue the ability of a tracking device to determine or track the position or movement of a person or object; and

(2) "tracking data" and "tracking device" mean the same as defined in K.S.A.

22-2502

, and amendments thereto.

KSA 22-2507 — Command of search warrant

Command of search warrant.

A search warrant shall command the person directed to execute the same to search the person, place or means of conveyance particularly described in the warrant and to seize the things particularly described in the warrant.

KSA 22-2508 — Use of force in execution of search warrant

Use of force in execution of search warrant.

All necessary and reasonable force may be used to effect an entry into any building or property or part thereof to execute a search warrant.

KSA 22-2509 — Detention and search of persons on premises

Detention and search of persons on premises.

In the execution of a search warrant the person executing the same may reasonably detain and search any person in the place at the time:

(a) To protect himself from attack, or

(b) To prevent the disposal or concealment of any things particularly described in the warrant.

KSA 22-2510 — When search warrant may be executed

When search warrant may be executed.

A search warrant may be executed at any time of any day or night.

KSA 22-2511 — No warrant quashed for technicality

No warrant quashed for technicality.

No search warrant shall be quashed or evidence suppressed because of technical irregularities not affecting the substantial rights of the accused.

KSA 22-2512 — Custody and disposition of seized property

Custody and disposition of seized property.

(a) Property seized under a search warrant or validly seized without a warrant shall be safely kept by the agency seizing the property unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purpose of being produced as evidence on any trial. If no criminal charges are filed or prosecution is declined, the property shall be returned to its rightful owner or disposed of in accordance with this section. The property seized may not be taken from the agency having it in custody so long as it is or may be required as evidence in any trial. The officer seizing the property shall give a receipt to the person detained or arrested particularly describing each article of property being held. When property is seized under a search warrant, the officer seizing the property shall file a copy of such receipt with the magistrate who issued the search warrant. Such copy may be filed electronically in a manner and form prescribed by the court. When seized property is no longer required as evidence in the prosecution of any indictment or information, the court that has jurisdiction of such property may transfer the property to the jurisdiction of any other court, including courts of another state or federal courts, if it is shown to the satisfaction of the court that such property is required as evidence in any prosecution in such other court.

(b) (1) Notwithstanding the provisions of subsection (a) and with the approval of the affected court, any law enforcement officer who seizes dangerous drugs or hazardous materials as evidence related to a criminal investigation may collect representative samples of such dangerous drugs or hazardous materials and lawfully destroy or dispose of, or direct another person to lawfully destroy or dispose of, the remaining quantity of such dangerous drugs or hazardous materials.

(2) In any prosecution, representative samples of dangerous drugs or hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the drugs or materials shall be deemed competent evidence of such drugs or materials and shall be admissible in any proceeding, hearing or trial as if such drugs or materials had been introduced as evidence.

(3) As used in this section:

(A) "Dangerous drugs" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A.

65-4105

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65-4107

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65-4109

and

65-4111

, and amendments thereto;

(B) "hazardous materials" means any substance that is capable of posing an unreasonable risk to health, safety and property. It shall include any substance that by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material that may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the table of hazardous materials contained in the code of federal regulations title 49 and national fire protection association's fire protection guide on hazardous materials; and

(C) "representative sample" means an amount large enough to contain a testable amount of a substance without destroying the sample completely.

(4) The provisions of this subsection shall not apply to ammunition and components thereof.

(c) When seized property is no longer required as evidence, it shall be disposed of as follows:

(1) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(2) money shall be restored to the owner unless it was contained in a slot machine or otherwise used in unlawful gambling or lotteries, in which case it shall be forfeited and shall be paid to the state treasurer pursuant to K.S.A.

20-2801

, and amendments thereto;

(3) property that is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff, or the sheriff's designee, and the proceeds, less the cost of sale and any storage charges incurred in preserving it, shall be paid to the state treasurer pursuant to K.S.A.

20-2801

, and amendments thereto;

(4) articles of contraband shall be destroyed, except that any such articles the disposition of which is otherwise provided by law shall be dealt with as so provided and any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court be sold and the proceeds disposed of as provided in subsection (c)(3);

(5) explosives, bombs and like devices that have been used in the commission of crime may be returned to the rightful owner or, in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation;

(6) (A) except as provided in subsections (c)(6)(B) and (d), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:

(i) Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;

(ii) forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;

(iii) forfeited to a county regional forensic science center or other county forensic laboratory for testing, comparison or other forensic science purposes; or

(iv) forfeited to the Kansas department of wildlife and parks for use pursuant to the conditions set forth in K.S.A.

32-1047

, and amendments thereto.

(B) Except as provided in subsection (d), any weapon that cannot be forfeited pursuant to subsection (c)(6)(A) due to the condition of the weapon, and any weapon that was used in the commission of a felony as described in K.S.A.

21-5401

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or

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, and amendments thereto, shall be destroyed.

(7) controlled substances forfeited for violations of K.S.A.

21-5701

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21-5717

, and amendments thereto, shall be dealt with as provided under K.S.A.

60-4101

through

60-4126

, and amendments thereto;

(8) unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

(d) (1) If a weapon is seized from an individual and the individual is not convicted of the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution of the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify whether the weapon is stolen. If the weapon is stolen or was seized from an individual whom the agency knows is not the owner of the weapon, the law enforcement agency shall notify the owner of the weapon that such weapon may be retrieved. If the weapon was seized from a juvenile, the agency shall notify the parent or legal guardian of the juvenile that such weapon may be retrieved by the parent or legal guardian. If the agency determines there is no other more appropriate person described in this paragraph to retrieve the weapon, the agency shall notify the person from whom the weapon was seized that such weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.

(2) If the law enforcement agency determines that the individual authorized to retrieve a weapon pursuant to paragraph (1) is prohibited by state or federal law from possessing the seized weapon, the agency shall notify the individual that the weapon will not be returned due to the disqualifying law, which shall be described in the notice. The law enforcement agency shall not dispose of such weapon for 60 days after the notice was given to provide a period for the individual to bring an action in an appropriate court challenging the agency's determination. The law enforcement agency may dispose of the weapon as provided by law 60 days after the notice described in paragraph (1) is given unless otherwise directed by the court. An owner of a weapon who is prohibited by law from possessing the weapon may either: (A) Request the law enforcement agency to transfer the weapon to a properly licensed federal firearms dealer designated by the owner; or (B) bring an action in an appropriate court to request a court order to transfer the weapon as allowed by law.

(e) If weapons are sold as authorized by subsection (c)(6)(A), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

(f) For purposes of this section, the term "weapon" means a weapon described in K.S.A.

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, and amendments thereto.

KSA 22-2514 — Authorized interception of wire, oral or electronic communications; definitions

Authorized interception of wire, oral or electronic communications; definitions.

This act shall be a part of and supplemental to the code of criminal procedure. As used in this act:

(1) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications. Wire communication shall include any electronic storage of such communication;

(2) "oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(3) "intercept" means the aural or other acquisition of the contents of any wire, oral or electronic communication through the use of any electronic, mechanical or other device;

(4) "persons" means any individual, partnership, association, joint stock company, trust or corporation, including any official, employee or agent of the United States or any state or any political subdivision thereof;

(5) "investigative or law enforcement officer" means any law enforcement officer who is empowered by the law of this state to conduct investigations of or to make arrests for offenses enumerated in this act, including any attorney authorized by law to prosecute or participate in the prosecution of such offenses and agents of the United States federal bureau of investigation, drug enforcement administration, marshals service, secret service, treasury department, customs service, justice department and internal revenue service;

(6) "contents" when used with respect to any wire, oral or electronic communication, includes any information concerning the substance, purport or meaning of such communication;

(7) "aggrieved person" means a person who was a party to any intercepted wire, oral or electronic communication or a person against whom the interception was directed;

(8) "judge of competent jurisdiction" means a justice of the supreme court, a judge of the court of appeals or any district judge but does not include a district magistrate judge;

(9) "electronic, mechanical or other device" means any device or apparatus which can be used to intercept a wire, oral or electronic communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business or (ii) being used by a provider of wire or electronic communication service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of the officer's duties; or

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(10) "communication common carrier" means common carrier, as defined by section 153(h) of title 47 of the United States Code;

(11) "electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system but does not include:

(a) Any wire or oral communication;

(b) any communication made through a tone-only paging device; or

(c) any communication from a tracking device, as defined in section 3117, chapter 205 of title 18, United States Code;

(12) "user" means any person or entity who:

(a) Uses an electronic communication service; and

(b) is duly authorized by the provider of such service to engage in such use;

(13) "electronic communications system" means any wire, radio, electromagnetic, photo-optical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

(14) "electronic communication service" means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(15) "readily accessible to the general public" means, with respect to a radio communication, that such communication is not:

(a) Scrambled or encrypted;

(b) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

(c) carried on a subcarrier or other signal subsidiary to a radio transmission;

(d) transmitted over a communication system provided by a common carrier, unless the communication is a tone-only paging system communication; or

(e) transmitted on frequencies allocated under part 25, subpart D, E or F of part 74, or part 94 of the rules of the federal communications commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

(16) "electronic storage" means:

(a) Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(b) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

(17) "aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

KSA 22-2515 — Authorized interception of wire, oral or electronic communications; order; application; crimes for which order may be issued; disclosure and use of contents of wire, oral or electronic communications; effect on privileged communications

Authorized interception of wire, oral or electronic communications; order; application; crimes for which order may be issued; disclosure and use of contents of wire, oral or electronic communications; effect on privileged communications.

(a) An ex parte order authorizing the interception of a wire, oral or electronic communication may be issued by a judge of competent jurisdiction. The attorney general, district attorney or county attorney may make an application to any judge of competent jurisdiction for an order authorizing the interception of a wire, oral or electronic communication by an investigative or law enforcement officer and agency having responsibility for the investigation of the offense regarding which the application is made, when such interception may provide evidence of the commission of any of the following offenses:

(1) Any crime directly and immediately affecting the safety of a human life which is a felony;

(2) murder;

(3) kidnapping;

(4) treason;

(5) sedition;

(6) racketeering;

(7) commercial bribery;

(8) robbery;

(9) theft, if the offense would constitute a felony;

(10) bribery;

(11) any felony violation of K.S.A.

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through

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, and amendments thereto;

(12) commercial gambling;

(13) sports bribery;

(14) tampering with a sports contest;

(15) aggravated escape;

(16) aggravated failure to appear;

(17) arson;

(18) terrorism;

(19) illegal use of weapons of mass destruction;

(20) human trafficking or aggravated human trafficking;

(21) sexual exploitation of a child;

(22) commercial sexual exploitation of a child;

(23) buying sexual relations, promoting the sale of sexual relations or selling sexual relations; or

(24) any conspiracy to commit any of the foregoing offenses.

(b) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(c) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of such officer's official duties.

(d) Any person who has received, by any means authorized by this act or by chapter 119 of title 18 of the United States code or by a like statute of any other state, any information concerning a wire, oral or electronic communication, or evidence derived therefrom, intercepted in accordance with the provisions of this act, may disclose the contents of such communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court, or before any grand jury, of this state or of the United States or of any other state.

(e) No otherwise privileged wire, oral or electronic communication intercepted in accordance with, or in violation of, the provisions of this act or of chapter 119 of title 18 of the United States code shall lose its privileged character.

(f) When an investigative or law enforcement officer, while engaged in intercepting wire, oral or electronic communications in the manner authorized by this act, intercepts wire, oral or electronic communications relating to offenses other than those specified in the order authorizing the interception of the wire, oral or electronic communication, the contents thereof and evidence derived therefrom may be disclosed or used as provided in subsections (b) and (c) of this section. Such contents and evidence derived therefrom may be used under subsection (d) of this section when authorized or approved by a judge of competent jurisdiction, where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this act, or with chapter 119 of title 18 of the United States code.

KSA 22-2516 — Same; application for order, form and contents; issuance of order; contents; duration; extension; recordation of intercepted communications; custody of application and order, disclosure; inventory, notice to certain persons; evidentiary status of intercepted communications; motion to suppress, appeal

Same; application for order, form and contents; issuance of order; contents; duration; extension; recordation of intercepted communications; custody of application and order, disclosure; inventory, notice to certain persons; evidentiary status of intercepted communications; motion to suppress, appeal.

(1) Each application for an order authorizing the interception of a wire, oral or electronic communication shall be made in writing, upon oath or affirmation, to a judge of competent jurisdiction, and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) The identity of the prosecuting attorney making the application, and the identity of the investigative or law enforcement officer requesting such application to be made;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant to justify such applicant's belief that an order should be issued, including (i) details as to the particular offense that has been, is being or is about to be committed, (ii) except as provided in subsection (10), a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, and (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained and, if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication first has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts known to the applicant concerning all previous applications made to any judge for authorization to intercept wire, oral or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application. Oral testimony shall be under oath or affirmation, and a record of such testimony shall be made by a certified shorthand reporter and reduced to writing.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing the interception of wire, oral or electronic communications within the territorial jurisdiction of such judge, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that a person is committing, has committed or is about to commit a particular offense enumerated in subsection (1) of K.S.A.

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, and amendments thereto;

(b) there is probable cause for belief that particular communications concerning the offense will be obtained through such interception;

(c) normal investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried, or to be too dangerous; and

(d) except as provided in subsection (10), there is probable cause for belief that the facilities from which, or the place where, the wire, oral or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of or commonly used by such person.

(4) Each order authorizing the interception of any wire, oral or electronic communication shall:

(a) Specify the identity of the person, if known, whose communications are to be intercepted;

(b) specify the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) specify with particularity a description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) specify the identity of each agency authorized to intercept the communications, and of the person authorizing the application;

(e) specify the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained; and

(f) upon request of the applicant, direct that a provider of wire communication, electronic communication service, regardless of the location or principal place of business of such provider of electronic communication service, or public utility, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, utility, landlord, custodian or person is according the person whose communications are to be intercepted. Any provider of wire or electronic communication service or public utility, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing such facilities or technical assistance.

(5) No order entered under this section may authorize the interception of any wire, oral or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of any such extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this act, and must terminate upon attainment of the authorized objective, or in any event in 30 days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by government personnel, or by an individual operating under a contract with the government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(6) Whenever an order authorizing the interception of wire or oral communications is entered pursuant to this act, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) (a) The contents of any wire, oral or electronic communication intercepted by any means authorized by this act shall be recorded, if possible, on tape or wire or other comparable device. The recording of the contents of any wire, oral or electronic communication under this subsection shall be done in a manner which will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under such judge's directions. Custody of the recordings shall be wherever the judge orders, and the recordings shall not be destroyed except upon order of the issuing or denying judge and, in any event, shall be kept for not less than 10 years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (b) and (c) of K.S.A.

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, and amendments thereto, for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral or electronic communication or evidence derived therefrom under subsection (d) of K.S.A.

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, and amendments thereto.

(b) Applications made and orders granted under this act shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for not less than 10 years.

(c) Any violation of the provisions of paragraph (a) or (b) of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than 90 days after the termination of the period of an order or extensions thereof the issuing or denying judge shall cause to be served on the persons named in the order or the application and, in the interest of justice, such other parties to intercepted communications as the judge may determine, an inventory which shall

include notice of:

(i) The fact of the entry of the order or the application;

(ii) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(iii) the fact that during the period wire, oral or electronic communications were or were not intercepted.

The judge, upon the filing of a motion in such judge's discretion, may make available to such person or such person's counsel for inspection, such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

(8) The contents of any intercepted wire, oral or electronic communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any federal court or court of this state, unless each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized. Such ten-day period may be waived by the judge, if the judge finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing or proceeding, and that the party will not be prejudiced by the delay in receiving such information.

(9) (a) Any aggrieved person in any trial, hearing or proceeding in or before any court, department, officer, agency, regulatory body or other authority of the United States, this state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that:

(i) The communication was unlawfully intercepted;

(ii) the order of authorization under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization.

Such motion shall be made before the trial, hearing or proceeding, unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this act. Upon the filing of such motion by the aggrieved person, the judge in such judge's discretion may make available to the aggrieved person or such person's counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal:

(i) From an order granting a motion to suppress made under paragraph (a) of this subsection. Such appeal shall be taken within 14 days after the order of suppression was entered and shall be diligently prosecuted as in the case of other interlocutory appeals or under such rules as the supreme court may adopt;

(ii) from an order denying an application for an order authorizing the interception of wire or oral communications, and any such appeal shall be ex parte and shall be in camera in preference to all other pending appeals in accordance with rules promulgated by the supreme court.

(10) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

(a) In the case of an application with respect to the interception of an oral communication:

(i) The application is by a law enforcement officer and is approved by the attorney general and the county or district attorney where the application is sought;

(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(iii) the judge finds that such specification is not practical; and

(b) in the case of an application with respect to a wire or electronic communication:

(i) The application is by a law enforcement officer and is approved by the attorney general and the county or district attorney where the application is sought;

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing

facilities; and

(iii) the judge finds that such purpose has been adequately shown.

(11) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (10) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (10)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.

(12) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this act involving such communications.

(13) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A.

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, and amendments thereto.

KSA 22-2517 — Unlawful interception of wire or oral communication; evidentiary status of contents

Unlawful interception of wire or oral communication; evidentiary status of contents.

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of this state, or a political subdivision thereof, if the disclosure of such information would be in violation of this chapter.

KSA 22-2518 — Same; civil action for damages; defense available in civil and criminal actions

Same; civil action for damages; defense available in civil and criminal actions.

(1) Any person whose wire, oral or electronic communication is intercepted, disclosed or used in violation of this act shall have a civil cause of action against any person who intercepts, discloses or uses, or procures any other person to intercept, disclose or use, such communications, and shall be entitled to recover from any such person:

(a) Actual damages, but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is greater;

(b) punitive damages; and

(c) reasonable attorneys' fees and other litigation costs reasonably incurred.

(2) A good faith reliance by any person on a court order authorizing the interception of any wire, oral or electronic communication shall constitute a complete defense in any civil or criminal action brought against such person based upon such interception.

KSA 22-2519 — Reports by judges and prosecutors to administrative office of federal courts

Reports by judges and prosecutors to administrative office of federal courts.

(1) Within thirty (30) days after the expiration of an order entered under K.S.A.

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, or any extension thereof, the judge issuing such order shall report to the administrative office of the U.S. courts such information as is required to be file by section 2519 of title 18 of the United States code. A duplicate copy of such report shall be filed, at the same time, with the judicial administrator of the courts of this state.

(2) In January of each year, the attorney general and each district attorney and county attorney shall report to the administrative office of the United States courts such information as is required to be filed by section 2519 of title 18 of the United States code. A duplicate copy of such report shall be filed, at the same time, with the judicial administrator of the courts of this state.

KSA 22-2520 — Definitions

Definitions.

(a) "Strip search" means removing or rearranging some or all of a person's clothing, by or at the direction of a law enforcement officer, so as to permit a visual inspection of the genitals, buttocks, anus or female breasts of such person.

(b) "Body cavity search" means the touching or probing of a person's vaginal or rectal cavity by or at the direction of a law enforcement officer.

KSA 22-2521 — Limitations on strip searches; probable cause requirement; report

Limitations on strip searches; probable cause requirement; report.

(a) No person detained or arrested solely for the violation of a statute, resolution or ordinance involving a traffic, regulatory or nonviolent misdemeanor offense shall be strip searched unless there is probable cause to believe that the individual is concealing a weapon or controlled substance.

(b) Every strip search conducted by law enforcement officers or employees of a law enforcement agency or department shall be conducted by persons of the same sex as the person being searched and shall be conducted so that the search cannot be observed by any person other than the persons conducting the search, unless the right to privacy is waived by the person being searched.

(c) Every law enforcement officer or employee of a law enforcement agency or department conducting a strip search shall prepare a report of the strip search. The report shall include:

(1) The name and sex of the person searched;

(2) the name and sex of the persons conducting the search;

(3) the time, date and place of the search; and

(4) a statement of the results of the search.

KSA 22-2522 — Body cavity searches; warrant; limitations

Body cavity searches; warrant; limitations.

(a) A body cavity search shall be conducted only under the authority of a search warrant specifically authorizing a body cavity search.

(b) Every body cavity search shall be conducted by a licensed physician or registered nurse. No person authorized by this subsection to conduct a body cavity search or any person assisting in the performance of such search shall be liable in any civil or criminal action when such search is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(c) Law enforcement officers may be present during the search, but only those of the same sex as the person on whom a body cavity search is being conducted.

KSA 22-2523 — Liability for unlawful search

Liability for unlawful search.

(a) If liability is established in any civil action brought under the Kansas tort claims act for violation of subsections (a) or (b) of K.S.A.

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, or K.S.A.

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, the plaintiff shall be entitled to an amount equal to the sum of the following:

(1) Actual damages sustained by the plaintiff;

(2) punitive damages, if the violation was willful, wanton or malicious;

(3) the costs of the action, at the discretion of the court; and

(4) a civil penalty in an amount set by the court of not more than $2,000 for each violation.

(b) At the time of the assessment of the costs of any action to which this section applies, if upon motion, the court finds that plaintiff brought or maintained the action frivolously or in bad faith the court may in its discretion assess against the plaintiff or plaintiffs the costs of the action, to be paid to the defendant or defendants.

KSA 22-2524 — Prison and jail inmates, exceptions

Prison and jail inmates, exceptions.

(a) None of the provisions of this act other than subsection (b) of K.S.A.

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and subsection (c) of K.S.A.

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shall apply when a person is convicted of a crime and committed to a jail or other institution.

(b) The provisions of this act relating to strip searches other than subsection (b) of K.S.A.

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shall not apply when a person accused of a crime is committed to a jail or other institution pursuant to a court order, nor when a person accused of a crime is, of necessity, confined with other prisoners in a jail while awaiting appearance before a magistrate.

KSA 22-2525 — Authorized installation or use; order required, exception

Authorized installation or use; order required, exception.

(1) Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under K.S.A.

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(2) The prohibition of subsection (1) shall not apply with respect to the use of a pen register or a trap and trace device by a provider:

(a) Relating to the operation, maintenance and testing of an electronic communication service to the protection of the rights or property of such provider or to the protection of users of that service from abuse of service or unlawful use of service;

(b) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication or a user of such service from fraudulent, unlawful or abusive use of service; or

(c) when the consent of the user of such service has been obtained.

(3) Whoever knowingly violates subsection (1) shall be guilty of a class C misdemeanor.

KSA 22-2526 — Order, contents

Order, contents.

(1) An attorney for the government or an investigative or law enforcement officer may make application for an order or an extension of an order under K.S.A.

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authorizing or approving the installation and use of a pen register or a trap and trace device under K.S.A.

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through

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to a court of competent jurisdiction. Such application shall be in writing and shall be under oath or equivalent affirmation.

(2) An application under subsection (1) shall include:

(a) The identity of the attorney for the government or the investigative or law enforcement officer making the application and the identity of the law enforcement agency conducting the investigation; and

(b) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

KSA 22-2527 — Issuance of order; specifications required; duration; extensions; disclosure

Issuance of order; specifications required; duration; extensions; disclosure.

(1) Upon an application made under K.S.A.

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, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the government or the investigative or law enforcement officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

(2) (a) An order issued under this section shall specify:

(i) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

(ii) the identity, if known, of the person who is the subject of the criminal investigation;

(iii) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and

(iv) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

(b) an order issued under this section shall direct, upon the request of the applicant, the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under K.S.A.

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(3) (a) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.

(b) Extensions of such an order may be granted but only upon an application for an order under K.S.A.

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and upon the judicial finding required by subsection (1). The period of extension shall be for a period not to exceed 60 days.

(4) An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that:

(a) The order be sealed until otherwise ordered by the court; and

(b) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court.

KSA 22-2528 — Responsibilities of and assistance to authorities by provider, landlord, custodian or other person; compensation; immunity

Responsibilities of and assistance to authorities by provider, landlord, custodian or other person; compensation; immunity.

(1) Upon the request of an attorney for the government or an investigative or law enforcement officer authorized to install and use a pen register under K.S.A.

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through

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, a provider, landlord, custodian or other person shall furnish such attorney for the government or investigative or law enforcement officer forthwith all information, facilities and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in K.S.A.

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(2) Upon the request of an attorney for the government or an investigative or law enforcement officer authorized to receive the results of a trap and trace device under K.S.A.

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through

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, a provider, landlord, custodian or other person shall install such device forthwith on the appropriate line and shall furnish such attorney for the government or investigative or law enforcement officer all additional information, facilities and technical assistance, including installation and operation of the device, unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in K.S.A.

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. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the attorney for the government or investigative or law enforcement officer, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

(3) A provider, landlord, custodian or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(4) No cause of action shall lie in any court against any provider, its officers, employees or agents, or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under K.S.A.

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through

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(5) A good faith reliance on a court order, a legislative authorization or a statutory authorization shall be a complete defense against any civil or criminal action brought under K.S.A.

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through

22-2529

or any other law.

KSA 22-2529 — Definitions

Definitions.

As used in K.S.A.

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through 22-2529:

(1) "Court of competent jurisdiction" means a district court or appellate court;

(2) "pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached but shall not include any device used by a provider or customer of an electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of an electronic communication service for cost accounting or other like purposes in the ordinary course of its business;

(3) "trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted; and

(4) "attorney for the government" means a county attorney, assistant county attorney, district attorney, assistant district attorney, attorney general or assistant attorney general.

KSA 22-2530 — Copy of search warrant to property owner

Copy of search warrant to property owner.

If a search warrant is executed which authorizes a search of real property based upon an alleged offense involving gambling, obscenity, the sale of sexual relations, controlled substances or liquor, a copy of the warrant shall be delivered to the last known address of the owner of the property within two business days, excluding Saturdays, Sundays and legal holidays, after execution of the warrant if such address is different from the address of the property for which the warrant was issued.

KSA 22-2601 — Jurisdiction

Jurisdiction.

Except as provided in K.S.A.

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, and amendments thereto, the district court shall have exclusive jurisdiction to try all cases of felony and other criminal cases arising under the statutes of the state of Kansas.

KSA 22-2602 — Place of trial

Place of trial.

Except as otherwise provided by law, the prosecution shall be in the county where the crime was committed.

KSA 22-2603 — Crime committed in more than one county

Crime committed in more than one county.

Where two or more acts are requisite to the commission of any crime and such acts occur in different counties the prosecution may be in any county in which any of such acts occur.

KSA 22-2604 — Crime committed on or near county boundary

Crime committed on or near county boundary.

Where a crime is committed on or so near the boundary of two or more counties that it cannot be readily determined in which county the crime was committed, the prosecution may be in any of such counties.

KSA 22-2605 — Waters constituting county boundaries

Waters constituting county boundaries.

Where any part of a river, water course, body of water or reservoir constitutes the boundary line between two (2) or more counties, the venue is in any of such counties for prosecution of crimes committed over the whole extent of such part of the river, water course, body of water or reservoir, or any island therein.

KSA 22-2606 — Waters constituting state boundaries

Waters constituting state boundaries.

The venue of prosecutions for crimes committed on any river, body of water or reservoir constituting the boundary line of this state is in any county on the same river, body of water or reservoir.

KSA 22-2607 — Assisting another to commit crime or avoid prosecution

Assisting another to commit crime or avoid prosecution.

(1) A person who intentionally aids, abets, advises, counsels or procures another to commit a crime may be prosecuted in any county where any of such acts were performed or in the county where the principal crime was committed.

(2) A person who knowingly harbors, conceals or aids another person who has committed or has been charged with a crime with intent that such other person shall avoid or escape from arrest, trial, conviction or punishment for such crime, may be prosecuted in any county where any of such acts were performed or in the county where the principal crime was committed.

KSA 22-2608 — Crimes committed while in transit

Crimes committed while in transit.

If a crime is committed in, on or against any vehicle or means of conveyance passing through or above this state, and it cannot readily be determined in which county the crime was committed, the prosecution may be in any county in this state through or above which such vehicle or means of conveyance has passed or in which such travel commenced or terminated.

KSA 22-2609 — Property taken in one county and brought into another

Property taken in one county and brought into another.

When property taken in one county by theft or robbery has been brought into another county, the venue is in either county.

KSA 22-2610 — Property taken in other state and brought into this state

Property taken in other state and brought into this state.

When property taken in another state by theft or robbery shall have been brought into this state, the venue is in any county into or through which such property shall have been brought.

KSA 22-2611 — Death and cause of death in different places

Death and cause of death in different places.

If the cause of death is inflicted in one county and the death ensues in another county, the prosecution may be in either of such counties. Death shall be presumed to have occurred in the county where the body of the victim is found.

KSA 22-2612 — Crime commenced outside the state or by agent

Crime commenced outside the state or by agent.

If a crime commenced outside this state is consummated within this state, or if a person outside this state commits or consummates a crime by an agent or means within this state, the prosecution shall be in the county where the crime was consummated.

KSA 22-2613 — Bigamy

Bigamy.

A person charged with the crime of bigamy may be prosecuted in the county where the bigamous marriage ceremony was performed or in any county in which bigamous cohabitation has occurred pursuant to such bigamous marriage.

KSA 22-2614 — Kidnapping

Kidnapping.

A person charged with the crime of kidnapping may be prosecuted in any county in which the victim has been transported or confined during the course of the crime.

KSA 22-2615 — Failure to appear

Failure to appear.

A person who has been released from custody upon an appearance bond given in one county for appearance in another county, and who fails to appear, as provided in K.S.A.

21-5915

, and amendments thereto, may be prosecuted for such failure to appear either in the county where the appearance bond was given or the county where the defendant was bound to appear.

KSA 22-2616 — Change of venue

Change of venue.

(1) In any prosecution, the court upon motion of the defendant shall order that the case be transferred as to him to another county or district if the court is satisfied that there exists in the county where the prosecution is pending so great a prejudice against the defendant that he cannot obtain a fair and impartial trial in that county.

(2) When a case is ordered transferred to another county or district the court shall certify the order of transfer to the departmental justice who shall designate another county or district to which the proceeding shall be transferred.

(3) When a transfer is ordered the clerk of the court where the case is pending shall transmit to the clerk of the court to which the case is transferred all papers in the case or duplicates thereof and any appearance bond taken, and the prosecution shall continue in the court to which the transfer is ordered.

(4) When any case is transferred to another county under this section the responsibility for prosecution of the case shall remain with the original prosecuting attorney, or his successor.

(5) When any case is transferred to another county under this section all taxable costs in such case shall be taxed to the county in which the case originated and such county shall be liable for the payment thereof.

The provisions of this section shall apply only to the prosecution of trials and shall not be applicable to preliminary proceedings.

KSA 22-2617 — Notice of transfer

Notice of transfer.

When a change of venue has been granted and the new place of trial has been designated, the clerk of the court of the county where the case originated shall give notice in writing to the defendant and all persons under bond to appear in the case of the time, date and place for appearance in the county to which the case has been transferred. If the defendant is in custody, the court may order him confined in the county to which the cause is transferred.

KSA 22-2618 — Time of motion

Time of motion.

A motion for change of venue must be made at or before arraignment or at such later time as the court may in the interest of justice determine.

KSA 22-2619 — Crime committed with an electronic device; venue

Crime committed with an electronic device; venue.

(a) "Crime committed with an electronic device" means the commission of any crime that involves or is facilitated by the use of any electronic device, including, but not limited to, all violations of the following: Criminal use of a financial card, as defined in K.S.A.

21-5828

, and amendments thereto; unlawful acts concerning computers, as defined in K.S.A.

21-5839

, and amendments thereto; identity theft and identity fraud, as defined in K.S.A.

21-6107

, and amendments thereto; and electronic solicitation, as defined in K.S.A.

21-5509

, and amendments thereto.

(b) In addition to the venue provided for under any other provision of law, a prosecution for any crime committed with an electronic device may be brought in the county in which:

(1) Any requisite act to the commission of the crime occurred;

(2) the victim resides;

(3) the victim was present at the time of the crime; or

(4) property affected by the crime was obtained or was attempted to be obtained.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

KSA 22-2701 — Definitions

Definitions.

Where appearing in this article, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state

or territory, organized or unorganized, of the United States of America. The term "court of record" means any court, other than a municipal court, presided over by a magistrate.

KSA 22-2702 — Fugitives from justice; duty of governor

Fugitives from justice; duty of governor.

Subject to the provisions of this article, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

KSA 22-2703 — Form of demand

Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing, alleging, except in cases arising under K.S.A.

22-2706

, and amendments thereto, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, assignment to a community correctional services program, parole or postrelease supervision, or that the sentence or some portion of it remains unexecuted and that the person claimed has not been paroled, released on postreleased supervision or discharged or otherwise released therefrom. The indictment, information affidavit or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

KSA 22-2704 — Governor may investigate case

Governor may investigate case.

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

KSA 22-2705 — Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion

Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.

When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated. The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section

22-2723

with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

KSA 22-2706 — Persons not present in the demanding state at time of commission of crime

Persons not present in the demanding state at time of commission of crime.

The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section

22-2703

with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

KSA 22-2707 — Issue of governor's warrant of arrest; recitals

Issue of governor's warrant of arrest; recitals.

If the governor decides that the demand should be complied with he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

KSA 22-2708 — Manner and place of execution

Manner and place of execution.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

KSA 22-2709 — Authority of arresting officer

Authority of arresting officer.

Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

KSA 22-2710 — Rights of accused person; application for writ of habeas corpus; notice

Rights of accused person; application for writ of habeas corpus; notice.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, and it shall be the duty of the prosecuting attorney to notify said agent of the demanding state.

KSA 22-2711 — Delivery of person in disobedience of K.S.A. 22-2710; penalty

Delivery of person in disobedience of K.S.A.

22-2710

; penalty.

Any officer who shall deliver to the agent for extradition of the demanding state a person in such officer's custody under the governor's warrant, in willful disobedience of K.S.A.

22-2710

, and amendments thereto, shall be guilty of a class B nonperson misdemeanor.

KSA 22-2712 — Confinement in jail when necessary

Confinement in jail when necessary.

The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping. The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping: Provided, however, That such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

KSA 22-2713 — Arrest prior to requisition; prisoners in federal facilities, waiver of requirements for extradition

Arrest prior to requisition; prisoners in federal facilities, waiver of requirements for extradition.

(a) Whenever any person within this state is charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under K.S.A.

22-2706

, and amendments thereto, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of the person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, or whenever complaint has been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under K.S.A.

22-2706

, and amendments thereto, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of the person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any law enforcement officer commanding the apprehension of the person named therein, wherever such person may be found in this state, and to bring such person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(b) Any person incarcerated in any federal facility may be released to the custody of the duly accredited officers, or such officer's designees, of a foreign state, if:

(1) Such person has violated the terms of such person's probation, postrelease supervision, parole or who has an unexpired sentence in the foreign state;

(2) the foreign state has personal jurisdiction over such person; and

(3) the foreign state has issued a valid warrant for the apprehension of such person. For that purpose no formalities shall be required other than establishing the authority of the officer and the identity of the person to be apprehended. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived by the state of Kansas, as to such persons.

KSA 22-2714 — Arrest without a warrant

Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

KSA 22-2715 — Commitment to await requisition; bail

Commitment to await requisition; bail.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section

22-2706

, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

KSA 22-2716 — Bail; in what cases; conditions of bond

Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

KSA 22-2717 — Extension of time of commitment; adjournment

Extension of time of commitment; adjournment.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in section

22-2716

, but within a period not to exceed sixty days after the date of such new bond.

KSA 22-2718 — Forfeiture of bail

Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

KSA 22-2719 — Persons under criminal prosecution in this state at time of requisition

Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

KSA 22-2720 — Guilt or innocence of accused; when inquired into

Guilt or innocence of accused; when inquired into.

The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

KSA 22-2721 — Governor may recall warrant or issue alias

Governor may recall warrant or issue alias.

The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

KSA 22-2722 — Fugitives from this state; duty of governor

Fugitives from this state; duty of governor.

Whenever the governor of this state demands a person charged with crime or with escaping from confinement or breaking the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, the governor shall issue a warrant under the seal of this state, to some agent, commanding such agent to receive the person so charged if delivered to such agent and convey such person to the proper officer of the county in this state in which the offense was committed.

KSA 22-2723 — Application for issuance of requisition; by whom made; contents

Application for issuance of requisition; by whom made; contents.

(a) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor such attorney's written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against the person, the approximate time, place and circumstances of its commission and the state in which the person is believed to be, including the location of the accused therein, at the time the application is made. Such application shall certify that, in the opinion of the prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole or is under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision discharged or otherwise released, the prosecuting attorney of the county in which the offense was committed, the secretary of corrections, the director of the institution from which escape was made or the sheriff of the county from which escape was made shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which the person was convicted, the circumstances of the person's escape from confinement or other removal from the custody of this state or of the breach of the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole and the state in which the person is believed to be, including the location of the person therein, at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three certified copies of the indictment returned, or of information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence.

The applicant may also attach such further affidavits and other documents in triplicate as the applicant considers proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the governor's pardon attorney to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

KSA 22-2724 — Costs and expenses

Costs and expenses.

The expenses which may accrue under K.S.A.

22-2723

shall be treated as costs of the criminal proceedings and shall be taxed and paid as provided in K.S.A.

22-3801

et seq.

KSA 22-2725 — Immunity from service of process in civil actions

Immunity from service of process in civil actions.

A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

KSA 22-2726 — Written waiver of extradition proceeding; duty of judge

Written waiver of extradition proceeding; duty of judge.

Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or alleged to be under sentence, some part of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision, discharged or otherwise released, may waive the issuance and service of the warrant provided for in K.S.A.

22-2707

and

22-2708

, and amendments thereto, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that such person consents to return to the demanding state, except that before such waiver is executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in K.S.A.

22-2710

and amendments thereto.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

KSA 22-2727 — Nonwaiver by this state

Nonwaiver by this state.

Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

KSA 22-2728 — No right of asylum; no immunity from other criminal prosecutions while in this state

No right of asylum; no immunity from other criminal prosecutions while in this state.

After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

KSA 22-2729 — Uniformity of interpretation

Uniformity of interpretation.

The provisions of this act* shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

KSA 22-2730 — Invalidity of part

Invalidity of part.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

KSA 22-2801 — Declaration of purpose

Declaration of purpose.

The purpose of this article is to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges or to testify, or pending appeal, when detention serves neither the ends of justice nor the public interest.

KSA 22-2802 — Release prior to trial; conditions of release; appearance bond, cash bond or personal recognizance; rules applicable to defendants charged with certain sex offenses who have a prior conviction of a sexually violent crime

Release prior to trial; conditions of release; appearance bond, cash bond or personal recognizance; rules applicable to defendants charged with certain sex offenses who have a prior conviction of a sexually violent crime.

(a) Any person charged with a crime shall, at the person's first appearance before a magistrate, be ordered released pending preliminary examination or trial upon the execution of an appearance bond in an amount specified by the magistrate and sufficient to assure the appearance of such person before the magistrate when ordered and to assure the public safety. If the person is being bound over for a felony, the bond shall also be conditioned on the person's appearance in the district court or by way of a two-way electronic audio-video communication as provided in subsection (n) at the time required by the court to answer the charge against such person and at any time thereafter that the court requires. Unless the magistrate makes a specific finding otherwise, if the person is being bonded out for a person felony or a person misdemeanor, the bond shall be conditioned on the person being prohibited from having any contact with the alleged victim of such offense for a period of at least 72 hours. The magistrate may impose such of the following additional conditions of release as will reasonably assure the appearance of the person for preliminary examination or trial:

(1) Place the person in the custody of a designated person or organization agreeing to supervise such person;

(2) place restrictions on the travel, association or place of abode of the person during the period of release;

(3) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody during specified hours;

(4) place the person under a house arrest program pursuant to K.S.A.

21-6609

, and amendments thereto; or

(5) place the person under the supervision of a court services officer responsible for monitoring the person's compliance with any conditions of release ordered by the magistrate. The magistrate may order the person to pay for any costs associated with the supervision provided by the court services department in an amount not to exceed $15 per week of such supervision. The magistrate may also order the person to pay for all other costs associated with the supervision and conditions for compliance in addition to the $15 per week.

(b) In addition to any conditions of release provided in subsection (a), for any person charged with a felony, the magistrate may order such person to submit to a drug and alcohol abuse examination and evaluation in a public or private treatment facility or state institution and, if determined by the head of such facility or institution that such person is a drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to treatment for such drug or alcohol abuse, as a condition of release.

(c) The appearance bond shall be executed with sufficient solvent sureties who are residents of the state of Kansas, unless the magistrate determines, in the exercise of such magistrate's discretion, that requiring sureties is not necessary to assure the appearance of the person at the time ordered.

(d) A deposit of cash in the amount of the bond may be made in lieu of the execution of the bond pursuant to subsection (c). Except as provided in subsection (e), such deposit shall be in the full amount of the bond and in no event shall a deposit of cash in less than the full amount of bond be permitted. Any person charged with a crime who is released on a cash bond shall be entitled to a refund of all moneys paid for the cash bond, after deduction of any outstanding restitution, costs, fines and fees, after the final disposition of the criminal case if the person complies with all requirements to appear in court. The court may not exclude the option of posting bond pursuant to subsection (c).

(e) Except as provided further, the amount of the appearance bond shall be the same whether executed as described in subsection (c) or posted with a deposit of cash as described in subsection (d). When the appearance bond has been set at $2,500 or less and the most serious charge against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson felony, a drug severity level 4 felony committed prior to July 1, 2012, a drug severity level 5 felony committed on or after July 1, 2012, or a violation of K.S.A.

8-1567

, and amendments thereto, the magistrate may allow the person to deposit cash with the clerk in the amount of 10% of the bond, provided the person meets at least the following qualifications:

(1) Is a resident of the state of Kansas;

(2) has a criminal history score category of G, H or I;

(3) has no prior history of failure to appear for any court appearances;

(4) has no detainer or hold from any other jurisdiction;

(5) has not been extradited from, and is not awaiting extradition to, another state; and

(6) has not been detained for an alleged violation of probation.

(f) In the discretion of the court, a person charged with a crime may be released upon the person's own recognizance by guaranteeing payment of the amount of the bond for the person's failure to comply with all requirements to appear in court. The release of a person charged with a crime upon the person's own recognizance shall not require the deposit of any cash by the person.

(g) The court shall not impose any administrative fee.

(h) In determining which conditions of release will reasonably assure appearance and the public safety, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged; the weight of the evidence against the defendant; whether the defendant is lawfully present in the United States; the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, record of convictions, record of appearance or failure to appear at court proceedings or of flight to avoid prosecution; the likelihood or propensity of the defendant to commit crimes while on release, including whether the defendant will be likely to threaten, harass or cause injury to the victim of the crime or any witnesses thereto; and whether the defendant is on probation or parole from a previous offense at the time of the alleged commission of the subsequent offense.

(i) The appearance bond shall set forth all of the conditions of release.

(j) A person for whom conditions of release are imposed and who continues to be detained as a result of the person's inability to meet the conditions of release shall be entitled, upon application, to have the conditions reviewed without unnecessary delay by the magistrate who imposed them. If the magistrate who imposed conditions of release is not available, any other magistrate in the county may review such conditions.

(k) A magistrate ordering the release of a person on any conditions specified in this section may at any time amend the order to impose additional or different conditions of release. If the imposition of additional or different conditions results in the detention of the person, the provisions of subsection (j) shall apply.

(l) Statements or information offered in determining the conditions of release need not conform to the rules of evidence. No statement or admission of the defendant made at such a proceeding shall be received as evidence in any subsequent proceeding against the defendant.

(m) The appearance bond and any security required as a condition of the defendant's release shall be deposited in the office of the magistrate or the clerk of the court where the release is ordered. If the defendant is bound to appear before a magistrate or court other than the one ordering the release, the order of release, together with the bond and security shall

be transmitted to the magistrate or clerk of the court before whom the defendant is bound to appear.

(n) Proceedings before a magistrate as provided in this section to determine the release conditions of a person charged with a crime including release upon execution of an appearance bond may be conducted by two-way electronic audio-video communication between the defendant and the judge in lieu of personal presence of the defendant or defendant's counsel in the courtroom in the discretion of the court. The defendant may be accompanied by the defendant's counsel. The defendant shall be informed of the defendant's right to be personally present in the courtroom during such proceeding if the defendant so requests. Exercising the right to be present shall in no way prejudice the defendant.

(o) The magistrate may order the person to pay for any costs associated with the supervision of the conditions of release of the appearance bond in an amount not to exceed $15 per week of such supervision. As a condition of sentencing under K.S.A.

21-6604

, and amendments thereto, the court may impose the full amount of any such costs in addition to the $15 per week, including, but not limited to, costs for treatment and evaluation under subsection (b).

(p) (1) If a defendant is charged with rape, as described in K.S.A.

21-5503

, and amendments thereto, criminal sodomy or aggravated criminal sodomy, as described in K.S.A.

21-5504

, and amendments thereto, aggravated sexual battery, as described in K.S.A.

21-5505

, and amendments thereto, or indecent liberties with a child or aggravated indecent liberties with a child, as described in K.S.A.

21-5506

, and amendments thereto, the magistrate shall determine prior convictions of such offenses or comparable out-of-state convictions upon available evidence.

(2) If the magistrate determines that such defendant has a prior conviction of any crime that constitutes a sexually violent crime as defined in K.S.A.

22-4902

, and amendments thereto, bond shall be at least $750,000 cash or surety and have at least minimum conditions of no contact with any victims or witnesses and the magistrate shall place the person under a house arrest program pursuant to subsection (a)(4). Such bond shall not be reduced or modified downward unless the magistrate determines by a preponderance of the evidence at an evidentiary hearing and makes a written finding on the record that the defendant is not a public safety risk and not a flight risk. At such evidentiary hearing, there shall be a presumption that the defendant is both a public safety risk and a flight risk.

KSA 22-2803 — Review of conditions of release; application for modification of conditions of release

Review of conditions of release; application for modification of conditions of release.

A person who remains in custody after review of such person's application pursuant to K.S.A.

22-2802

(i) or (j), and amendments thereto, by a district magistrate judge may apply to a district judge of the judicial district in which the charge is pending to modify the order fixing conditions of release. Such motion shall be determined promptly.

KSA 22-2804 — Release after conviction

Release after conviction.

(1) A person who has been convicted of a crime and is either awaiting sentence or has filed a notice of appeal may be released by the district court under the conditions provided in K.S.A.

22-2802

, and amendments thereto, if the court or judge finds that the conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community.

(2) A person who has been convicted of a crime and has filed a notice of appeal to the supreme court or court of appeals shall make application to be released to the court whose judgment is appealed from or to a judge thereof. If an application to such court or judge has been made and denied or action on the application did not afford the relief sought by the applicant, the applicant may make an application for release to the appellate court. An application to the appellate court or a justice or judge thereof shall state the disposition of the application made by the district court or judge. Any application made under this subsection shall be heard after reasonable notice to the prosecuting attorney. Such notice shall be given not less than one day prior to the hearing. Any appearance bond which may be required under this subsection shall be filed in the court from which the appeal was taken.

(3) A person who has been convicted of a crime before a district magistrate judge may, upon taking an appeal to a district judge, apply to be released as provided herein. If the application is made before the case has been referred to the chief judge for assignment, the conditions of release shall be determined by the district magistrate judge from whom the appeal is taken. If the application is made thereafter, the chief judge or the district judge to whom the case has been assigned shall determine the conditions of release. Any appearance bond which may be required under this subsection shall be deposited in the court where it is fixed.

KSA 22-2805 — Material witness; appearance bond; custody; release, when required; appointed counsel and other services for indigent

Material witness; appearance bond; custody; release, when required; appointed counsel and other services for indigent.

(a) If it appears by affidavit that the testimony of a person is material in any criminal proceeding or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp.

38-2301

et seq., and amendments thereto, and it is shown that it may become impracticable to secure the witness' presence by subpoena, the court or magistrate may require the witness to give bond in an amount fixed by the court or magistrate, or to comply with other conditions to assure the witness' appearance as a witness. If a person fails to comply with the conditions of release, the court or magistrate may, after hearing, commit the witness to the custody of the sheriff or marshal pending final disposition of the proceeding in which the testimony is needed. A material witness shall not be held in custody more than 30 days unless the court or magistrate, after hearing, determines that there is good cause to hold the witness for an additional period of not more than 30 days. No material witness shall be detained because of inability to comply with any condition of release if the testimony of the witness can be secured for use at trial or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp.

38-2301

et seq., and amendments thereto by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable time until the deposition of the witness can be taken pursuant to K.S.A.

22-3211

, and amendments thereto.

(b) The court or magistrate shall appoint counsel to represent a witness committed to custody pursuant to this section when the court or magistrate determines that the witness is financially unable to employ counsel, based on the same standards as used to determine if a defendant is able to employ counsel. Such appointment shall be from the panel for indigents' defense services or as otherwise prescribed under the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. In any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp.

38-2301

et seq., and amendments thereto, such appointment shall be pursuant to K.S.A. 2007 Supp.

38-2306

, and amendments thereto. The witness may obtain necessary investigative, expert and other services in the manner provided by K.S.A.

22-4508

, and amendments thereto. Payment for the counsel and other services shall be made in the manner provided by K.S.A.

22-4507

, and amendments thereto.

KSA 22-2806 — Justification and approval of sureties

Justification and approval of sureties.

Every uncompensated surety, except an insurance company authorized to transact business pursuant to K.S.A.

40-1102

(d), and amendments thereto, shall justify by affidavit and may be required to describe in the affidavit the property by which such surety proposes to justify and the encumbrances thereon, the number and amount of other bonds and undertakings for bail entered into by such surety and remaining undischarged and all such surety's other liabilities. No bond shall be approved unless the uncompensated surety appears to be qualified. The appearance bond and the uncompensated sureties may be approved and accepted by a judge of the court where the action is pending or by the sheriff of the county.

KSA 22-2807 — Forfeiture of appearance bonds; warrant for arrest; forfeiture set aside; procedure after entry of judgement

Forfeiture of appearance bonds; warrant for arrest; forfeiture set aside; procedure after entry of judgement.

(a) If a defendant fails to appear as directed by the court and guaranteed by an appearance bond, the court in which the bond is deposited shall declare a forfeiture of the bail and issue a warrant for the defendant's arrest. If the defendant is charged with a felony offense, the sheriff shall enter such warrant into the national crime information center's index within 14 days of issuance of the warrant and, upon request, the court shall make a copy of the warrant available to a compensated surety who deposited the bond on behalf of the defendant.

(b) An appearance bond may only be forfeited by the court upon a failure to appear. If a defendant violates any other condition of bond, the bond may be revoked and the defendant remanded to custody. An appearance bond is revoked by the execution of a warrant for a defendant's arrest for a violation of a bond condition. The magistrate shall promptly set a new bond pursuant to requirements of K.S.A.

22-2802

, and amendments thereto.

(c) (1) The court may direct that a forfeiture be set aside, upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture.

(2) The court shall direct that a forfeiture be set aside if:

(A) The surety can prove that the defendant is incarcerated somewhere within the United States prior to judgment of default by providing to the court a written statement, signed by the surety under penalty of perjury, setting forth the facts substantiating such incarceration;

(B) the warrant required to be issued by subsection (a) was not issued within 14 days of the forfeiture;

(C) a warrant that is required to be entered into the national crime information center's index pursuant to subsection (a) was not entered within 14 days of issuance or provided by the court to the surety upon request pursuant to subsection (a), unless there is good cause shown for the failure to enter such warrant into the index or provide such warrant to the compensated surety;

(D) the prosecuting attorney has declined to proceed with extradition; or

(E) the defendant was not held subject to an immigration detainer when the bond was posted and the surety can prove that the defendant has been deported from the United States prior to judgment of default by providing to the court a written statement, signed by the surety under penalty of perjury, setting forth the facts substantiating the deportation.

(3) Upon the defendant's return, the surety may be ordered to pay the costs of such return.

(d) When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon. If the forfeiture has been decreed by a district magistrate judge and the amount of the bond exceeds the limits of the civil jurisdiction prescribed by law for a district magistrate judge, the judge shall notify the chief judge in writing

of the forfeiture and the matter shall be assigned to a district judge who, on motion, shall enter a judgment of default. By entering into a bond the obligors submit to the jurisdiction of any court having power to enter judgment upon default and irrevocably appoint the clerk of that court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion without the necessity of an independent action. The motion and notice thereof may be served on the clerk of the court, who shall promptly mail copies to the obligors to their last known addresses. No judgment may be entered against the obligor in an appearance bond until more than 60 days after notice is served as provided in this section. No judgment may be entered against the obligor in an appearance bond more than two years after a defendant's failure to appear.

(e) After entry of judgment pursuant to subsection (d), the court:

(1) May remit such judgment in whole or in part under the conditions applying to the setting aside of forfeiture in subsection (c); and

(2) shall remit a portion of the amount of the appearance bond to the obligor if the defendant is returned to custody within the following number of days after judgment is entered, as follows:

(A) 90% if the defendant is returned to custody within 90 days;

(B) 75% if the defendant is returned to custody within 91 to 180 days; and

(C) 50% if the defendant is returned to custody within 181 to 270 days.

KSA 22-2808 — Exoneration

Exoneration.

When the condition of the appearance bond has been satisfied or the forfeiture thereof has been set aside or remitted, the court shall exonerate the obligors and release them from liability. A surety may be exonerated by a deposit of cash in the amount of the bond or by a timely surrender of the defendant into custody.

KSA 22-2809 — Surrender of obligor by surety; release of surety

Surrender of obligor by surety; release of surety.

(a) Any person who is released on an appearance bond may be arrested by such person's surety or any person authorized by such surety and delivered to a custodial officer of the court in the county in the state where the complaint subject to the bond was filed. Such person who is arrested as provided in this section shall be brought before any magistrate having power to commit for the crime charged. The magistrate shall indorse on the bond, or a certified copy of such bond, the discharge of such surety upon the sworn statement, either written or oral, of the surety setting forth the reasons for the discharge. The magistrate may commit the party who is arrested as provided in this section. Such person committed as provided in this section shall be held in custody until released as provided by law.

(b) As used in this section, "custodial officer of the court" means the sheriff or the keeper of the jail in the county.

KSA 22-2809a — Surety or agent thereof; felons disqualified to act as; notice of intent to apprehend fugitive; violations, penalties

Surety or agent thereof; felons disqualified to act as; notice of intent to apprehend fugitive; violations, penalties.

(a) As used in this section:

(1) "Surety" means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond;

(2) "bail agent" means a person authorized by a surety to execute surety bail bonds on behalf of such surety; and

(3) "bail enforcement agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter, but is not a surety or bail agent.

(b) Any surety, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall inform law enforcement authorities in the city or county in which such surety, bail agent or bail enforcement agent intends such apprehension, before attempting such apprehension. The surety, bail agent or bail enforcement agent shall present to the local law enforcement authorities

a copy of the bond, a valid government-issued photo identification, written appointment of agency, if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the surety, bail agent or bail enforcement agent.

(c) No person who has been convicted, in this or any other jurisdiction, of a felony shall act as a surety, bail agent or bail enforcement agent, unless such conviction has been expunged.

(d) A bail enforcement agent must be licensed under K.S.A.

75-7e01

through

75-7e09

and K.S.A.

50-6,141

, and amendments thereto, in order to apprehend a person pursuant to K.S.A.

22-2809

, and amendments thereto.

(e) An out-of-state surety, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A.

22-2809

, and amendments thereto, or under similar authority from any other state, before attempting such apprehension, shall:

(1) Have a bail enforcement agent's license pursuant to K.S.A.

75-7e01

through

75-7e09

and K.S.A.

50-6,141

, and amendments thereto;

(2) contract with an individual that has been authorized by any court in this state to act as a surety and be accompanied by such individual during such apprehension; or

(3) contract with an individual who is currently a licensed bail enforcement agent pursuant to K.S.A.

75-7e01

through

75-7e09

and K.S.A.

50-6,141

, and amendments thereto, and be accompanied by such individual during such apprehension.

(f) Violation of this section is a class A nonperson misdemeanor for the first conviction of a violation and a severity level 9, nonperson felony upon a second or subsequent conviction of a violation.

KSA 22-2809b — Compensated surety; definitions; application; authorization by judicial district; fingerprinting; requirements to post bond; termination of authority; minimum appearance bond premium; continuing education requirements

Compensated surety; definitions; application; authorization by judicial district; fingerprinting; requirements to post bond; termination of authority; minimum appearance bond premium; continuing education requirements.

(a) As used in this section:

(1) "Compensated surety" means any person who or entity that is organized under the laws of the state of Kansas that, as surety, issues appearance bonds for compensation, posts bail for four or more persons in a calendar year, is responsible

for any forfeiture and is liable for appearance bonds written by such person's or entity's authorized agents. A "compensated surety" is either an insurance agent surety, a property surety or a bail agent.

(2) "Insurance agent surety" means a compensated surety licensed by the insurance commissioner to issue surety bonds or appearance bonds in this state and who represents an authorized insurance company. An "insurance agent surety" may have other insurance agent sureties working with or for such surety.

(3) "Property surety" means a compensated surety who secures appearance bonds by property pledged as security. A "property surety" may be a person or entity and may authorize bail agents to act on behalf of the "property surety" in writing appearance bonds.

(4) "Bail agent" means a person authorized by a compensated surety to execute surety bail bonds on such surety's behalf.

(5) "Appearance bond premium" means the fee charged by a compensated surety for posting an appearance bond.

(b) Every compensated surety shall submit an application to the chief judge of the judicial district, or the chief judge's designee, in each judicial district where such surety seeks to act as a surety. A compensated surety shall not act as a surety in such judicial district prior to approval of such application.

(1) The application shall include, but is not limited to, the following information for each insurance agent surety, property surety or bail agent:

(A) A copy of the applicant's Kansas driver's license or nondriver's identification card;

(B) a statement, made under penalty of perjury, that the applicant is a resident of this state and is not prohibited by K.S.A.

22-2809a

(c), and amendments thereto, from acting as a surety; and

(C) a certificate of continuing education compliance in accordance with subsection (g).

(2) The application for each insurance agent surety also shall include:

(A) A copy of the qualifying power of attorney certificates issued to such surety by any insurance company;

(B) a current and valid certificate of license from the insurance department; and

(C) a current and valid certificate of authority from the insurance department.

(3) The application for each property surety also shall include:

(A) A list of all bail agents authorized by such property surety to write appearance bonds on such property surety's behalf and all documentation from such bail agents demonstrating compliance with subsection (b)(1); and

(B) an affidavit describing the property by which such property surety proposes to justify its obligations and the encumbrances thereon, and all such surety's other liabilities. The description shall include a valuation of the property described therein. If the valuation is not readily evident, an appraisal of the property may be required and, if required, shall be incorporated into the affidavit.

(4) The chief judge of the judicial district may require, as a qualification for initial or continued authorization in the judicial district, a compensated surety to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. The chief judge or the chief judge's designee is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The chief judge or the chief judge's designee may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualifications for authorization in the judicial district. Disclosure or use of any information received by the chief judge or the chief judge's designee for any purpose other than the purposes provided for in this paragraph shall be a class A nonperson misdemeanor. The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check, and the individual seeking initial or continued authorization under this section shall pay the costs of fingerprinting and the state and national criminal history record check.

(c) A property surety authorized to act as a surety in a judicial district pursuant to subsection (b) shall be allowed outstanding appearance bonds in the state of Kansas not to exceed an aggregate amount that is 15 times the valuation of the property described in subsection (b)(3). Such property surety shall not write any single appearance bond that exceeds 35% of the total valuation of the property described in subsection (b)(3).

(d) (1) A compensated surety shall:

(A) Charge a minimum appearance bond premium of 10% of the face amount of the appearance bond;

(B) only post a bond after the compensated surety has received at least

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of the required minimum appearance bond premium in one of the following forms:

(i) Currency of the United States paid to the compensated surety prior to the execution of an appearance bond;

(ii) a check delivered to a compensated surety that shall be properly payable when delivered and promptly deposited in the compensated surety's bank account;

(iii) a credit or debit card transaction if the compensated surety obtains authorization from the card issuer for the amount due and an approval number from the card issuer; or

(iv) a bank or wire transfer or other electronic funds transfer including, but not limited to, peer-to-peer transfer, if such transfer occurs prior to the execution of the appearance bond; and

(C) be physically present when the bond is posted and sign the bond at the jail.

(2) A compensated surety shall enter into a premium financing agreement for any unpaid minimum appearance bond premium amount. A compensated surety shall not provide a loan for the portion of the minimum appearance bond premium required by subsection (d)(1)(B). A compensated surety shall not be an owner, in whole or in part, or in any way affiliated with any financial institution making loans for the portion of the minimum appearance bond premium required by subsection (d)(1)(B).

(e) (1) Each judicial district may, by local rule, require additional information from any compensated surety and establish what property is acceptable for bonding purposes under subsection (b)(3).

(2) A judicial district shall not require any compensated surety to apply for authorization in such judicial district more than once per year, but may require additional reporting from any compensated surety in its discretion. If the judicial district does not require an annual application, each compensated surety or bail agent shall provide a certificate of continuing education compliance in accordance with subsection (g) to the judicial district each year.

(3) A judicial district shall not decline authorization for a compensated surety solely on the basis of type of compensated surety.

(f) (1) Nothing in this section shall be construed to require the chief judge of the judicial district, or the chief judge's designee, to authorize any compensated surety to act as a surety in such judicial district if the judge or designee finds, in such person's discretion, that such authorization is not warranted.

(2) (A) If such authorization is granted, the chief judge of the judicial district, or the chief judge's designee, may terminate or suspend the authorization at any time. Reasons for terminating or suspending such authorization include, but are not limited to:

(i) Filing false statements with the court;

(ii) failing to charge the minimum appearance bond premium as required by this section;

(iii) paying a fee or rebate or giving or promising anything of value to a jailer, law enforcement officer, any person who has the power to arrest or hold a person in custody or any public official or employee in order to secure a settlement, compromise, remission or reduction of the amount of any appearance bond, forfeiture or estreatment, or to secure or delay an appearance bond;

(iv) paying a fee or rebate or giving or promising anything of value, other than reward payments for information relating to the apprehension of fugitives, to an inmate in exchange for a business referral;

(v) requiring or accepting anything of value from a principal other than the appearance bond premium, except that the compensated surety may accept collateral security or other indemnity to secure the face amount of the bond;

(vi) intentionally failing to promptly return collateral security to the principal when the principal is entitled to return of such security;

(vii) knowingly employing or otherwise compensating for any appearance bond related work, any person who has been convicted of a felony unless such conviction has been expunged, other than reward payments for information relating to the apprehension of fugitives; or

(viii) failing to pay any forfeiture judgment within 30 days of the filing of the journal entry of judgment.

(B) The judge or the judge's desginee may investigate claims of violations described in subparagraph (A). If the chief judge makes a finding that a violation has occurred, the chief judge may suspend or terminate the authorization of the compensated surety.

(C) If the authorization is suspended for 30 days or more, the chief judge shall make a record describing the length of the suspension and the underlying cause and provide such record to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the suspension is ordered.

(D) If the authorization is terminated, the chief judge shall make a record describing the underlying cause and provide such record to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the termination is ordered.

(3) If an authorized compensated surety does not comply with the continuing education requirements in subsection (g), the chief judge of the judicial district, or the chief judge's designee, may allow a conditional authorization to continue acting as a surety for 90 days. If such compensated surety does not comply with the continuing education requirements in subsection (g) within 90 days, such conditional authorization shall be terminated and such compensated surety shall not act as a surety in such judicial district.

(g) (1) Every compensated surety shall obtain at least eight hours of continuing education credits during each 12-month period.

(2) The Kansas bail agents association shall either provide or contract for a minimum of eight hours of continuing education classes to be held at least once annually in each congressional district and may provide additional classes in its discretion. The chief judge in each judicial district may provide a list of topics to be covered during the continuing education classes. A schedule of such classes shall be publicly available. The association shall not charge more than $300 annually for the eight hours of continuing education classes, and the cost of any class with less than eight hours of continuing education may be prorated accordingly. Any fee charged for attending continuing education classes shall not be increased or decreased based upon a compensated surety's membership or lack of membership in the association.

(3) Upon completion of at least eight hours of continuing education credits during each 12-month period by a compensated surety, the Kansas bail agents association shall issue a certificate of continuing education compliance to such surety. The certificate shall be prepared and delivered to the compensated surety within 30 days of such surety's completion of the continuing education requirements. The certificate shall show in detail the dates and hours of each course attended, along with the signature of the Kansas bail agents association official attesting that all continuing education requirements have been completed.

(4) Any continuing education credits used to comply with conditional authorization pursuant to subsection (f)(3) shall not be applied towards compliance in the current 12-month period or any subsequent 12-month period.

KSA 22-2814 — Release on recognizance and supervised release

Release on recognizance and supervised release.

Each district court may establish, operate and coordinate release on recognizance programs and supervised release programs which provide services to the court and to persons who are, or are to be, charged with crimes. Release on recognizance programs and supervised release programs shall be administered by court services officers and other personnel of the district court. Participation by defendants in such programs shall be on a voluntary basis. Nothing in K.S.A. 22-2814 through

22-2817

, and amendments thereto, shall affect the right of any person to seek or obtain release under K.S.A.

22-2802

, and amendments thereto, regardless of participation or nonparticipation in release on recognizance programs or supervised release programs.

KSA 22-2815 — Release on recognizance; procedures; criteria

Release on recognizance; procedures; criteria.

(a) Release on recognizance programs shall consist of initial interviews with persons who are being detained and are, or are to be, charged with crimes, to obtain (1) information about certain basic criteria closely related to the likelihood that the persons will appear in court if released, (2) an objective analysis of such information and (3) submission of such information and analysis to the court regarding those persons who are recommended to be released on their personal recognizance under K.S.A.

22-2802

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(b) Among other criteria, the following basic variables shall be determined for each person interviewed under a release on recognizance program in ascertaining the likelihood that the person will appear in court if released:

(1) Length of residence in the local community;

(2) nature and extent of local family ties;

(3) time in the local area;

(4) stability of employment; and

(5) extent of prior criminal history.

KSA 22-2816 — Supervised release; eligibility; agreement; elements of program

Supervised release; eligibility; agreement; elements of program.

(a) Supervised release programs shall consist of extensive interviews with defendants who have been denied release on personal recognizance to select those defendants who under some form of supervised release are likely to appear in court when required, are likely to cooperate with and benefit from supervised release and are willing to actively participate therein. Defendants who are not residents of Kansas, who are the subject of specific detainer orders of other state or federal law enforcement agencies or who are in need of physical or mental care or treatment, including care or treatment for any chemical dependency or intoxication, shall not be eligible for a recommendation for supervised release or to participate in a supervised release program.

(b) Upon the basis of interviews and other available information, court services officers shall prepare and submit, in proper cases, recommendations to the court for supervised release of defendants and shall include suggestions for appropriate conditions for the release of the defendants. If the court orders the release of the defendant with the condition of specific participation in the supervised release program, the court services officer shall prepare and the defendant shall sign a written agreement containing (1) an acknowledgment of the relationship between the supervised release program and the defendant, (2) the details of the conditions of release and (3) a statement of the consequences of any breach of the agreement by the defendant.

(c) The supervised release program for each defendant shall be compatible with all required court appearances and shall include appropriate programs for diagnostic testing, education, skills training, employment and counseling. Each defendant under supervised release shall be closely supervised by a court services officer and may be terminated from the supervised release program by court order revoking the release order or by final disposition of the charges against the defendant.

KSA 22-2817 — Release on recognizance and supervised release; powers of court

Release on recognizance and supervised release; powers of court.

(a) For all purposes of release on recognizance programs and supervised release programs, each district court may contract for services and facilities; receive property by gifts, devises and bequests; and sell or exchange any property so accepted and use in any manner the proceeds or the property received in exchange.

(b) To the extent feasible, each district court establishing, operating or coordinating release on recognizance programs and supervised release programs shall arrange, by contract or on such alternative basis as may be mutually acceptable, for utilization of existing local facilities and treatment and service resources, including but not limited to employment, job training, general, special or remedial education, psychiatric and marriage counseling, and alcohol and drug abuse treatment and counseling. Each such district court shall approve the development and maintenance of such resources by its own staff only if the resources to be so developed and maintained are otherwise unavailable to the court within

reasonable proximity to the community where these services are needed in connection with the release on recognizance programs or supervised release programs. Each such district court, to the extent feasible and advisable under the circumstances, may use the services of volunteers for such programs and may solicit local financial support from public, private, charitable and benevolent sources therefor.

KSA 22-2818 — Traffic violations; failure to appear, service of warrant and collection of bond

Traffic violations; failure to appear, service of warrant and collection of bond.

(a) If a person who is a resident of this state is charged with a misdemeanor or a violation of a traffic resolution of a county in this state and such person fails to appear after service of notice to appear, any law enforcement officer of any county or city of the state may serve the bench warrant issued for the person and may collect from the person a cash appearance bond in the amount stated in the warrant upon request of the law enforcement agency of the city or county in which the warrant was issued. In the event the violator waives actual in hand service of the bench warrant and the officer has verified by telecommunication that the bench warrant is in the actual possession of the law enforcement authorities of the jurisdiction issuing the same, the officer making the arrest may collect the appearance bond without actual in hand service of the bench warrant.

(b) Any appearance bond collected pursuant to this section shall be forwarded forthwith to the clerk of the district court of the judicial district in which the charge against the person is filed.

(c) As used in this section:

(1) "Highway," "street," "traffic" and "vehicle" have the meanings provided by article 14 of chapter 8 of the Kansas Statutes Annotated.

(2) "Traffic resolution" means any resolution relating to the regulation of traffic on streets and highways or the operation of vehicles.

(d) This section shall be part of and supplemental to the Kansas code of criminal procedure.

KSA 22-2901 — Appearance before the magistrate

Appearance before the magistrate.

(1) Except as provided in subsection (7), when an arrest is made in the county where the crime charged is alleged to have been committed, the person arrested shall be taken without unnecessary delay before a magistrate of the court from which the warrant was issued. If the arrest has been made on probable cause, without a warrant, he shall be taken without unnecessary delay before the nearest available magistrate and a complaint shall be filed forthwith.

(2) Except as provided in subsection (7), when an arrest is made in a county other than where the crime charged is alleged to have been committed, the person arrested may be taken directly to the county wherein the crime is alleged to have been committed without unnecessary delay or at the request of the defendant he shall be taken without unnecessary delay before the nearest available magistrate. Such magistrate shall ascertain the nature of the crime charged in the warrant and the amount of the bond, if any, endorsed on the warrant. If no warrant for the arrest of the person is before the magistrate he shall make use of telephonic, telegraphic or radio communication to ascertain the nature of the charge and the substance of any warrant that has been issued. If no warrant has been issued, a complaint shall be filed and a warrant issued in the county where the crime is alleged to have been committed, and the nature of the charge, the substance of the warrant, and the amount of the bond shall be communicated to the magistrate before whom the defendant is in custody. Upon receipt of such information, the magistrate shall proceed as hereinafter provided.

(3) The magistrate shall fix the terms and conditions of the appearance bond upon which the defendant may be released. If the first appearance is before a magistrate in a county other than where the crime is alleged to have been committed, the magistrate may release the defendant on an appearance bond in an amount not less than that endorsed on the warrant. The defendant shall be required to appear before the magistrate who issued the warrant or a magistrate of a court having jurisdiction on a day certain, not more than 14 days thereafter.

(4) If the defendant is released on an appearance bond to appear before the magistrate in another county, the magistrate who accepts the appearance bond shall forthwith transmit such appearance bond and all other papers relating to the case to the magistrate before whom the defendant is to appear.

(5) If the person arrested cannot provide an appearance bond, or if the crime is not bailable, the magistrate shall commit him to jail pending further proceedings or shall order him delivered to a law enforcement officer of the county where the

crime is alleged to have been committed.

(6) The provisions of this section shall not apply to a person who is arrested on a bench warrant. Such persons shall without unnecessary delay be taken before the magistrate who issued the bench warrant.

(7) If a person is arrested on a warrant or arrested on probable cause without a warrant, pursuant to a violation of subsection (a)(1)(C) of K.S.A.

21-5808

, and amendments thereto, such person shall not be allowed to post bond pending such person's first appearance in court provided that a first appearance occurs within 48 hours after arrest. The magistrate may fix as a condition of release on the appearance bond that such person report to a court services officer. Nothing in this section shall be construed to be an unnecessary delay as such term is used in this section.

KSA 22-2902 — Preliminary examination

Preliminary examination.

(a) The state and every person charged with a felony shall have a right to a preliminary examination before a magistrate, unless such charge has been issued as a result of an indictment by a grand jury.

(b) The preliminary examination shall be held before a magistrate of a county in which venue for the prosecution lies within 14 days after the arrest or personal appearance of the defendant. Continuances may be granted only for good cause shown.

(c) The defendant shall not enter a plea at the preliminary examination. The defendant shall be personally present and except for witnesses who are children less than 13 years of age, the witnesses shall be examined in the defendant's presence. The defendant's voluntary absence after the preliminary examination has been begun in the defendant's presence shall not prevent the continuation of the examination. Except for witnesses who are children less than 13 years of age, the defendant shall have the right to cross-examine witnesses against the defendant and introduce evidence in the defendant's own behalf. If from the evidence it appears that a felony has been committed and there is probable cause to believe that a felony has been committed by the defendant, the magistrate shall order the defendant bound over to the district judge having jurisdiction to try the case; otherwise, the magistrate shall discharge the defendant. When the victim of the felony is a child less than 13 years of age, the finding of probable cause as provided in this subsection may be based upon hearsay evidence in whole or in part presented at the preliminary examination by means of statements made by a child less than 13 years of age on a videotape recording or by other means.

(d) The defendant and the state shall be permitted to present the testimony of a witness through a two-way electronic audio-video communication device.

(e) If the defendant and the state waive preliminary examination, the magistrate shall order the defendant bound over to the district judge having jurisdiction to try the case.

(f) Any judge of the district court may conduct a preliminary examination, and a district judge may preside at the trial of any defendant even though such judge presided at the preliminary examination of such defendant.

(g) The complaint or information, as filed by the prosecuting attorney pursuant to K.S.A.

22-2905

, and amendments thereto, shall serve as the formal charging document at trial. When a defendant and prosecuting attorney reach agreement on a plea of guilty or nolo contendere, the defendant and the prosecuting attorney shall notify the district court of such agreement and arrange for a time to plead, pursuant to K.S.A.

22-3210

, and amendments thereto.

(h) The judge of the district court, when conducting the preliminary examination, shall have the discretion to conduct arraignment, subject to assignment pursuant to K.S.A.

20-329

, and amendments thereto, at the conclusion of the preliminary examination.

KSA 22-2902a — Preliminary examination; admissibility of report of forensic examiner

Preliminary examination; admissibility of report of forensic examiner.

At any preliminary examination in which the results of a forensic examination, analysis, comparison or identification prepared by the Kansas bureau of investigation, the federal bureau of investigation, the bureau of alcohol, tobacco and firearms of the United States department of the treasury, the state secretary of health and environment, the sheriff's department of Johnson, Shawnee or Sedgwick county, the police department of the cities of Overland Park, Topeka or Wichita, the Sedgwick county regional forensic science center, the drug enforcement administration, the air force of the United States, the navy of the United States, the army of the United States, the Missouri southern state college regional crime laboratory, Bethany medical center, inc. located in Kansas City, Kansas, the Kansas City, Kansas community college forensic laboratory or the Kansas City, Missouri regional crime laboratory are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

KSA 22-2902c — Preliminary examination; admissability of field test of alleged controlled substances; rules and regulations by Kansas bureau of investigation

Preliminary examination; admissability of field test of alleged controlled substances; rules and regulations by Kansas bureau of investigation.

At any preliminary examination pursuant to K.S.A.

22-2902

, and amendments thereto:

(a) (1) The court may admit into evidence an alleged controlled substance if, prior to the preliminary examination, the alleged controlled substance:

(A) Has been subjected to a field test, which test has been approved by the director of the Kansas bureau of investigation;

(B) the field test has been administered by a law enforcement officer trained in the use of such field test by a person certified by the manufacturer of that field test; and

(C) the result of such field test was positive for the presumptive presence of the alleged controlled substance.

(2) A positive result on a field test described in and conducted pursuant to this subsection shall be deemed sufficient to establish probable cause to believe that the tested substance is the controlled substance alleged.

(3) The director of the Kansas bureau of investigation shall adopt by rules and regulations the approved field tests; and

(b) physical evidence with a completed evidence custody receipt showing that such evidence has been continuously held in the possession or custody of law enforcement officers, law enforcement agencies, forensic laboratories or the United States postal service since the evidence was seized, shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if all law enforcement officers, evidence custodians and forensic examiners involved in the chain of custody had testified in person.

KSA 22-2902d — Preliminary examination; admissibility of certain scrap metal dealer records

Preliminary examination; admissibility of certain scrap metal dealer records.

(a) At any preliminary examination pursuant to K.S.A.

22-2902

, and amendments thereto, in which the details of each sale or transaction required to be maintained by scrap metal dealers pursuant to K.S.A.

50-6,110

, and amendments thereto, are to be introduced as evidence, the business records of such sale or transaction shall be admissible in to evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

KSA 22-2903 — Exclusion and separation of witnesses

Exclusion and separation of witnesses.

During the examination of any witnesses or when the defendant is making a statement or testifying the magistrate may, and on the request of the defendant or state shall, exclude all other witnesses. He may also cause the witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

KSA 22-2904 — Testimony reduced to writing

Testimony reduced to writing.

The magistrate may cause a record of the proceedings to be made and should do so when requested by the prosecuting attorney or the defendant or his counsel at least 48 hours prior to the time set for preliminary examination. The cost of preparation of such record shall be paid by the party requesting it. If neither party requests the record or the request is made by an indigent defendant, such costs shall be paid from the general fund of the county and taxed as costs in the case.

KSA 22-2905 — Proceedings after the preliminary examination

Proceedings after the preliminary examination.

(1) When a defendant is bound over to a district judge for trial, the prosecuting attorney shall file an information in the office of the clerk of the district court, charging the crime for which the defendant was bound over. If the complaint is in proper form, pursuant to K.S.A.

22-3201

, and amendments thereto, it may be used as the information.

(2) When the defendant is bound over, the magistrate shall fix the type of bond which will assure the appearance of the defendant before a district judge and the amount and conditions of such bond in accordance with the provisions of K.S.A.

22-2802

, and amendments thereto. If the bond given the magistrate prior to the preliminary examination is continuing in nature and is conditioned upon the appearance of the defendant before the magistrate and before the district judge, if bound over, then no new bond shall be required unless the magistrate hearing the preliminary examination or the district judge before whom the case is pending finds that the appearance bond previously given to the magistrate or the sureties thereon are insufficient to secure the appearance of the defendant for trial in the district court. If the amount of the appearance bond is increased, the appearance bond previously given shall continue in force and effect and the defendant shall be required to furnish an additional appearance bond only in such amount as the new appearance bond may exceed the appearance bond previously furnished. If the defendant cannot provide an appearance bond or if the offense is not bailable, the magistrate shall commit the defendant to jail.

KSA 22-2906 — Definitions

Definitions.

As used in K.S.A.

22-2907

through

22-2911

, and amendments thereto:

(a) "District attorney" means district attorney, county attorney or attorney general.

(b) "Complaint" means complaint, indictment or information.

(c) "Diversion" means referral of a defendant in a criminal case to a supervised performance program prior to adjudication.

(d) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him or her dismissed.

KSA 22-2907 — Diversion agreements authorized; policies and guidelines by district attorney; background information; right to counsel; supervision of persons subject to a diversion agreement by court services or community corrections subject to a memorandum of understanding

Diversion agreements authorized; policies and guidelines by district attorney; background information; right to counsel; supervision of persons subject to a diversion agreement by court services or community corrections subject to a memorandum of understanding.

(a) After a complaint has been filed charging a defendant with commission of a crime and prior to conviction thereof, and after the district attorney has considered the factors listed in K.S.A.

22-2908

, if it appears to the district attorney that diversion of the defendant would be in the interests of justice and of benefit to the defendant and the community, the district attorney may propose a diversion agreement to the defendant. The terms of each diversion agreement shall be established by the district attorney in accordance with K.S.A.

22-2909

, and amendments thereto.

(b) Each district attorney shall adopt written policies and guidelines for the implementation of a diversion program in accordance with this act. Such policies and guidelines shall provide for a diversion conference and other procedures in those cases where the district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint.

(c) Each defendant shall be informed in writing of the diversion program and the policies and guidelines adopted by the district attorney. The district attorney may require any defendant requesting diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the diversion program. In all cases, the defendant shall be present and shall have the right to be represented by counsel at the diversion conference with the district attorney.

(d) (1) A county or district attorney may enter into a memorandum of understanding with the chief judge of a judicial district or community correctional services to assist with supervision and monitoring of persons who have entered into a diversion agreement. The county or district attorney shall retain authority over whether a defendant is given the option to enter into a diversion agreement and whether the defendant's diversion agreement will be revoked.

(2) A memorandum of understanding shall include provisions related to:

(A) Determining the level of supervision needed for a defendant;

(B) use of a criminal risk-need assessment;

(C) payment of costs for supervision; and

(D) waiver of the supervision fee established in this subsection.

(3) (A) When a person who has entered into a diversion agreement is supervised pursuant to a memorandum of understanding under this subsection, the person shall pay a supervision fee in the amount established in K.S.A.

21-6607

(c)(2)(A) for misdemeanor or felony post-conviction supervision, as appropriate for the crime charged.

(B) The diversion supervision fee imposed by this paragraph shall be charged and collected by the county or district attorney.

(C) All moneys collected pursuant to this section shall be paid into the county general fund and used to fund the costs of diversion supervision performed pursuant to a memorandum of understanding under this subsection.

(D) The diversion supervision fee specified by this paragraph may be reduced or waived by the county or district attorney in accordance with a memorandum of understanding under this subsection.

(4) When a person who has entered into a diversion agreement is supervised pursuant to a memorandum of understanding under this subsection, the person shall pay the actual costs of any urinalysis testing required as a term of supervision. Payments for urinalysis testing shall be remitted to the county treasurer for deposit in the county general fund. The costs of urinalysis testing may be reduced or waived by the county or district attorney.

(5) The office of judicial administration may develop guidelines regarding the content of a memorandum of understanding between a county or district attorney and the chief judge of a judicial district and the administration of a supervision program operating pursuant to such memorandum of understanding.

KSA 22-2908 — Grant of diversion; factors to consider; when prohibited

Grant of diversion; factors to consider; when prohibited.

(a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the county or district attorney shall consider at least the following factors among all factors considered:

(1) The nature of the crime charged and the circumstances surrounding it;

(2) any special characteristics or circumstances of the defendant;

(3) whether the defendant is a first-time offender and if the defendant has previously participated in diversion, according to the certification of the Kansas bureau of investigation or the division of vehicles of the department of revenue;

(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;

(5) whether the available diversion program is appropriate to the needs of the defendant;

(6) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;

(7) if subsection (a)(6) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;

(8) the impact of the diversion of the defendant upon the community;

(9) recommendations, if any, of the involved law enforcement agency;

(10) recommendations, if any, of the victim;

(11) provisions for restitution; and

(12) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if the complaint alleges that the defendant committed a:

(1) Violation of K.S.A.

8-1567

, and amendments thereto, and the defendant:

(A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute;

(B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or

(C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury to another person or death;

(2) violation under chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and the defendant was a commercial driver's license holder at the time the violation was committed or at any subsequent time prior to being considered for diversion;

(3) class A or B felony or for crimes committed on or after July 1, 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or

(4) domestic violence offense, as defined in K.S.A.

21-5111

, and amendments thereto, and the defendant has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

(c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion

carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

(d) As used in this section, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" mean the same as in K.S.A.

21-6630

, and amendments thereto.

KSA 22-2909 — Diversion agreements; provisions; waiver of certain rights; stipulation of facts; stay of criminal proceedings; filing of agreements; supervision of defendant

Diversion agreements; provisions; waiver of certain rights; stipulation of facts; stay of criminal proceedings; filing of agreements; supervision of defendant.

(a) (1) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the attorney general or county or district attorney, such attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, and a speedy trial, and in the case of diversion under subsection (c) waiver of the rights to counsel and trial by jury. The diversion agreement may include, but is not limited to, provisions concerning:

(A) Payment of restitution, including court costs and diversion costs;

(B) residence in a specified facility;

(C) maintenance of gainful employment;

(D) participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services; and

(E) supervision by the county or district attorney, or by court services or community correctional services pursuant to a memorandum of understanding entered into by the county or district attorney pursuant to K.S.A.

22-2907

, and amendments thereto, including the diversion supervision fee and urinalysis costs described in K.S.A.

22-2907

, and amendments thereto, when applicable.

(2) If a county creates a local fund under the property crime restitution and compensation act, a county or district attorney may require in all diversion agreements as a condition of diversion the payment of a diversion fee in an amount not to exceed $100. Such fees shall be deposited into the local fund and disbursed pursuant to recommendations of the local board under the property crime restitution and victims compensation act.

(3) If the attorney general enters into a diversion agreement:

(A) Any diversion costs or fees collected pursuant to such agreement shall be deposited in the fraud and abuse criminal prosecution fund established by K.S.A.

75-765

, and amendments thereto; and

(B) the attorney general may enter into agreements with the appropriate county or district attorney or other appropriate parties regarding the supervision of conditions of such diversion agreement.

(b) The diversion agreement shall state:

(1) The defendant's full name;

(2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime with which the defendant is charged;

(5) the date the complaint was filed; and

(6) the district court with which the agreement is filed.

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A.

8-1567

, and amendments thereto, the diversion agreement shall include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A.

8-1567

, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, in accordance with K.S.A.

8-1567

, and amendments thereto; and

(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A.

8-1008

, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a domestic violence offense, as defined in K.S.A.

21-5111

, and amendments thereto, the diversion agreement shall include a requirement that the defendant undergo a domestic violence offender assessment and follow all recommendations unless otherwise agreed to with the prosecutor in the diversion agreement. The defendant shall be required to pay for such assessment and, unless otherwise agreed to with the prosecutor in the diversion agreement, for completion of all recommendations.

(e) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation other than K.S.A.

8-1567

, and amendments thereto, the diversion agreement may include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(f) If the person entering into a diversion agreement is a nonresident, the attorney general or county or district attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(g) If the attorney general or county or district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court shall resume the criminal proceedings on the complaint.

(h) Except as provided in subsection (i), if a diversion agreement is entered into in lieu of further criminal proceedings alleging commission of a misdemeanor by the defendant, while under 21 years of age, under K.S.A.

21-5701

through

21-5717

, and amendments thereto, or K.S.A.

41-719

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41-727

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41-804

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41-2719

or

41-2720

, and amendments thereto, the agreement shall require the defendant to participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A.

8-1008

, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(i) If the defendant is 18 or more years of age but less than 21 years of age and allegedly committed a violation of K.S.A.

41-727

, and amendments thereto, involving cereal malt beverage, the provisions of subsection (h) are permissive and not mandatory.

(j) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A.

21-6421

, and amendments thereto, the agreement:

(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A.

21-6421

, and amendments thereto; and

(2) may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(k) Except diversion agreements reported under subsection (l), the attorney general or county or district attorney shall forward to the Kansas bureau of investigation a copy of the diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

(l) At the time of filing the diversion agreement with the district court, the attorney general or county or district attorney shall forward to the division of vehicles of the state department of revenue a copy of any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A.

8-1567

, and amendments thereto. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

KSA 22-2910 — Conditioning diversion on plea prohibited; inadmissibility of agreement; other matters

Conditioning diversion on plea prohibited; inadmissibility of agreement; other matters.

No defendant shall be required to enter any plea to a criminal charge as a condition for diversion. No statements made by the defendant or counsel in any diversion conference or in any other discussion of a proposed diversion agreement shall be admissible as evidence in criminal proceedings on crimes charged or facts alleged in the complaint. Except for sentencing proceedings and as otherwise provided in K.S.A.

22-2909

(c), and amendments thereto, and as otherwise provided in K.S.A.

8-285

and

8-1567

, and amendments thereto, the following shall not be admissible as evidence in criminal proceedings which are resumed under K.S.A.

22-2911

: (1) Participation in a diversion program; (2) the facts of such participation; or (3) the diversion agreement entered into.

KSA 22-2911 — Failure to fulfill diversion agreement; satisfactory fulfillment; records

Failure to fulfill diversion agreement; satisfactory fulfillment; records.

(a) If the county or district attorney finds at the termination of the diversion period or any time prior to the termination of the diversion period that the defendant has failed to fulfill the terms of the specific diversion agreement, the county or district attorney shall inform the district court of such finding and the district court, after finding that the defendant has failed to fulfill the terms of the specific diversion agreement at a hearing thereon, shall resume the criminal proceedings on the complaint.

(b) If the defendant has fulfilled the terms of the diversion agreement, the district court shall dismiss with prejudice the criminal charges filed against the defendant.

(c) The county or district attorney shall forward to the Kansas bureau of investigation a record of the fact that a defendant did or did not fulfill the terms of a diversion agreement required to be filed under K.S.A.

22-2909

, and amendments thereto. Such record shall be made available upon request to any county, district or city attorney or court.

(d) The county or district attorney shall forward to the division of vehicles of the state department of revenue a record of the fact that a defendant did or did not fulfill the terms of a diversion agreement required to be filed under K.S.A.

22-2909

, and amendments thereto. Such record shall be made available to any city, county or district attorney or court.

KSA 22-2912 — District court rules for diversion procedures; K.S.A. 22-2906 through 22-2911, inapplicable; factors

District court rules for diversion procedures; K.S.A.

22-2906

through

22-2911

, inapplicable; factors.

The provisions of this act shall not be applicable in judicial districts that adopt district court rules pursuant to K.S.A.

20-342

for the administration of diversion procedures by the district court. In judicial districts where the district court adopts such rules for diversion procedures, the court in considering whether or not to allow diversion to a defendant shall consider, but is not limited to, the factors enumerated in K.S.A.

22-2908

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KSA 22-2914 — Preliminary examination; certain business records

Preliminary examination; certain business records.

(a) At any preliminary examination pursuant to K.S.A.

22-2902

, and amendments thereto, in which business records that have been obtained pursuant to K.S.A.

17-12a602

, and amendments thereto, are to be introduced as evidence, the business records shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

KSA 22-3001 — Grand juries; summoning; petition; jury instructions; membership; quorum

Grand juries; summoning; petition; jury instructions; membership; quorum.

(a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may petition the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation, if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law. The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) (A) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of _____ and state of Kansas hereby request that the district court of _____ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

(B) (i) The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true.

(ii) The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election.

(iii) The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned. If a grand jury is not summoned because of a finding that the petition, substantially in the form required by this subsection on its face, is not in proper form, the person who filed the petition and whose name, address and phone number appear on the face of each petition shall have the right to appeal the decision to not summon a grand jury as a final judgment pursuant to K.S.A.

22-3601

, and amendments thereto.

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens' petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would warrant a true bill of indictment). You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

(G) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn, qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors. In the case of grand juries impaneled pursuant to subsection (c), the judge or judges ordering the grand jury shall allow the person that filed the petition under the provisions of subsection (c)(2), and such person's attorney, to witness the instructions to the grand jury regarding its conduct and deliberations pursuant to subsection (c)(4).

KSA 22-3002 — Objections; second drawing

Objections; second drawing.

(a) The prosecuting attorney may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges by the state shall be made before the administration of the oath to the jurors and shall be tried by the court.

(b) A motion to dismiss the indictment made by the defendant may be based on objections to the array or on the lack of legal qualification of an individual juror. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to K.S.A.

22-3004

, and amendments thereto, that 12 or more jurors, after deducting the jurors not legally qualified, concurred in finding the indictment.

(c) After the prosecutor has conducted an examination of the prospective grand jurors under this section, a list of all remaining legally qualified grand jurors shall be approved by the court and submitted to the clerk of the court of such

county for a second drawing of grand juror names pursuant to K.S.A.

43-107

, and amendments thereto.

KSA 22-3003 — Oaths of jurors

Oaths of jurors.

(a) An oath or affirmation shall be administered to the presiding juror of the grand jury, in substance as follows:

"You, as presiding juror of the grand jury, shall diligently inquire, and true presentment make, of all public offenses against the laws of this state cognizable by this court, committed or triable within this county, of which you have or can obtain legal evidence. You shall present no person through malice, hatred or ill will, nor leave any unpresented through fear, favor or affection, or for any reward or the promise of hope thereof, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

(b) Other members of the grand jury shall be administered the following oath:

"The same oath or affirmation, which your presiding juror has taken now before you on the presiding juror's part, you and each of you shall well and truly observe on your part."

KSA 22-3004 — Presiding juror and deputy presiding juror

Presiding juror and deputy presiding juror.

(a) The court shall appoint one of the jurors to be presiding juror and another to be deputy presiding juror.

(b) The presiding juror shall have power to administer oaths and affirmations and shall sign all indictments.

(c) The presiding juror or another juror designated by the presiding juror shall keep a record of the name of each juror concurring in the finding of every indictment and shall file the record with the clerk of the court, but the record shall not be made public except on order of the court.

(d) During the absence of the presiding juror, the deputy presiding juror shall act as presiding juror.

KSA 22-3005 — Charge by the court

Charge by the court.

(a) When a grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In so doing, the judge shall give the grand jurors such information as the judge deems proper and as is required by law, as to their duties, and as to any charges of crimes known to the court and likely to come before the grand jury.

(b) When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the crimes cognizable by it.

KSA 22-3006 — Compensation; recording methods; employees

Compensation; recording methods; employees.

(a) Persons summoned for service as grand jurors shall be compensated for their service and expenses at the rates provided by law for the compensation of petit jurors in the district court. Such compensation shall be paid from the general fund of the county.

(b) All proceedings before the grand jury, including all testimony, shall be recorded. The grand jury shall select the method of recording and may employ a certified shorthand reporter who shall make a stenographic record of all proceedings. The compensation of the reporter shall be fixed by the district court and paid from the general fund of the county. The grand jury may also elect to record the proceedings utilizing a digital recording system maintained by the court, if such system is available.

(c) The grand jury may, with the approval of the district court, employ investigators and, except in the case of grand juries impaneled pursuant to K.S.A.

22-3001

(b), and amendments thereto, employ special counsel. The grand jury may also incur other expenses for services and supplies as it and the district court may deem necessary. Compensation for such services and supplies shall be fixed by the district court and shall be paid from the general fund of the county. Any special counsel or investigator employed by

the grand jury shall be selected by majority vote of such grand jury only after hearing testimony from the person filing the petition pursuant to K.S.A.

22-3001

, and amendments thereto. Subject to the provisions of this section, the grand jury shall have all authority to investigate any concerns associated with such petition.

KSA 22-3007 — Duty of prosecuting attorney

Duty of prosecuting attorney.

(a) In the case of grand juries impaneled pursuant to subsection (a) or (c) of K.S.A.

22-3001

, and amendments thereto, the prosecuting attorney shall:

(1) When requested by any grand jury, attend sessions thereof for the purpose of examining witnesses or giving the grand jury advice upon any legal matter; and

(2) upon such attorney's request, be permitted to appear before the grand jury for the purpose of giving information relative to any matter cognizable by the grand jury, and may be permitted to interrogate witnesses if the grand jury deems it necessary.

(b) In the case of grand juries impaneled pursuant to subsection (b) of K.S.A.

22-3001

, and amendments thereto, the prosecuting attorney shall:

(1) Attend all sessions thereof and inform the grand jury of all offenses liable to indictment and evidence of which will be presented to them for consideration;

(2) present witnesses and examine such witnesses on all matters to be considered by the grand jury; and

(3) give the grand jury advice upon all questions related to the proper discharge of their duties.

KSA 22-3008 — Witnesses; immunity

Witnesses; immunity.

(a) Whenever required by any grand jury, its presiding juror or the prosecuting attorney, the clerk of the court in which the jury is impaneled shall issue subpoenas and other process to bring witnesses to testify before the grand jury. The person who filed the petition pursuant to K.S.A.

22-3001

, and amendments thereto, shall be the first witness called by the grand jury for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(b) If any witness duly summoned to appear and testify before a grand jury fails or refuses to obey, compulsory process shall be issued to enforce the witness' attendance, and the court may punish the delinquent in the same manner and upon the same proceedings as provided by law for disobedience of a subpoena issued out of the court in other cases.

(c) If any witness appearing before a grand jury refuses to testify or to answer any questions asked in the course of the witness' examination, the fact shall be communicated to a district judge of the judicial district in writing, on which the question refused to be answered shall be stated. The judge shall then determine whether the witness is bound to answer or not, and the grand jury shall be immediately informed of the decision.

(d) No witness before a grand jury shall be required to incriminate the witness' self.

(e) (1) The county or district attorney, or the attorney general, at any time, on behalf of the state, and the district judge, upon determination that the interest of justice requires, and after giving notice to the prosecuting attorney and hearing the prosecuting attorney's recommendations on the matter, may grant in writing to any person:

(A) Transactional immunity. Any person granted transactional immunity shall not be prosecuted for any crime which has been committed for which such immunity is granted or for any other transactions arising out of the same incident.

(B) Use and derivative immunity. Any person granted use and derivative use immunity may be prosecuted for any crime, but the state shall not use any testimony against such person provided under a grant of such immunity or any evidence

derived from such testimony. Any defendant may file with the court a motion to suppress in writing to prevent the state from using evidence on the grounds that the evidence was derived from and obtained against the defendant as a result of testimony or statements made under such grant of immunity. The motion shall state facts supporting the allegations. Upon a hearing on such motion, the state shall have the burden to prove by clear and convincing evidence that the evidence was obtained independently and from a collateral source.

(2) Any person granted immunity under either or both of subsections (e)(1)(A) or (e)(1)(B) may not refuse to testify on grounds that such testimony may self incriminate unless such testimony may form the basis for a violation of federal law for which immunity under federal law has not been conferred. No person shall be compelled to testify in any proceeding where the person is a defendant.

(3) No immunity shall be granted for perjury as provided in K.S.A.

21-5903

, and amendments thereto, which was committed in giving such evidence.

(f) If the judge determines that the witness must answer and if the witness persists in refusing to answer, the witness shall be brought before the judge, who shall proceed in the same manner as if the witness had been interrogated and had refused to answer in open court.

(g) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

KSA 22-3009 — Counsel for witness

Counsel for witness.

(a) Any person called to testify before a grand jury must be informed that such person has a right to be advised by counsel and that such person shall not be required to make any statement which will incriminate such person. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, the witness shall be required to obtain other counsel within three days in order that the work of the grand jury may proceed. If such person is indigent and unable to obtain the services of counsel, the court shall appoint counsel to assist such person who shall be compensated as counsel appointed for indigent defendants in the district court.

(b) Counsel for any witness may be present while the witness is testifying and may interpose objections on behalf of the witness. Such counsel shall not be permitted to examine or cross-examine such counsel's client or any other witness before the grand jury.

KSA 22-3010 — Who may be present

Who may be present.

Prosecuting attorneys, special counsel employed by the grand jury, the witness under examination and such witness' counsel, interpreters when needed and, for the purpose of taking the evidence, the reporter for the grand jury, may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

KSA 22-3011 — Indictment, procedure; request that attorney general prosecute

Indictment, procedure; request that attorney general prosecute.

(a) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found, the presiding juror shall endorse thereon "a true bill" and shall sign the presiding juror's name as presiding juror or sign the indictment "Presiding Grand Juror."

(b) When 12 or more grand jurors do not concur in finding an indictment, the presiding juror shall certify that the indictment is "not a true bill."

(c) Indictments found by the grand jury shall be presented by its presiding juror, in the jury's presence, to the court and shall be filed and remain as records of the court.

(d) A grand jury impaneled pursuant to K.S.A.

22-3001

(c), and amendments thereto, may request that the attorney general prosecute the case arising from an indictment found by such grand jury if, in the opinion of the grand jury, the prosecuting attorney would not diligently prosecute such case. The court shall notify the attorney general of such request and the attorney general may prosecute such case.

KSA 22-3012 — Secrecy of proceedings and disclosure

Secrecy of proceedings and disclosure.

(a) Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror shall be made to the prosecuting attorney for use in the performance of such attorney's duties.

(b) Otherwise a juror, attorney, interpreter, reporter or any typist who transcribes recorded testimony shall not disclose matters occurring before the grand jury except, upon court order:

(1) The testimony of a witness before the grand jury may be disclosed to a defendant to determine whether it is consistent with testimony given before the court, but only upon a showing of good cause;

(2) evidentiary materials presented to one grand jury may be disclosed to a succeeding grand jury; and

(3) grand jury testimony by a defendant may be disclosed to such defendant, but only in the criminal action resulting from such testimony.

(c) No obligation of secrecy may be imposed upon any person except in accordance with this section. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

KSA 22-3013 — Discharge and excuse

Discharge and excuse.

(a) A grand jury impaneled pursuant to subsection (a) or (c) of K.S.A.

22-3001

, and amendments thereto, shall serve until it shall advise the court in writing that it has completed its investigation, but no such grand jury shall serve for more than three months unless extended by order of the district court. The district court may, before the expiration of the tenure of such grand jury, make an order extending such grand jury for an additional period of not to exceed three months if the court finds that an investigation begun by such grand jury cannot be completed within the initial three months period and that the public interest requires the continuation of such grand jury.

(b) A grand jury impaneled pursuant to subsection (b) of K.S.A.

22-3001

, and amendments thereto, shall serve for a period of six months. The district court may, before the expiration of the tenure of such grand jury, make an order extending such grand jury for an additional period of not to exceed six months upon good cause shown by such grand jury.

(c) At any time for cause shown the court may excuse a juror either temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

KSA 22-3014 — Witness fees

Witness fees.

(a) Witnesses attending a grand jury in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court.

(b) Such witness fees shall be paid from the general fund of the county upon a certificate of attendance signed by the presiding juror of the grand jury.

KSA 22-3015 — Amendment of indictment

Amendment of indictment.

(a)

Matters of form, time, place, names.

At any time before or during trial, the court may, upon application of the prosecuting attorney and with notice to the defendant and opportunity for the defendant to be heard, order the amendment of an indictment with respect to defects, errors or variances from the proof relating to matters of form, time, place and names of persons when such amendment does not change the substance of the charge, and does not prejudice the defendant on the merits. Upon ordering an amendment, the court, for good cause shown, may grant a continuance to provide the defendant adequate opportunity to prepare a defense.

(b)

Prohibition as to matters of substance, exception.

(1) An indictment shall not be amended as to the substance of the offense charged, except as provided further.

(2) The court may, upon application of the prosecuting attorney and with notice to the defendant and opportunity for the defendant to be heard, order the substance of an indictment to be amended for the limited purpose of effecting a change of plea by the defendant pursuant to a plea agreement reached between the defendant and the prosecuting attorney. The provisions of this paragraph shall apply only to an indictment found by a grand jury impaneled pursuant to K.S.A.

22-3001

(a) or (b), and amendments thereto, and shall not apply to an indictment found by a grand jury impaneled pursuant to K.S.A.

22-3001

(c), and amendments thereto.

(c) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

KSA 22-3016 — Removal of judge

Removal of judge.

(a) Upon a majority vote of the grand jury, the grand jury may seek the removal of the assigned judge pursuant to K.S.A.

20-311d

, and amendments thereto.

(b) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

KSA 22-3101 — Inquisitions; witnesses

Inquisitions; witnesses.

(1) If the attorney general, an assistant attorney general, the county attorney or the district attorney of any county is informed or has knowledge of any alleged violation of the laws of Kansas, such person may apply to a district judge to conduct an inquisition. An application for an inquisition shall be in writing, verified under oath, setting forth the alleged violation of law. Upon the filing of the application, the judge with whom it is filed, on the written praecipe of such attorney, shall issue a subpoena for the witnesses named in such praecipe commanding them to appear and testify concerning the matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court.

(2) If the attorney general, assistant attorney general, county attorney or district attorney, or in the absence of the county or district attorney a designated assistant county or district attorney, is informed or has knowledge of any alleged violation in this state pertaining to terrorism, illegal use of weapons of mass destruction, gambling, intoxicating liquors, criminal syndicalism, racketeering, bribery, tampering with a sports contest, narcotic or dangerous drugs or any violation of any law where the accused is a fugitive from justice, such attorney shall be authorized to issue subpoenas for such persons as such attorney has any reason to believe or has any information relating thereto or knowledge thereof, to appear before such attorney at a time and place to be designated in the subpoena and testify concerning any such violation. For such purposes, any prosecuting attorney shall be authorized to administer oaths. If an assistant county or district attorney is designated by the county or district attorney for the purposes of this subsection, such designation shall be filed with the chief judge of such judicial district.

(3) Each witness shall be sworn to make true answers to all questions propounded to such witness touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys a subpoena issued for such appearance or refuses to be sworn as a witness or answer any proper question propounded during the inquisition, may be adjudged in contempt of court and punished by fine and imprisonment.

KSA 22-3102 — Privilege against self-incrimination; grants of immunity

Privilege against self-incrimination; grants of immunity.

(a) No person called as a witness at an inquisition shall be required to make any statement which will incriminate such person.

(b) The county or district attorney, or the attorney general, may at any time, on behalf of the state, grant in writing to any person:

(1) Transactional immunity. Any person granted transactional immunity shall not be prosecuted for any crime which has been committed for which such immunity is granted or for any other transactions arising out of the same incident.

(2) Use and derivative immunity. Any person granted use and derivative use immunity may be prosecuted for any crime, but the state shall not use any testimony against such person provided under a grant of such immunity or any evidence derived from such testimony. Any defendant may file with the court a motion to suppress in writing to prevent the state from using evidence on the grounds that the evidence was derived from and obtained against the defendant as a result of testimony or statements made under such grant of immunity. The motion shall state facts supporting the allegations. Upon a hearing on such motion, the state shall have the burden to prove by clear and convincing evidence that the evidence was obtained independently and from a collateral source.

(c) Any person granted immunity under either or both subsections (b)(1) or (2) may not refuse to testify on grounds that such testimony may self incriminate unless such testimony may form the basis for a violation of federal law for which immunity under federal law has not been conferred. No person shall be compelled to testify in any proceeding where the person is a defendant.

(d) No immunity shall be granted for perjury as provided in K.S.A.

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, and amendments thereto, which was committed in giving such evidence.

KSA 22-3103 — Use of testimony

Use of testimony.

If the testimony taken at an inquisition discloses probable cause to believe that a crime has been committed within the county, the attorney general, assistant attorney general or county attorney may file such testimony, together with his complaint or information, verified on information and belief, against the person or persons alleged to have committed the crime. The complaint and the testimony filed therewith shall have the same effect as if the complaint or information had been verified positively and a warrant shall there upon be issued for the arrest of such person or persons as in other criminal cases.

KSA 22-3104 — Counsel for witness

Counsel for witness.

(1) Any person called to testify at an inquisition must be informed that he has a right to be advised by counsel and that he may not be required to make any statement which will incriminate him. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, he shall be required to obtain other counsel within three (3) days in order that the inquisition may proceed. If such person is indigent and unable to obtain the services of counsel, the judge shall appoint counsel to assist him who shall be compensated as counsel appointed for indigent defendants in the district court.

(2) Counsel for any witness shall be present while the witness is testifying and may interpose objections on behalf of the witness. He shall not be permitted to examine or cross-examine his client or any other witness at the inquisition.

KSA 22-3105 — Witness fees

Witness fees.

Witnesses attending an inquisition in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court; such fees are to be paid by the county in which the inquisition is held upon a certificate of attendance signed by the judge before whom the witness has appeared.

KSA 22-3201 — Complaint; information or indictment; required contents; amendment; bill of particulars; identification of certain witnesses

Complaint; information or indictment; required contents; amendment; bill of particulars; identification of certain witnesses.

(a) Prosecutions in the district court shall be upon complaint, indictment or information.

(b) The complaint, information or indictment shall be a plain and concise written statement of the essential facts constituting the crime charged, which complaint, information or indictment, drawn in the language of the statute, shall be deemed sufficient. The precise time of the commission of an offense need not be stated in the indictment or information; but it is sufficient if shown to have been within the statute of limitations, except where the time is an indispensable ingredient in the offense. An indictment shall be signed by the presiding juror of the grand jury. An information shall be signed by the county attorney, the attorney general or any legally appointed assistant or deputy of either. A complaint shall be signed by some person with knowledge of the facts. Allegations made in one count may be incorporated by reference in another count. The complaint, information or indictment shall state for each count the official or customary citation of the statute, rule and regulation or other provision of law which the defendant is alleged to have violated. Error in the citation or its omission shall be not ground for dismissal of the complaint, information or indictment or for reversal of a conviction if the error or omission did not prejudice the defendant.

(c) When relevant, the complaint, information or indictment shall also allege facts sufficient to constitute a crime or specific crime subcategory in the crime seriousness scale.

(d) The court may strike surplusage from the complaint, information or indictment.

(e) The court may permit a complaint or information to be amended at any time before verdict or finding if no additional or different crime is charged and if substantial rights of the defendant are not prejudiced.

(f) When a complaint, information or indictment charges a crime but fails to specify the particulars of the crime sufficiently to enable the defendant to prepare a defense the court may, on written motion of the defendant, require the prosecuting attorney to furnish the defendant with a bill of particulars. At the trial the state's evidence shall be confined to the particulars of the bill.

(g) Except as otherwise provided, the prosecuting attorney shall endorse the names of all witnesses known to the prosecuting attorney upon the complaint, information and indictment at the time of filing it. Except as otherwise provided, the prosecuting attorney may endorse on it the names of other witnesses that may afterward become known to the prosecuting attorney, at times that the court may by rule or otherwise prescribe. If any witness is to testify and the prosecuting attorney believes the witness who has provided information is in danger of intimidation or retaliation, the prosecuting attorney may delay identifying such informant witness until such informant witness actually testifies but in no event shall identification of a witness be delayed beyond arraignment without further order of the court after hearing and an opportunity of the defendant to be heard.

KSA 22-3202 — Joinder of charges and defendants

Joinder of charges and defendants.

(1) Two or more crimes may be charged against a defendant in the same complaint, information or indictment in a separate count for each crime if the crimes charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(2) When a felony and misdemeanor are joined as separate counts in the same complaint, both of such counts shall be tried together in the trial for which the defendant is bound over on the felony count. If the defendant is not bound over on the felony count, said defendant shall be tried on the misdemeanor count in the same manner as other prosecutions for misdemeanors.

(3) Two or more defendants may be charged in the same complaint, information or indictment if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting the crime or crimes. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be

charged in each count.

KSA 22-3203 — Consolidation for trial of separate indictments or informations

Consolidation for trial of separate indictments or informations.

The court may order two or more complaints, informations or indictments against a single defendant to be tried together if the crimes could have been joined in a single complaint, information or indictment.

KSA 22-3204 — Joinder of defendants; separate trials

Joinder of defendants; separate trials.

When two or more defendants are jointly charged with any crime, the court may order a separate trial for any one defendant when requested by such defendant or by the prosecuting attorney.

KSA 22-3205 — Arraignment

Arraignment.

(a) Arraignment shall be conducted in open court and shall consist of reading the complaint, information or indictment to the defendant or stating to the defendant the substance of the charge and calling upon the defendant to plead thereto. The defendant shall be given a copy of the indictment or information before the defendant is called upon to plead. Except as provided in subsection (b), if the crime charged is a felony, the defendant must be personally present for arraignment; if a misdemeanor, with the approval of the court, the defendant may appear by counsel. The court may direct any officer who has custody of the defendant to bring the defendant before the court to be arraigned.

(b) Arraignment may be conducted by two-way electronic audio-video communication between the defendant and the judge in lieu of personal presence of the defendant or the defendant's counsel in the courtroom in the discretion of the court. The defendant may be accompanied by the defendant's counsel during such arraignment. The defendant shall be informed of the defendant's right to be personally present in the courtroom during arraignment. Exercising the right to be present shall in no way prejudice the defendant.

(c) The court shall ensure that the defendant has been processed and fingerprinted pursuant to K.S.A.

21-2501

, and

21-2501a

and amendments thereto.

KSA 22-3206 — Time of arraignment

Time of arraignment.

(1) A defendant charged with a felony in an information shall appear for arraignment upon such information in the district court not later than the next required day of court after the order of the magistrate binding over the defendant for trial, unless a later time is requested or consented to by the defendant and approved by the court or unless continued by order of the court.

(2) A defendant charged with a felony in an indictment shall appear for arraignment upon such indictment in the district court not later than the next required day of court after arrest upon a warrant issued on the indictment, unless a later time is requested or consented to by the defendant and approved by the court or unless continued by order of the court.

(3) If the preliminary examination is waived, arraignment shall be conducted at the time originally scheduled for the preliminary examination if a judge of the district court is available, subject to assignment pursuant to K.S.A.

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, and amendments thereto, to conduct the arraignment.

(4) The district judges in every judicial district shall provide by order for one or more required days of court each month in each county of the district, at which time a district judge will be personally present at the courthouse for the purpose of conducting arraignments.

KSA 22-3207 — Misnomer

Misnomer.

(1) If a defendant be charged or prosecuted by a wrong name, unless he declare his true name before pleading he shall be proceeded against by the name in the complaint, information or indictment.

(2) If the defendant states that another name is his true name, it shall be entered on the minutes of the court; and the subsequent proceedings on the complaint, information or indictment may be had against him by that name.

KSA 22-3208 — Pleadings and motions

Pleadings and motions.

(1) Pleadings in criminal proceedings shall be the complaint, information or indictment, the bill of particulars when ordered, and the pleas of not guilty, guilty or with the consent of the court, nolo contendere. All other pleas, demurrers and motions to quash are abolished and defenses and objections raised before trial which heretofore could have been raised by one or more of them shall be raised only by motion to dismiss or to grant appropriate relief.

(2) Any defense or objection which is capable of determination without the trial of the general issue may be raised before trial by motion.

(3) Defenses and objections based on defects in the institution of the prosecution or in the complaint, information or indictment other than that it fails to show jurisdiction in the court or to charge a crime may be raised only by motion before trial. The motion shall include all such defenses and objections then available to the defendant. Failure to present any such defense or objection as herein provided constitutes a waiver thereof, but the court for cause shown may grant relief from the waiver. Lack of jurisdiction or the failure of the complaint, information or indictment to charge a crime shall be noticed by the court at any time during the pendency of the proceeding.

(4) The motion to dismiss shall be made at any time prior to arraignment or within 21 days after the plea is entered. The period for filing such motion may be enlarged by the court when it shall find that the grounds therefor were not known to the defendant and could not with reasonable diligence have been discovered by the defendant within the period specified herein. A plea of guilty or a consent to trial upon a complaint, information or indictment shall constitute a waiver of defenses and objections based upon the institution of the prosecution or defects in the complaint, information or indictment other than it fails to show jurisdiction in the court or to charge a crime.

(5) A motion before trial raising defenses or objections to prosecution shall be determined before trial unless the court orders that it be deferred for determination at the trial.

(6) If a motion is determined adversely to the defendant, such defendant shall then plead if such defendant had not previously pleaded. A plea previously entered shall stand. If the court grants a motion based on a defect in the institution of the prosecution or in the complaint, information or indictment, it may also order that the defendant be held in custody or that the defendant's appearance bond be continued for a specified time not exceeding one day pending the filing of a new complaint, information or indictment.

(7) Any hearing conducted by the court to determine the merits of any motion may be conducted by two-way electronic audio-video communication between the defendant and defendant's counsel in lieu of personal presence of the defendant and defendant's counsel in the courtroom in the discretion of the court. The defendant shall be informed of the defendant's right to be personally present in the courtroom during such hearing if the defendant so requests. Exercising the right to be present shall in no way prejudice the defendant.

KSA 22-3209 — Pleas; effect

Pleas; effect.

(1) A plea of guilty is admission of the truth of the charge and every material fact alleged therein.

(2) A plea of nolo contendere is a formal declaration that the defendant does not contest the charge. When a plea of nolo contendere is accepted by the court, a finding of guilty may be adjudged thereon. The plea cannot be used against the defendant as an admission in any other action based on the same act.

(3) A plea of not guilty denies and puts in issue every material fact alleged in the charge.

(4) If a defendant refuses to plead or if a defendant corporation fails to appear, the court shall enter a plea of not guilty on behalf of the defendant.

KSA 22-3210 — Plea of guilty or nolo contendere; time limitation

Plea of guilty or nolo contendere; time limitation.

(a) Before or during trial a plea of guilty or nolo contendere may be accepted when:

(1) The defendant or counsel for the defendant enters such plea in open court; and

(2) in felony cases the court has informed the defendant of the consequences of the plea, including the specific sentencing guidelines level of any crime committed on or after July 1, 1993, and of the maximum penalty provided by law which may be imposed upon acceptance of such plea; and

(3) in felony cases the court has addressed the defendant personally and determined that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea; and

(4) the court is satisfied that there is a factual basis for the plea.

(b) In felony cases the defendant must appear and plead personally and a verbatim record of all proceedings at the plea and entry of judgment thereon shall be made.

(c) In traffic infraction, cigarette or tobacco infraction and misdemeanor cases the court may allow the defendant to appear and plead by counsel.

(d) (1) A plea of guilty or nolo contendere, for good cause shown and within the discretion of the court, may be withdrawn at any time before sentence is adjudged.

(2) To correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.

(e) (1) Any action under subsection (d)(2) must be brought within one year of: (A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or (B) the denial of a petition for a writ of certiorari to the United States supreme court or issuance of such court's final order following the granting of such petition.

(2) The time limitation herein may be extended by the court only upon an additional, affirmative showing of excusable neglect by the defendant.

KSA 22-3211 — Depositions

Depositions.

(1) If it appears that a prospective witness may be unable to attend or prevented from attending a trial or hearing, that the witness' testimony is material and that it is necessary to take the witness' deposition in order to prevent a failure of justice, the court at any time after the filing of a complaint or indictment may upon motion of a defendant and notice to the parties order that the witness' testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

(2) If a witness is committed for failure to give bond to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may order that the witness' deposition be taken. After the deposition has been subscribed the court may discharge the witness.

(3) The prosecuting attorney may apply to the court for an order authorizing the prosecuting attorney to take the deposition of any witness for any of the reasons and subject to the limitations stated in subsection (1). Upon the filing of such application, the court shall set the matter for hearing and shall order the defendant to be present at such hearing. If, upon hearing, the court determines that a prospective witness may be unable to attend or prevented from attending a trial or hearing, that the witness' testimony is material and that it is necessary to prevent a failure of justice, the court may authorize the prosecuting attorney to take the deposition of the witness.

(4) If the crime charged is a felony, the prosecuting attorney may apply to the court for an order authorizing the prosecuting attorney to take the deposition of any essential witness. Upon the filing of such application, the court shall set the matter for hearing and shall order the defendant to be present at such hearing. If, upon hearing, the court determines that the witness is an essential witness, the court shall authorize the prosecuting attorney to take the deposition of the witness in the county where the complaint or indictment has been filed. Upon application, the court may order that a deposition taken pursuant to this subsection be videotaped.

(5) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time.

(6) A deposition shall be taken in the manner provided in civil actions. The court, upon request of the defendant, may direct that a deposition be taken on written interrogatories in the manner provided in civil actions.

(7) Whenever the court authorizes the taking of a deposition, other than a deposition upon written interrogatories, the court shall make a concurrent order requiring that the defendant be present when the deposition is taken. If it appears that the presence of the defendant may be coercive to the witness whose deposition is to be taken, the court shall order that the deposition be taken before a judge.

(8) At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears that:

(a) The witness is dead;

(b) the witness is out of the state and the witness' appearance cannot be obtained, unless it appears that the absence of the witness was procured by the party offering the deposition;

(c) the witness is unable to attend or testify because of sickness or infirmity; or

(d) the party offering the deposition has been unable to procure the attendance of the witness by subpoena or other process.

Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require the offering party to offer all of it which is relevant to the part offered, and any party may offer other parts.

(9) Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions.

(10) As used in this section, "essential witness" means a prospective witness in the prosecution of a felony who is an eyewitness to the felony or without whose testimony a conviction could not be obtained because the testimony would establish an element of the felony that cannot be proven in any other manner.

KSA 22-3212 — Discovery and inspection

Discovery and inspection.

(a) Upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph the following, if relevant: (1) Written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (2) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (3) recorded testimony of the defendant before a grand jury or at an inquisition; and (4) memoranda of any oral confession made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.

(b) (1) Except as provided in subsection (l), upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies, or portions thereof, which are or have been within the possession, custody or control of the prosecution, and which are material to the case and will not place an unreasonable burden upon the prosecution.

(2) The prosecuting attorney shall also provide a summary or written report of what any expert witness intends to testify to on direct examination, including the witness' qualifications and the witness' opinions, at a reasonable time prior to trial by agreement of the parties or by order of the court.

(3) Except as provided in subsections (a)(2) and (a)(4), and as otherwise provided by law, this section does not authorize the discovery or inspection of reports, memoranda or other internal government documents made by officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses, other than the defendant.

(4) Except as provided in subsection (g), this section does not require the prosecuting attorney to provide unredacted vehicle identification numbers or personal identifiers of persons mentioned in such books, papers or documents.

(5) As used in this subsection, personal identifiers include, but are not limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses and personal telephone numbers of any victims or material witnesses.

(6) If the prosecuting attorney does provide the defendant's counsel with unredacted vehicle identification numbers or personal identifiers, the defendant's counsel shall not further disclose the unredacted numbers or identifiers to the defendant or any other person, directly or indirectly, except as authorized by order of the court.

(7) If the prosecuting attorney provides books, papers or documents to the defendant's counsel with vehicle identification numbers or personal identifiers redacted by the prosecuting attorney, the prosecuting attorney shall provide notice to the defendant's counsel that such books, papers or documents had such numbers or identifiers redacted by the prosecuting attorney.

(8) Any redaction of vehicle identification numbers or personal identifiers by the prosecuting attorney shall be by alteration or truncation of such numbers or identifiers and shall not be by removal.

(c) If the defense seeks discovery and inspection under subsection (a)(2) or subsection (b), the defense shall:

(1) Permit the attorney for the prosecution to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defense intends to produce at any hearing, are material to the case and will not place an unreasonable burden on the defense; and

(2) provide for the attorney for the prosecution a summary or written report of what any expert witness intends to testify, including the witness' qualifications and the witness' opinions, at a reasonable time prior to trial by agreement of the parties or by order of the court.

(d) Except as to scientific or medical reports, subsection (c) does not authorize the discovery or inspection of reports, memoranda or other internal defense documents made by the defendant, or the defendant's attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by prosecution or defense witnesses, or by prospective prosecution or defense witnesses, to the defendant, the defendant's agents or attorneys.

(e) All disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, such disclosures shall be made as provided in this section.

(f) The prosecuting attorney and the defense shall cooperate in discovery and reach agreement on the time, place and manner of making the discovery and inspection permitted, so as to avoid the necessity for court intervention.

(g) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted, enlarged or deferred or make such other order as is appropriate. Upon motion, the court may permit either party to make such showing, in whole or in part, in the form of a written statement to be inspected privately by the court. If the court enters an order granting relief following such a private showing, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(h) Discovery under this section must be completed no later than 21 days after arraignment or at such reasonable later time as the court may permit.

(i) If, subsequent to compliance with an order issued pursuant to this section, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under this section, the party shall promptly notify the other party or the party's attorney or the court of the existence of the additional material. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this section or with an order issued pursuant to this section, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

(j) For crimes committed on or after July 1, 1993, the prosecuting attorney shall provide all prior convictions of the defendant known to the prosecuting attorney that would affect the determination of the defendant's criminal history for purposes of sentencing under a presumptive sentencing guidelines system as provided in K.S.A.

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et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(k) The prosecuting attorney and defense shall be permitted to inspect and copy any juvenile files and records of the defendant for the purpose of discovering and verifying the criminal history of the defendant.

(l) (1) In any criminal proceeding, any property or material that constitutes a visual depiction, as defined in subsection (a)(2) of K.S.A.

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, and amendments thereto, shall remain in the care, custody and control of either the prosecution, law enforcement or the court.

(2) Notwithstanding subsection (b), if the state makes property or material described in this subsection reasonably available to the defense, the court shall deny any request by the defense to copy, photograph, duplicate or otherwise reproduce any such property or material submitted as evidence.

(3) For the purpose of this subsection, property or material described in this subsection shall be deemed to be reasonably available to the defense if the prosecution provides ample and liberal opportunity for inspection, viewing and examination of such property or material at a government facility, whether inside or outside the state of Kansas, by the defendant, the defendant's attorney and any individual the defendant may seek to qualify to furnish expert testimony at trial.

KSA 22-3213 — Demands for production of statements and reports of witnesses

Demands for production of statements and reports of witnesses.

(a) In any criminal prosecution brought by the state of Kansas, no statement or report in the possession of the prosecution which was made by a state witness or prospective state witness, other than the defendant, shall be the subject of subpoena, discovery or inspection until such witness has testified on direct examination at the preliminary hearing or in the trial of the case.

(b) After a witness called by the state has testified on direct examination, the court shall, on motion of the defendant, order the prosecution to produce any statement, as defined in subsection (d), of the witness in the possession of the prosecution which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defense for examination and use by the defense.

(c) If the prosecution claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the prosecution to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defense for use by the defense. If, pursuant to such procedure, any portion of such statement is withheld from the defense and the defense objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the prosecution and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defense pursuant to this section, the court in its discretion, upon application of the defense, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by the defense and preparation for its use in the trial.

(d) The term "statement," as used in subsections (b) and (c) in relation to any witness called by the prosecution means:

(1) A written statement made by such witness and signed or otherwise adopted or approved by such witness; or

(2) a stenographic, mechanical, electrical or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by such witness and recorded contemporaneously with the making of such oral statement.

KSA 22-3214 — Subpoenas

Subpoenas.

(1) The prosecution and any person charged with a crime shall be entitled to the use of subpoenas and other compulsory process to obtain the attendance of witnesses. Except as otherwise provided by law, such subpoenas and other compulsory process shall be issued and served in the same manner and the disobedience thereof punished the same as in civil cases.

(2) All courts having criminal jurisdiction shall have the power to compel the attendance of witnesses from any county in the state to testify either for the prosecution or for the defendant and to direct law enforcement officers to serve subpoenas to obtain the attendance of witnesses at all proceedings conducted by the court anytime after the arrest of any person.

(3) It shall not be necessary to tender any fee or mileage allowance to any witness when he is served with a subpoena to attend any criminal case and give testimony either on behalf of the prosecution or the defendant.

KSA 22-3215 — Motion to suppress confession or admission

Motion to suppress confession or admission.

(1) Prior to the preliminary examination or trial a defendant may move to suppress as evidence any confession or admission given by him on the ground that it is not admissible as evidence.

(2) The motion shall be in writing and shall allege the grounds upon which it is claimed that the confession or admission is not admissible as evidence.

(3) If the motion alleges grounds which, if proved, would show the confession or admission not to be admissible the court shall conduct a hearing into the merits of the motion.

(4) The burden of proving that a confession or admission is admissible shall be on the prosecution.

(5) The issue of the admissibility of the confession or admission shall not be submitted to the jury. The circumstances surrounding the making of the confession or admission may be submitted to the jury as bearing upon the credibility or the weight to be given to the confession or admission.

(6) The motion shall be made before preliminary examination or trial, unless opportunity therefor did not exist or the defendant was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the preliminary examination or the trial.

KSA 22-3216 — Motion to suppress illegally seized evidence

Motion to suppress illegally seized evidence.

(1) Prior to the trial a defendant aggrieved by an unlawful search and seizure may move for the return of property and to suppress as evidence anything so obtained.

(2) The motion shall be in writing and state facts showing wherein the search and seizure were unlawful. The judge shall receive evidence on any issue of fact necessary to determine the motion and the burden of proving that the search and seizure were lawful shall be on the prosecution. If the motion is granted then at the final conclusion of the case, the court shall order the suppressed evidence restored to the party entitled thereto, unless it is otherwise subject to lawful detention.

(3) The motion shall be made before trial, in the court having jurisdiction to try the case, unless opportunity therefor did not exist or the defendant was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial.

(4) A motion to suppress illegally seized evidence may be made before or during a preliminary examination. If the motion is granted the suppressed evidence shall be held subject to further order of the magistrate. If the defendant is bound over for trial, the suppressed evidence shall thereupon become subject to the orders of the district court. If the defendant is not bound over and if no further proceedings are instituted on the particular charge or involving the particular suppressed evidence within ninety (90) days after the granting of the order, then the magistrate shall order the suppressed evidence restored to the party entitled thereto, unless it is otherwise subject to lawful detention.

KSA 22-3217 — Pretrial conference

Pretrial conference.

At any time after the filing of the indictment or information the court upon motion of any party or upon its own motion may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference the court shall prepare and file a memorandum of the matters agreed upon. No admissions made by the defendant or his attorney at the conference shall be used against the defendant unless the admissions are reduced to writing and signed by the defendant and his attorney. This section shall not be invoked in the case of a defendant who is not represented by counsel.

KSA 22-3218 — Plea of alibi; notice

Plea of alibi; notice.

(1) In the trial of any criminal action where the complaint, indictment or information charges specifically the time and place of the crime alleged to have been committed, and the nature of the crime is such as necessitated the personal presence of the one who committed the crime, and the defendant proposes to offer evidence to the effect that he was at some other place at the time of the crime charged, he shall give notice in writing of that fact to the prosecuting attorney except that no such notice shall be required to allow testimony as to alibi, by the defendant himself, in his own defense. The notice shall state where defendant contends he was at the time of the crime, and shall have endorsed thereon the names of witnesses he proposes to use in support of such contention.

(2) On due application, and for good cause shown, the court may permit defendant to endorse additional names of witnesses on such notice, using the discretion with respect thereto applicable to allowing the prosecuting attorney to endorse names of additional witnesses on an information. The notice shall be served on the prosecuting attorney at least seven days before the commencement of the trial, and a copy thereof, with proof of such service, filed with the clerk of the court. For good cause shown the court may permit notice at a later date.

Within seven days after receipt of the names of defendant's proposed alibi witnesses, or within such other time as is ordered by the court, the prosecuting attorney shall file and serve upon the defendant or his counsel the names of the witnesses known to the prosecuting attorney which the state proposes to offer in rebuttal to discredit the defendant's alibi at the trial of the case. Both the defendant and the prosecuting attorney shall be under a continuing duty to disclose promptly the names of additional witnesses which come to the attention of either party subsequent to filing their respective witness lists as provided by this section so that reciprocal discovery rights are afforded both parties.

(3) In the event the time and place of the crime are not specifically stated in the complaint, indictment or information, on application of defendant that the time and place be definitely stated in order to enable him to offer evidence in support of a contention that he was not present, and upon due notice thereof, the court shall direct the prosecuting attorney either to amend the complaint or information by stating the time and place of the crime, or to file a bill of particulars to the indictment or information stating the time and place of the crime; and thereafter defendant shall give the notice above provided if he proposes to offer evidence to the effect that he was at some other place at the time of the crime charged.

(4) Unless the defendant gives the notice as above provided he shall not be permitted to offer evidence to the effect that he was at some other place at the time of the crime charged. In the event the time or place of the crime has not been specifically stated in the complaint, indictment or information, and the court directs it be amended, or a bill of particulars filed, as above provided, and the prosecuting attorney advises the court that he cannot safely do so on the facts as he has been informed concerning them; or if in the progress of the trial the evidence discloses a time or place of the crime other than alleged, but within the period of the statute of limitations applicable to the crime and within the territorial jurisdiction of the court, the action shall not abate or be discontinued for either of those reasons, but defendant may, without having given the notice above mentioned, offer evidence tending to show he was at some other place at the time of the crime.

KSA 22-3219 — Notice and procedure; mental examination

Notice and procedure; mental examination.

(1) Evidence of mental disease or defect excluding criminal responsibility is not admissible upon a trial unless the defendant serves upon the prosecuting attorney and files with the court a written notice of such defendant's intention to assert the defense that the defendant, as a result of mental disease or defect lacked the mental state required as an element of the offense charged. Such notice must be served and filed before trial and not more than 30 days after entry of the plea of not guilty to the information or indictment. For good cause shown the court may permit notice at a later date.

(2) A defendant who files a notice of intention to assert the defense that the defendant, as a result of mental disease or defect lacked the mental state required as an element of the offense charged thereby submits and consents to abide by such further orders as the court may make requiring the mental examination of the defendant and designating the place of examination and the physician or licensed psychologist by whom such examination shall be made. No order of the court respecting a mental examination shall preclude the defendant from procuring at such defendant's own expense an examination by a physician or licensed psychologist of such defendant's own choosing. A defendant requesting a mental examination pursuant to K.S.A.

22-4508

, and amendments thereto, may request a physician or licensed psychologist of such defendant's own choosing. The judge shall inquire as to the estimated cost for such examination and shall appoint the requested physician or licensed psychologist if such physician or licensed psychologist agrees to accept compensation in an amount in accordance with

the compensation standards set by the board of supervisors of panels to aid indigent defendants. A report of each mental examination of the defendant shall be filed in the court and copies thereof shall be supplied to the defendant and the prosecuting attorney.

KSA 22-3221 — Special jury question

Special jury question.

In any case in which the defense has offered substantial evidence of a mental disease or defect excluding the mental state required as an element of the offense charged, and the jury returns a verdict of "not guilty," the jury shall also answer a special question in the following form: "Do you find the defendant not guilty solely because the defendant, at the time of the alleged crime, was suffering from a mental disease or defect which rendered the defendant incapable of possessing the required criminal intent?" The provisions of this section shall be in force and take effect on and after January 1, 1996.

KSA 22-3222 — Mental examination, commitment to certain institutions

Mental examination, commitment to certain institutions.

In any case in which the defendant is found not guilty of a charged crime, and the special question under K.S.A.

22-3221

is answered in the affirmative and the defendant is also found guilty of a lesser included or otherwise charged offense, the court shall proceed in the manner authorized by K.S.A.

22-3429

et seq., and amendments thereto. The provisions of this section shall be in force and take effect on and after January 1, 1996.

KSA 22-3301 — Definitions

Definitions.

For the purpose of this article:

(a) A person is "incompetent to stand trial" when such person is charged with a crime and, because of mental illness or defect is unable:

(1) To understand the nature and purpose of the proceedings against such person; or

(2) to make or assist in making such person's defense.

(b) Whenever the words "competent," "competency," "incompetent" and "incompetency" are used without qualification in this article, they shall refer to the defendant's competency or incompetency to stand trial, as defined in subsection (a).

(c) "Appropriate state, county or private institution or facility" means a facility with sufficient resources, staffing and space to conduct the evaluation or restoration treatment of the defendant. "Appropriate state, county or private institution or facility" does not include a jail or correctional facility as a location where evaluation and restoration treatment services are provided unless the administrative head or law enforcement official in charge of the jail or correctional facility agrees that the facility has the appropriate physical and care capabilities that such services may be provided by:

(1) The state security hospital or its agent or a state hospital or its agent;

(2) a qualified mental health professional as defined in K.S.A.

59-2946

, and amendments thereto, who is qualified by training and expertise to conduct competency restoration treatment;

(3) an individual who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the behavioral sciences regulatory board; or

(4) a physician who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the state board of healing arts.

KSA 22-3302 — Proceedings to determine competency

Proceedings to determine competency.

(a) At any time after the defendant has been charged with a crime and before pronouncement of sentence, the defendant, the defendant's counsel or the prosecuting attorney may request a determination of the defendant's competency to stand trial. If, upon the request of either party or upon the judge's own knowledge and observation, the judge before whom the case is pending finds that there is reason to believe that the defendant is incompetent to stand trial, the proceedings shall be suspended and a hearing conducted to determine the competency of the defendant.

(b) If the defendant is charged with a felony, the hearing to determine the competency of the defendant shall be conducted by a district judge.

(c) (1) The court shall determine the issue of competency and may impanel a jury of six persons to assist in making the determination. The court may order a psychiatric or psychological examination of the defendant. To facilitate the examination, the court may:

(A) Order that an evaluation be completed by an appropriate state, county or private institution or facility to be conducted in person or by use of available electronic means while the defendant is in jail, at any secure location or on pretrial release;

(B) designate an appropriate state, county or private institution or facility to conduct the examination while the defendant is in jail, at any secure location or on pretrial release; or

(C) appoint a licensed physician who is qualified through training or experience or a licensed psychologist to examine the defendant and report to the court.

(2) If the court orders the defendant committed to an institution or facility for the examination, the commitment shall be for a period not to exceed 60 days from the date of admission or until the examination is completed, whichever is the shorter period of time. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

(3) Before the expiration of the 60-day evaluation period, the professional approved by the court to examine the defendant or, if the defendant is committed for inpatient examination, the chief medical officer or head of the appropriate institution or facility shall certify to the court whether the defendant is competent to stand trial.

(4) Upon notification of the court that a defendant committed for psychiatric or psychological examination under this subsection has been found competent to stand trial, the court shall order that the defendant be returned no later than seven days after receipt of the notice for proceedings under this section. If the defendant is not returned within that time, the county where the proceedings will be held shall pay the costs of maintaining the defendant at the institution or facility for the period of time the defendant remains at the institution or facility in excess of the seven-day period.

(d) If the defendant is found to be competent, the proceedings that have been suspended shall be resumed. If the proceedings were suspended before or during the preliminary examination, the judge who conducted the competency hearing may conduct a preliminary examination or, if a district magistrate judge was conducting the proceedings prior to the competency hearing, the judge who conducted the competency hearing may order the preliminary examination to be heard by a district magistrate judge.

(e) If the defendant is found to be incompetent to stand trial, the court shall proceed in accordance with K.S.A.

22-3303

, and amendments thereto.

(f) If proceedings are suspended and a hearing to determine the defendant's competency is ordered after the defendant is in jeopardy, the court may either order a recess or declare a mistrial.

(g) The defendant shall be present personally at all proceedings under this section.

KSA 22-3303 — Commitment of incompetent defendant; limitation; civil commitment proceedings; regained competency; credit for time committed; victim notification; evaluation and treatment; psychotropic medication, limitations thereon

Commitment of incompetent defendant; limitation; civil commitment proceedings; regained competency; credit for time committed; victim notification; evaluation and treatment; psychotropic medication, limitations thereon.

(a) (1) A defendant who is charged with a crime and is found to be incompetent to stand trial shall be ordered for evaluation and treatment, conducted on an outpatient or inpatient basis, by an appropriate state, county or private

institution or facility. Evaluation or restorative treatment of a defendant shall not be conducted in a jail unless the administrative head or law enforcement official in charge of the jail agrees to such evaluation or restorative treatment being conducted in such jail.

(2) An evaluation and treatment may be ordered to be conducted on an outpatient basis in person or by use of available electronic means while the defendant is in jail, at any secure location, on pretrial release or in any other appropriate setting.

(3) For a defendant charged with a misdemeanor offense, outpatient evaluation and treatment may be ordered to be conducted by an appropriate state, county or private institution or facility.

(4) For a defendant charged with a felony offense, outpatient evaluation and treatment may be ordered to be conducted by an appropriate state, county or private institution or facility.

(5) For a defendant charged with a felony offense, a commitment to the state security hospital or its agent or a state hospital or its agent may by conducted on a inpatient basis or, if the defendant meets the screening criteria established by the state security hospital, on an outpatient basis.

(6) At the commencement of outpatient treatment, the institution or facility conducting the treatment shall notify the prosecuting attorney in the county where the criminal proceeding is pending for the purpose of providing victim notification.

(b) (1) Except as provided in subsection (d), if the defendant is ordered to receive an evaluation and treatment on an outpatient basis conducted by an appropriate state, county or private institution or facility, the chief medical officer of such institution or head of such facility shall certify to the court, within 90 days after the commencement of outpatient treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. The court shall set a hearing within 21 days after certification unless exceptional circumstances warrant delay, for the purpose of determining competency.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A.

22-2802

, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of outpatient treatment, whichever occurs first. If such probability does not exist, the court shall order the prosecuting attorney where the charges are filed to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A.

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(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A.

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(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A.

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(f)(3), and amendments thereto. The other provisions of K.S.A.

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(f), and amendments thereto, shall not apply.

(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A.

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(f), and amendments thereto, shall not apply.

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A.

22-3302

, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

(5) A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(c) (1) Except as provided in subsection (d), if a defendant is ordered or met criteria to receive an evaluation and treatment on an outpatient basis conducted by the state security hospital or its agent or a state hospital or its agent, the chief medical officer shall certify to the court, within 90 days after commencement of treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A.

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, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of outpatient treatment, whichever occurs first. If such probability does not exist, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A.

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(f), and amendments thereto, shall not apply.

(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A.

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(f)(3), and amendments thereto. The other provisions of K.S.A.

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(f), and amendments thereto, shall not apply.

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A.

22-3302

, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

(5) A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(d) (1) If the defendant is ordered or met criteria to receive an evaluation and treatment on an outpatient basis and the chief medical officer of the appropriate state, county or private institution or facility determines that the defendant's mental health condition or behaviors warrant terminating outpatient treatment services and commencing evaluation and treatment on an inpatient basis, the chief medical officer of the institution or the head of the facility shall provide a report to the court within 10 days after outpatient treatment services are terminated. Such report shall certify the date that outpatient treatment was terminated and the reason inpatient evaluation and treatment services are recommended. A copy of such report shall be provided to the chief medical officer of the state security hospital. Upon receipt of such report, the court shall issue any orders or warrants required to facilitate the sheriff of the county where the charges are filed to take the defendant into custody and transport such defendant to the state security hospital or its agent or a state hospital or its agent for admission for inpatient services. The chief medical officer shall submit a report pursuant to subsection (e) as to whether the defendant has attained competency within 90 days of the defendant's admission to such hospital for inpatient evaluation and treatment.

(2) The court, prosecuting attorney where criminal charges are pending, the defense counsel for a defendant charged with a felony offense who is receiving outpatient evaluation and treatment services and the chief medical officer of any institution or the head of any facility where the defendant is receiving outpatient services shall provide requested documentation to the state security hospital or its agent or the state hospital or its agent for the purpose of managing inpatient admission.

(e) (1) If the defendant is charged with a felony offense, the court may order a defendant to receive inpatient evaluation and treatment at an appropriate state, county or private institution or facility after considering the defendant's mental condition, behaviors and the availability of outpatient evaluation and treatment options. The chief medical officer of the institution or the head of the facility shall certify to the court, within 90 days after the commencement of inpatient treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A.

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, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of inpatient treatment, whichever occurs first. If such probability does not exist, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A.

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(f)(3), and amendments thereto. The other provisions of K.S.A.

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(f), and amendments thereto, shall not apply.

(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A.

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(f)(3), and amendments thereto. The other provisions of K.S.A.

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(f), and amendments thereto, shall not apply.

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A.

22-3302

, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

(5) A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(f) (1) Notwithstanding the provisions of K.S.A.

59-29a22

, and amendments thereto, psychotropic medications may be prescribed for any defendant who is ordered or has met the criteria to receive evaluation and treatment on an inpatient or outpatient basis at an appropriate state, county or private institution or facility.

(2) Psychotropic medications shall be prescribed, ordered and administered in conformity with accepted clinical practice. Psychotropic medication shall be administered only upon the written order of a physician or upon a verbal order noted in the defendant's medical records and subsequently signed by the physician. The attending physician shall regularly review the drug regimen of each defendant under such physician's care and shall monitor any symptoms of harmful side effects.

(3) Whenever any defendant is receiving psychotropic medications that alter the defendant's mental state in such a way as to adversely affect the defendant's judgment or hamper the defendant in preparing for or participating in any hearing provided for by this section, for two days prior to and during any such hearing, the treatment institution or facility shall not administer such medication or treatment unless such medication or treatment is necessary to sustain the defendant's life or to protect the defendant or others. Prior to the hearing, a report of all psychotropic medications or other treatment that has been administered to the defendant and a copy of any written consent signed by the defendant shall be submitted to the court. Counsel for the defendant may preliminarily examine the attending physician regarding the administration of any medication to the defendant within two days of the hearing and the effect that medication may have had on the defendant's judgment or ability to prepare for or participate in the hearing. If the court determines that medication or other treatment has been administered that adversely affects the defendant's judgment or ability to prepare for or participate in the hearing, the court may grant the defendant a reasonable continuance to allow for the defendant to be better able to prepare for or participate in the hearing. The court shall order that such medication or other treatment be discontinued until the conclusion of the hearing unless the court finds that such medication or other treatment is necessary to sustain the defendant's life or to protect the defendant or others. If the court makes such a finding, the court shall order the hearing to proceed.

(4) If a defendant who is charged with a felony is receiving treatment pursuant to this section and is not deemed a present danger to self or others objects to taking any medication prescribed for the purpose of restoring the defendant to competency, the defendant's objection shall be recorded in the defendant's medical record and written notice of such objection shall be forwarded to the medical director of the treatment institution or facility or the director's designee and to the court where the criminal charges are pending. The medication may be administered over the defendant's objection

only if the court finds that:

(A) The medication is substantially unlikely to have side effects that may undermine the fairness of the trial;

(B) the medication is medically appropriate;

(C) less intrusive alternatives have been considered;

(D) the medication is necessary to advance significantly important governmental trial interests; and

(E) the administrative head or law enforcement official in charge of the jail has agreed to having the medication administered over the defendant's objection in the jail.

(5) No experimental medication shall be administered without the consent of the defendant or such defendant's legal guardian.

KSA 22-3305 — Procedure when defendant not civilly committed or to be discharged; order of discharge; request for hearing on competency; charges dismissed; statute of limitations not to run; victim notification

Procedure when defendant not civilly committed or to be discharged; order of discharge; request for hearing on competency; charges dismissed; statute of limitations not to run; victim notification.

(a) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services or the prosecuting attorney as required by K.S.A.

22-3303

, and amendments thereto, and the defendant is not committed to a treatment institution or facility as a patient, the defendant shall remain in the institution or facility where committed pursuant to K.S.A.

22-3303

, and amendments thereto. The secretary for aging and disability services or the prosecuting attorney shall promptly notify the court and the prosecuting attorney of the county where the criminal proceedings are pending for the purpose of providing victim notification, of the result of the involuntary commitment proceeding.

(b) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services or the prosecuting attorney as required by K.S.A.

22-3303

, and amendments thereto, and the defendant is committed to a treatment institution or facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution or facility where committed pursuant to K.S.A.

22-3303

, and amendments thereto, and the head of the treatment institution or facility shall promptly notify the court and the prosecuting attorney of the county where the criminal proceedings are pending for the purpose of providing victim notification, that the defendant is to be discharged.

(c) When giving notification to the court and the prosecuting attorney pursuant to subsection (a) or (b), the treatment institution or facility shall include in such notification an opinion from the head of the treatment institution or facility as to whether or not the defendant is now competent to stand trial. Upon request of the prosecuting attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, the prosecuting attorney shall provide victim notification regarding the hearing date. Such hearing request shall be filed within 14 days of completion of the notification from the head of the treatment institution or facility pursuant to subsection (a) or (b). The hearing shall take place within 21 days after receipt of the hearing request unless the court finds that exceptional circumstances warrant delay of the hearing. If no such hearing request is made within 14 days after receipt of notice pursuant to subsection (a) or (b), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A.

22-3302

, and amendments thereto. The prosecuting attorney shall provide victim notification regarding the discharge order.

KSA 22-3306 — Task force to study programs for alleged offenders with disabilities who are potentially incompetent to stand trial and make recommendations

Task force to study programs for alleged offenders with disabilities who are potentially incompetent to stand trial and make recommendations.

The secretary of social and rehabilitation services shall convene a task force to study current programs and laws for alleged offenders with disabilities that render such offenders potentially incompetent to stand trial, but who do not meet the criteria for involuntary commitment under Kansas law. The task force shall review and make recommendations on the adequacy of Kansas programs and services, and current Kansas law, in protecting public safety and in providing services and support to such alleged offenders. The secretary shall report to the judiciary committee during the 2001 interim and shall make a final report* including programmatic and statutory recommendations to the 2002 legislature.

KSA 22-3401 — Time of trial

Time of trial.

All persons charged with crime shall be tried without unnecessary delay. Continuances may be granted to either party for good cause shown.

KSA 22-3402 — Discharge of persons not brought promptly to trial; discharge deadlines; delays, requests and charging of time; suspension of deadlines until March 1, 2024; guidelines for prioritizing trials; office of judicial administration report to legislature; retroactive application of certain amendments

Discharge of persons not brought promptly to trial; discharge deadlines; delays, requests and charging of time; suspension of deadlines until March 1, 2024; guidelines for prioritizing trials; office of judicial administration report to legislature; retroactive application of certain amendments.

(a) If any person charged with a crime and held in jail solely by reason thereof shall not be brought to trial within 150 days after such person's arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant or a continuance shall be ordered by the court under subsection (e).

(b) If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within 180 days after arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection (e).

(c) If any trial scheduled within the time limitation prescribed by subsection (a) or (b) is delayed by the application of or at the request of the defendant, the trial shall be rescheduled within 90 days of the original trial deadline.

(d) After any trial date has been set within the time limitation prescribed by subsection (a), (b) or (c), if the defendant fails to appear for the trial or any pretrial hearing, and a bench warrant is ordered, the trial shall be rescheduled within 90 days after the defendant has appeared in court after apprehension or surrender on such warrant. However, if the defendant was subject to the 180-day deadline prescribed by subsection (b) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect.

(e) For those situations not otherwise covered by subsection (a), (b) or (c), the time for trial may be extended for any of the following reasons:

(1) The defendant is incompetent to stand trial. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding;

(2) a proceeding to determine the defendant's competency to stand trial is pending. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding. However, if the defendant was subject to the 180-day deadline prescribed by subsection (b) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect. The time that a decision is pending on competency shall never be counted against the state;

(3) there is material evidence that is unavailable, reasonable efforts have been made to procure such evidence and there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding 90 days. Not more than one continuance may be granted to the state on this ground, unless for good cause shown, where

the original continuance was for less than 90 days, and the trial is commenced within 120 days from the original trial date; or

(4) because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than 30 days may be ordered upon this ground.

(f) In the event a mistrial is declared, a motion for new trial is granted or a conviction is reversed on appeal to the supreme court or court of appeals, the time limitations provided for in this section shall commence to run from the date the mistrial is declared, the date a new trial is ordered or the date the mandate of the supreme court or court of appeals is filed in the district court.

(g) If a defendant, or defendant's attorney in consultation with the defendant, requests a delay and such delay is granted, the delay shall be charged to the defendant regardless of the reasons for making the request, unless there is prosecutorial misconduct related to such delay. If a delay is initially attributed to the defendant, but is subsequently charged to the state for any reason, such delay shall not be considered against the state under subsection (a), (b) or (c) and shall not be used as a ground for dismissing a case or for reversing a conviction unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(h) When a scheduled trial is scheduled within the period allowed by subsection (a), (b) or (c) and is delayed because a party has made or filed a motion, or because the court raises a concern on its own, the time elapsing from the date of the making or filing of the motion, or the court's raising a concern, until the matter is resolved by court order shall not be considered when determining if a violation under subsection (a), (b) or (c) has occurred. If the resolution of such motion or concern by court order occurs at a time when less than 30 days remains under the provisions of subsection (a), (b) or (c), the time in which the defendant shall be brought to trial is extended 30 days from the date of the court order.

(i) If the state requests and is granted a delay for any reason provided in this section, the time elapsing because of the order granting the delay shall not be subsequently counted against the state if an appellate court later determines that the district court erred by granting the state's request unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(j) The provisions of this section shall be suspended until March 1, 2024, in all criminal cases.

(k) When prioritizing cases for trial, trial courts shall consider relevant factors, including, but not limited to, the:

(1) Trial court's calendar;

(2) relative prejudice to the defendant;

(3) defendant's assertion of the right to speedy trial;

(4) calendar of trial counsel;

(5) availability of witnesses; and

(6) relative safety of the proceedings to participants as a result of the response to the COVID-19 public health emergency in the judicial district.

(l) The office of judicial administration shall prepare and submit a report to the senate standing committee on judiciary and the house of representatives standing committee on judiciary on or before January 17, 2022, and January 16, 2023, containing the following information disaggregated by judicial district:

(1) The number of pending criminal cases on January 1, 2022, and January 1, 2023, respectively;

(2) the number of criminal cases resolved during fiscal years 2021 and 2022, respectively, and the method of disposition in each case;

(3) the number of jury trials conducted in criminal cases during fiscal years 2021 and 2022, respectively; and

(4) the number of new criminal cases filed in fiscal years 2021 and 2022, respectively.

(m) No time between March 19, 2020, and March 1, 2024, shall be assessed against the state for any reason. Any person arraigned before March 1, 2024, shall be deemed to have been arraigned on March 1, 2024, for the application of the time limitations provided in subsection (a), (b) or (c).

KSA 22-3403 — Method of trial of felony cases

Method of trial of felony cases.

(1) The defendant and prosecuting attorney, with the consent of the court, may submit the trial of any felony to the court. All other trials of felony cases shall be by jury.

(2) A jury in a felony case shall consist of twelve members. However the parties may agree in writing, at any time before the verdict, with the approval of the court, that the jury shall consist of any number less than twelve.

(3) When the trial is to a jury, questions of law shall be decided by the court and issues of fact shall be determined by the jury.

KSA 22-3404 — Misdemeanor, cigarette or tobacco infraction and traffic infraction case; method of trial

Misdemeanor, cigarette or tobacco infraction and traffic infraction case; method of trial.

(1) The trial of misdemeanor cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the defendant.

(2) A jury in a misdemeanor case shall consist of six members.

(3) Trials in the municipal court of a city shall be to the court.

(4) Except as otherwise provided by law, the rules and procedures applicable to jury trials in felony cases shall apply to jury trials in misdemeanor cases.

(5) The trial of cigarette or tobacco infraction or traffic infraction cases shall be to the court.

KSA 22-3405 — Presence of defendant

Presence of defendant.

(a) The defendant in a felony case shall be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by law. In prosecutions for crimes not punishable by death or life without the possibility of parole, the defendant's voluntary absence after the trial has been commenced in such person's presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes.

(b) The defendant must be present, either personally or by counsel, at every stage of the trial of traffic infraction, cigarette or tobacco infraction and misdemeanor cases.

KSA 22-3406 — Time to prepare for trial

Time to prepare for trial.

After arraignment, the defendant shall be entitled to a reasonable time to prepare for trial.

KSA 22-3407 — Motion to discharge jury panel

Motion to discharge jury panel.

(1) Any objection to the manner in which a jury panel has been selected or drawn shall be raised by a motion to discharge the jury panel. The motion shall be made at least five days prior to the date set for trial if the names and addresses of the panel members and the grounds for objection thereto are known to the parties or can be learned by an inspection of the records of the clerk of the district court at that time; in other cases the motion must be made prior to the time when the jury is sworn to try the case. For good cause shown, the court may entertain the motion at any time thereafter.

(2) The motion shall be in writing and shall state facts which, if true, show that the jury panel was improperly selected or drawn.

(3) If the motion states facts which, if true, show that the jury panel has been improperly selected or drawn, it shall be the duty of the court to conduct a hearing. The burden of proof shall be on the movant.

(4) If the court finds that the jury panel was improperly selected or drawn, the court shall order the jury panel discharged and the selection or drawing of a new panel in the manner provided by law.

KSA 22-3408 — Trial jurors

Trial jurors.

(1) When drawn, a list of prospective jurors shall be filed in the office of the clerk of the court and shall be a public record.

(2) (a) The qualifications of jurors and grounds for exemption from jury service in civil cases shall be applicable in criminal trials, except as otherwise provided by law.

(b) An exemption from service on a jury is not a basis for challenge, but is the privilege of the person exempted.

(3) The prosecuting attorney and the defendant or the defendant's attorney shall conduct the examination of prospective jurors. The court may conduct an additional examination. The court may limit the examination by the defendant, the defendant's attorney or the prosecuting attorney if the court believes such examination to be harassment, is causing unnecessary delay or serves no useful purpose.

KSA 22-3409 — Summoning jurors in misdemeanor case

Summoning jurors in misdemeanor case.

When a jury trial is demanded, as provided by law, for misdemeanor cases, the judge shall summon not less than 12 prospective jurors from the source and in the manner provided for the summoning of other petit jurors in the district court in the county.

KSA 22-3410 — Challenges for cause

Challenges for cause.

(1) Each party may challenge any prospective juror for cause. Challenges for cause shall be tried by the court.

(2) A juror may be challenged for cause on any of the following grounds:

(a) He is related to the defendant, or a person alleged to have been injured by the crime charged or the person on whose complaint the prosecution was begun, by consanguinity within the sixth degree, or is the spouse of any person so related.

(b) He is attorney, client, employer, employee, landlord, tenant, debtor, creditor or a member of the household of the defendant or a person alleged to have been injured by the crime charged or the person on whose complaint the prosecution was instituted.

(c) He is or has been a party adverse to the defendant in a civil action, or has complained against or been accused by him in a criminal prosecution.

(d) He has served on the grand jury which returned the indictment or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information, or on any other investigatory body which inquired into the facts of the crime charged.

(e) He was a juror at a former trial of the same cause.

(f) He was a juror in a civil action against the defendant arising out of the act charged as a crime.

(g) He was a witness to the act or acts alleged to constitute the crime.

(h) He occupies a fiduciary relationship to the defendant or a person alleged to have been injured by the crime or the person on whose complaint the prosecution was instituted.

(i) His state of mind with reference to the case or any of the parties is such that the court determines there is doubt that he can act impartially and without prejudice to the substantial rights of any party.

(3) All challenges for cause must be made before the jury is sworn to try the case.

KSA 22-3411a — Felony trials; number of jurors

Felony trials; number of jurors.

In all felony trials, upon the request of either the prosecution or the defendant, the court shall cause enough jurors to be called, examined, and passed for cause before any peremptory challenges are required, so that there will remain sufficient jurors, after the number of peremptory challenges allowed by law for the case on trial shall have been exhausted, to enable the court to cause 12 jurors to be sworn to try the case.

KSA 22-3412 — Jury selection; peremptory challenges; swearing of jury; alternate or additional jurors

Jury selection; peremptory challenges; swearing of jury; alternate or additional jurors.

(a) (1) For crimes committed before July 1, 1993, peremptory challenges shall be allowed as follows:

(A) Each defendant charged with a class A felony shall be allowed 12 peremptory challenges.

(B) Each defendant charged with a class B felony shall be allowed eight peremptory challenges.

(C) Each defendant charged with a felony other than class A or class B felony shall be allowed six peremptory challenges.

(D) Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.

(E) Additional peremptory challenges shall not be allowed on account of separate counts charged in the complaint, information or indictment.

(F) The prosecution shall be allowed the same number of peremptory challenges as all the defendants.

(2) For crimes committed on or after July 1, 1993, peremptory challenges shall be allowed as follows:

(A) Each defendant charged with an off-grid felony, a nondrug felony ranked at severity level 1, or a drug felony ranked at severity level 1 or 2, shall be allowed 12 peremptory challenges.

(B) Each defendant charged with a nondrug felony ranked at severity level 2, 3, 4, 5 or 6, or a drug felony ranked at severity level 3 or 4, shall be allowed 8 peremptory challenges.

(C) Each defendant charged with an unclassified felony, a nondrug severity level 7, 8, 9 or 10, or a drug severity level 5 felony, shall be allowed six peremptory challenges.

(D) Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.

(E) The prosecution shall be allowed the same number of peremptory challenges as all defendants.

(F) The most serious penalty offense charged against each defendant furnishes the criterion for determining the allowed number of peremptory challenges for that defendant.

(G) Additional peremptory challenges shall not be allowed when separate counts are charged in the complaint, information or indictment.

(H) Except as otherwise provided in this subsection, the provisions of this section shall apply. In applying the provisions of this section, the trial court may determine the number of peremptory challenges to allow by reviewing the classification for the crime charged, or nearest comparable felony, as it was classified under the criminal law in effect prior to July 1, 1993. If the severity level of the most serious crime charged raises the potential penalty above that of another crime which was classified higher under the criminal law in effect prior to July 1, 1993, the defendant shall be allowed the number of peremptory challenges as for that higher classified crime under the prior system.

(I) The trial court shall resolve any conflicts with a liberal construction in favor of allowing the greater number of peremptory challenges.

(b) After the parties have interposed all of their challenges to jurors, or have waived further challenges, the jury shall be sworn to try the case.

(c) A trial judge may empanel one or more alternate or additional jurors whenever, in the judge's discretion, the judge believes it advisable to have such jurors available to replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable to perform their duties. Such jurors shall be selected in the same manner, have the same qualifications, and be subject to the same examination and challenges and take the same oath and have the same functions, powers and privileges as the regular jurors. Such jurors may be selected at the same time as the regular jurors or after the jury has been empaneled and sworn, in the judge's discretion. Each party shall be entitled to one peremptory challenge to such alternate jurors. Such alternate jurors shall be seated near the other jurors, with equal power and facilities for seeing and hearing the proceedings in the case, and they must attend at all times upon the trial of the cause in company with the other jurors. They shall obey the orders of and be bound by the admonition of the court upon each adjournment, but if the regular jurors are ordered to be kept in custody during the trial of the cause, such alternate jurors also shall be kept in confinement with the other jurors. Upon final submission of the case to the jury, the alternate jurors may be discharged or they may be retained separately and not discharged until the final decision of the jury. If the alternate jurors are not discharged on final submission of the case and if any regular juror shall be discharged from jury service in any such action prior to the jury reaching its verdict, the court shall draw the name of an alternate juror who shall replace the juror so discharged and be subject to the same rules and regulations as though such juror had been selected as one of the original jurors.

KSA 22-3413 — Juror's knowledge of material fact

Juror's knowledge of material fact.

If a juror has personal knowledge of any fact material to the case, he must inform the court and shall not speak of such fact to other jurors out of court. If a juror has personal knowledge of a fact material to the case, gained from sources other than evidence presented at trial and shall speak of such fact to other jurors without the knowledge of the court or the defendant, he may be adjudged in contempt and punished accordingly.

KSA 22-3414 — Order of trial

Order of trial.

(1) The prosecuting attorney shall state the case and offer evidence in support of the prosecution. The defendant may make an opening statement prior to the prosecution's offer of evidence, or may make such statement and offer evidence in support of such statement after the prosecution rests.

(2) The parties may then respectively offer rebutting testimony only, unless the court, for good cause, permits them to offer evidence upon their original case.

(3) At the close of the evidence or at such earlier time during the trial as the judge reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The judge shall instruct the jury at the close of the evidence before argument and the judge, in the judge's discretion, after the opening statements, may instruct the jury on such matters as in the judge's opinion will assist the jury in considering the evidence as it is presented. In cases where there is some evidence which would reasonably justify a conviction of some lesser included crime as provided in subsection (b) of K.S.A.

21-5109

, and amendments thereto, the judge shall instruct the jury as to the crime charged and any such lesser included crime.

The court shall pass upon the objections to the instructions and shall either give each instruction as requested or proposed or refuse to do so, or give the requested instruction with modification. All instructions given or requested must be filed as a part of the record of the case.

The court reporter shall record all objections to the instructions given or refused by the court, together with modifications made, and the rulings of the court.

No party may assign as error the giving or failure to give an instruction, including a lesser included crime instruction, unless the party objects thereto before the jury retires to consider its verdict stating distinctly the matter to which the party objects and the grounds of the objection unless the instruction or the failure to give an instruction is clearly erroneous. Opportunity shall be given to make the objections out of the hearing of the jury.

(4) When the jury has been instructed, unless the case is submitted to the jury on either side or on both sides without argument, the prosecuting attorney may commence and may conclude the argument. If there is more than one defendant, the court shall determine their relative order in presentation of evidence and argument. In arguing the case, comment may be made upon the law of the case as given in the instructions, as well as upon the evidence.

KSA 22-3415 — Laws applicable to witnesses; immunity from prosecution or punishment

Laws applicable to witnesses; immunity from prosecution or punishment.

(a) The provisions of law in civil cases relative to compelling the attendance and testimony of witnesses, their examination, the administration of oaths and affirmations, and proceedings as for contempt, to enforce the remedies and protect the rights of the parties, shall extend to criminal cases so far as they are in their nature applicable, unless other provision is made by statute.

(b) The county or district attorney or the attorney general may at any time, on behalf of the state, grant in writing to any person:

(1) Transactional immunity. Any person granted transactional immunity shall not be prosecuted for any crime which has been committed for which such immunity is granted or for any other transactions arising out of the same incident.

(2) Use and derivative immunity. Any person granted use and derivative use immunity may be prosecuted for any crime, but the state shall not use any testimony against such person provided under a grant of such immunity or any evidence derived from such testimony. Any defendant may file with the court a motion to suppress in writing to prevent the state

from using evidence on the grounds that the evidence was derived from and obtained against the defendant as a result of testimony or statements made under such grant of immunity. The motion shall state facts supporting the allegations. Upon a hearing on such motion, the state shall have the burden to prove by clear and convincing evidence that the evidence was obtained independently and from a collateral source.

(c) Any person granted immunity under either or both of subsection (b)(1) or (2) may not refuse to testify on grounds that such testimony may self incriminate unless such testimony may form the basis for a violation of federal law for which immunity under federal law has not been conferred. No person shall be compelled to testify in any proceeding where the person is a defendant.

(d) No immunity shall be granted for perjury as provided in K.S.A.

21-5903

, and amendments thereto, which was committed in giving such evidence.

KSA 22-3416 — Prisoner as witness

Prisoner as witness.

No prisoner in the custody of the secretary of corrections shall be required to attend as a witness in any criminal action or proceeding except on order of the court before whom the prosecution is pending and under such terms as the court may prescribe.

KSA 22-3417 — Objections to rulings

Objections to rulings.

Formal exceptions to rulings or orders of the court are unnecessary. It is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

KSA 22-3418 — View of place of crime

View of place of crime.

Whenever in the opinion of the court it is proper for the jurors to have a view of the place in which any material fact occurred, it may order them to be conducted in a body under the charge of an officer to the place, which shall be shown to them by some person appointed by the court for that purpose. They may be accompanied by the defendant, his counsel and the prosecuting attorney. While the jurors are thus absent, no person other than the officer and the person appointed to show them the place shall speak to them on any subject connected with the trial. The officer or person appointed to show them the place shall speak to the jurors only to the extent necessary to conduct them to and identify the place or thing in question.

KSA 22-3419 — Motion for judgment of acquittal

Motion for judgment of acquittal.

(1) The court on motion of a defendant or on its own motion shall order the entry of judgment of acquittal of one or more crimes charged in the complaint, indictment or information after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such crime or crimes. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the prosecution is not granted, the defendant may offer evidence without having reserved the right.

(2) If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict.

(3) If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed within seven days after the jury is discharged or within such further time as the court may fix during the seven-day period. If a verdict of guilty is returned the court may on such motion set aside the verdict and enter judgment of acquittal. It shall not be necessary to the making of such a motion that a similar motion has been made prior to the submission of the case to the jury.

KSA 22-3420 — Conduct of jury after submission

Conduct of jury after submission.

(a) When the case is finally submitted to the jury, they shall retire for deliberation. They must be kept together in some convenient place under charge of a bailiff until they agree upon a verdict, or be discharged by the court, subject to the discretion of the court to permit them to separate temporarily at night, and at their meals. The bailiff having them under such bailiff's charge shall not allow any communications to be made to them, or communicate with them, unless by order of the court. Before the jury's verdict is rendered the bailiff shall not communicate to any person the state of their deliberations, or the verdict agreed upon. No person other than members of the jury shall be present in the jury room during deliberations.

(b) If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that: (1) It is their duty not to converse with, or allow themselves to be addressed by any other person on any subject of the trial, and that any attempt to do so should be immediately reported by them to the court; (2) it is their duty not to make any final determinations or express any opinion on any subject of the trial until the case is finally submitted to them; and (3) such admonition shall apply to every subsequent separation of the jury.

(c) In the court's discretion, upon the jury's retiring for deliberation, the jury may take any admitted exhibits into the jury room, where they may review them without further permission from the court. If necessary, the court may provide equipment to facilitate review.

(d) The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to discuss an appropriate response. The defendant must be present during the discussion of such written questions, unless such presence is waived. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear testimony. The defendant must be present during any response if given in open court, unless such presence is waived. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record.

(e) The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity, or other necessity to be found by the court requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(f) The amendments to this section by this act establish a procedural rule, and as such shall be construed and applied retroactively.

KSA 22-3421 — Verdict, procedure

Verdict, procedure.

The verdict shall be written, signed by the presiding juror and read by the clerk to the jury, and the inquiry made whether it is the jury's verdict. If any juror disagrees, the jury must be sent out again; but if no disagreement is expressed, and neither party requires the jury to be polled, the verdict is complete and the jury discharged from the case. If the verdict is defective in form only, it may be corrected by the court, with the assent of the jury, before it is discharged.

KSA 22-3422 — Allocution

Allocution.

When the defendant appears for judgment, he must be informed by the court of the verdict of the jury, or the finding of the court and asked whether he has any legal cause to show why judgment should not be rendered. If none is shown the court shall pronounce judgment against the defendant.

KSA 22-3423 — Mistrials

Mistrials.

(1) The trial court may terminate the trial and order a mistrial at any time that he finds termination is necessary because:

(a) It is physically impossible to proceed with the trial in conformity with law; or

(b) there is a legal defect in the proceedings which would make any judgment entered upon a verdict reversible as a matter of law and the defendant requests or consents to the declaration of a mistrial; or

(c) prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the prosecution; or

(d) the jury is unable to agree upon a verdict; or

(e) false statements of a juror on voir dire prevent a fair trial; or

(f) the trial has been interrupted pending a determination of the defendant's competency to stand trial.

(2) When a mistrial is ordered, the court shall direct that the case be retained on the docket for trial or such other proceedings as may be proper and that the defendant be held in custody pending such further proceedings, unless he is released pursuant to the terms of an appearance bond.

KSA 22-3424 — Judgment and sentence; restitution; duties of court

Judgment and sentence; restitution; duties of court.

(a) The judgment shall be rendered and sentence imposed in open court.

(b) If the verdict or finding is not guilty, judgment shall be rendered immediately and the defendant shall be discharged from custody and the obligation of the defendant's appearance bond.

(c) If the verdict or finding is guilty, judgment shall be rendered and sentence pronounced without unreasonable delay, allowing adequate time for the filing and disposition of post-trial motions and for completion of such presentence investigation as the court may require.

(d) (1) If the verdict or finding is guilty, upon request of the victim or the victim's family and before imposing sentence, the court shall hold a hearing to establish restitution. The defendant may waive the right to the hearing and accept the amount of restitution as established by the court. If the court orders restitution to be paid to the victim or the victim's family, the order shall be enforced as a judgment of restitution pursuant to K.S.A.

20-169

, and amendments thereto, and K.S.A.

21-6604

(b)(2), and amendments thereto.

(2) (A) The court shall order a person convicted of human trafficking or aggravated human trafficking, K.S.A.

21-3446

or

21-3447

, prior to their repeal, or K.S.A.

21-5426

, and amendments thereto, or commercial sexual exploitation of a child, K.S.A.

21-6422

, and amendments thereto, to pay restitution to the victim of the offense for:

(i) Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney fees and costs; and

(ii) an amount equal to three times the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:

(a) The gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;

(b) the amount the defendant contracted to pay the victim; or

(c) the value of the victim's labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the federal fair labor standards act, 29 U.S.C. Â§ 201 et seq., or under K.S.A.

44-1203

, and amendments thereto, whichever is higher, even if the provisions do not apply to the victim's labor or services or sexual activity.

(B) The court shall order restitution under subsection (d)(2) even if the victim is unavailable to accept payment of restitution.

(C) If the victim does not claim restitution ordered under subsection (d)(2) for five years after entry of the order, the restitution must be paid to the human trafficking victim assistance fund created by K.S.A.

75-758

, and amendments thereto, to help victims.

(e) Before imposing sentence the court shall: (1) Allow the prosecuting attorney to address the court, if the prosecuting attorney so requests; (2) afford counsel an opportunity to speak on behalf of the defendant; (3) allow the victim or such members of the victim's family as the court deems appropriate to address the court, if the victim or the victim's family so requests; and (4) address the defendant personally and ask the defendant if the defendant wishes to make a statement on the defendant's own behalf and to present any evidence in mitigation of punishment.

(f) After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of the defendant's right to appeal and of the right of a person who is unable to pay the costs of an appeal to appeal in forma pauperis.

KSA 22-3425 — Commitment for failure to pay fine and costs

Commitment for failure to pay fine and costs.

(1) When a defendant is adjudged to pay a fine and costs, the court may order him to be committed to the county jail until such fine and costs are paid or may make an order providing for the payment of such fines and costs in installments.

(2) Any person confined in the county jail for failure to pay a fine or costs may be released by the court which imposed sentence, upon satisfactory proof that such person is unable to pay such fine and costs. A release under this section shall not discharge a person from his liability to pay the fine and costs adjudged against him, but they may thereafter be collected by execution as on judgments in civil cases.

KSA 22-3426 — Record of judgment; form and content of journal entry

Record of judgment; form and content of journal entry.

(a) When judgment is rendered or sentence of imprisonment is imposed, upon a plea or verdict of guilty, a record thereof shall be made upon the journal of the court, reflecting, if applicable, conviction or other judgment, the sentence if imposed, and the commitment, which record among other things shall contain a statement of the crime charged, and under what statute; the plea or verdict and the judgment rendered or sentence imposed, and under what statute, and a statement that the defendant was duly represented by counsel naming such counsel, or a statement that the defendant has stated on the record or in writing that the defendant did not want representation of counsel.

(b) If defendant is sentenced to the custody of the secretary of corrections the journal entry shall record, in a judgment form, if used, all the information required under K.S.A.

21-6711

, and amendments thereto, unless such section is not applicable.

(c) It shall be the duty of the court personally to examine the journal entry and to sign the same.

(d) For felony convictions for crimes committed on or after July 1, 1993, in addition to the provisions of subsections (a) through (c), the journal entry shall contain the following information:

(1) Court case number;

(2) Kansas bureau of investigation number;

(3) case transaction number;

(4) court O.R.I. number;

(5) the type of counsel;

(6) type of trial, if any;

(7) pretrial status of the offender;

(8) the date of the sentencing hearing;

(9) a listing of offenses for which the defendant is convicted;

(10) the criminal history classification;

(11) the sentence imposed for each offense including postrelease or probation supervision durations;

(12) whether the sentences run concurrently or consecutively;

(13) amount of credit for time spent incarcerated;

(14) period ordered in county jail as a condition of probation;

(15) a listing of offenses in which a departure sentence is imposed;

(16) type of departure sentence; and

(17) factors cited as a basis for departure sentence.

The journal entry shall be recorded on a form approved by the Kansas sentencing commission.

KSA 22-3426a — Revocation of probation; form and content of journal entry

Revocation of probation; form and content of journal entry.

(a) For crimes committed on or after July 1, 1993, when a convicted person is revoked for a probation violation, a record thereof shall be made upon the journal of the court. Such journal entry shall include:

(1) Court case number;

(2) Kansas bureau of investigation number;

(3) case transaction number;

(4) court O.R.I. number;

(5) name of the judge who heard the evidence;

(6) those present and whether defendant's counsel was appointed or retained;

(7) date violator was sentenced to department of corrections;

(8) offenses for which defendant was sentenced and time to be served for each crime;

(9) total imprisonment term;

(10) supervision revoked;

(11) date motion to revoke defendant's probation was filed; and

(12) whether there are sufficient evidence and grounds for the court to revoke defendant's probation.

(b) It shall be the duty of the court to personally examine the journal entry and sign the same.

(c) The journal entry shall be recorded on a form approved by the Kansas sentencing commission.

KSA 22-3427 — Execution of sentence

Execution of sentence.

(a) When any person has been convicted of a violation of any law of the state of Kansas and has been sentenced to confinement, it shall be the duty of the sheriff of the county, upon receipt of a certified copy of the journal entry of judgment, judgment form showing conviction, sentence, and commitment, or an order of commitment supported by a recorded judgment of sentence, to cause such person to be confined in accordance with the sentence.

(b) The certified copy of a judgment and sentence to confinement or imprisonment shall be sufficient authority for the jailer or warden or other person in charge of the place of confinement to detain such person for the period of the sentence.

(c) The court shall forward a copy of all complaints, supporting affidavits, presentence investigation reports and other diagnostic reports on the offender received by the district court, including any reports received from the state security hospital, to the officer having the offender in custody for delivery with the offender to the correctional institution.

KSA 22-3428 — Persons found not guilty by jury by reason of mental disease or defect; commitment to state security hospital or an appropriate secure facility; determination of whether person is a mentally ill person, notice and hearing; procedure for transfer, release or discharge, standards, notice and hearing; victim notification

Persons found not guilty by jury by reason of mental disease or defect; commitment to state security hospital or an appropriate secure facility; determination of whether person is a mentally ill person, notice and hearing; procedure for transfer, release or discharge, standards, notice and hearing; victim notification.

(a) (1) When a defendant is acquitted and the jury answers in the affirmative to the special question asked pursuant to K.S.A.

22-3221

, and amendments thereto, the defendant shall be committed to the state security hospital or an appropriate secure facility for safekeeping and treatment and the prosecuting attorney shall provide victim notification. A finding of not guilty and the jury answering in the affirmative to the special question asked pursuant to K.S.A.

22-3221

, and amendments thereto, shall be prima facie evidence that the acquitted defendant is presently likely to cause harm to self or others.

(2) Within 90 days of the defendant's admission, the chief medical officer of the state security hospital or licensed psychologist at the appropriate secure facility shall send to the court a written evaluation report. Upon receipt of the report, the court shall set a hearing to determine whether or not the defendant is currently a mentally ill person. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's report unless the court finds that exceptional circumstances warrant delay of the hearing.

(3) The court shall give notice of the hearing to the chief medical officer of the state security hospital or licensed psychologist at the appropriate secure facility, the prosecuting attorney, the defendant and the defendant's attorney. The prosecuting attorney shall provide victim notification. The court shall inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A.

22-4503

et seq., and amendments thereto. The defendant shall remain at the state security hospital pending the hearing.

(4) At the hearing, the defendant shall have the right to present evidence and cross-examine witnesses. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the defendant is not currently a mentally ill person, the court shall dismiss the criminal proceeding and discharge the defendant, otherwise the court may commit the defendant to the state security hospital or an appropriate secure facility for treatment or may place the defendant on conditional release pursuant to subsection (d). The prosecuting attorney shall provide victim notification regarding the outcome of the hearing.

(b) Subject to the provisions of subsection (c):

(1) Whenever it appears to the chief medical officer of the state security hospital or a licensed psychologist at the appropriate secure facility that a person committed under subsection (a)(4) is not likely to cause harm to other persons in a less restrictive hospital environment, the officer may transfer the person to any state hospital, subject to the provisions of subsection (c). At any time subsequent thereto during which such person is still committed to a state hospital, if the chief medical officer of that hospital or the licensed psychologist at the appropriate secure facility finds that the person may be likely to cause harm or has caused harm, to others, such officer may transfer the person back to the state security hospital.

(2) Any person committed under subsection (a)(4) may be granted conditional release or discharge as an involuntary patient.

(c) Before transfer of a person from the state security hospital or appropriate secure facility pursuant to subsection (b)(1) or conditional release or discharge of a person pursuant to subsection (b)(2), the chief medical officer of the state security hospital or the state hospital where the patient is under commitment or the licensed psychologist at the appropriate secure facility shall give notice to the district court of the county from which the person was committed that transfer of the patient is proposed or that the patient is ready for proposed conditional release or discharge. Such notice shall include, but not be limited to: (1) Identification of the patient; (2) the course of treatment; (3) a current assessment of the defendant's mental illness; (4) recommendations for future treatment, if any; and (5) recommendations regarding conditional release or discharge, if any. Upon receiving notice, the district court shall order that a hearing be held on the proposed transfer, conditional release or discharge. The court shall give notice of the hearing to the appropriate secure

facility, state hospital or state security hospital where the patient is under commitment, to the prosecuting attorney of the county from which the person was originally ordered committed. The prosecuting attorney shall provide victim notification regarding the hearing. The court shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and the patient's attorney. The report of the court ordered mental evaluation shall be given to the prosecuting attorney, the involuntary patient and the patient's attorney at least seven days prior to the hearing. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice unless the court finds that exceptional circumstances warrant delay of the hearing. The involuntary patient shall remain in the appropriate secure facility, state hospital or state security hospital where the patient is under commitment until the hearing on the proposed transfer, conditional release or discharge is to be held. At the hearing, the court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or the state hospital or the licensed psychologist of the appropriate secure facility where the patient is under commitment, and shall determine whether the patient shall be transferred to a less restrictive hospital environment or whether the patient shall be conditionally released or discharged. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the prosecuting attorney. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the patient will not be likely to cause harm to self or others if transferred to a less restrictive hospital environment, the court shall order the patient transferred. If the court finds by clear and convincing evidence that the patient is not currently a mentally ill person, the court shall order the patient discharged or conditionally released; otherwise, the court shall order the patient to remain in the state security hospital or state hospital where the patient is under commitment. If the court orders the conditional release of the patient in accordance with subsection (d), the court may order as an additional condition to the release that the patient continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery to determine whether or not the patient is taking the medication or that the patient continue to receive periodic psychiatric or psychological treatment. The prosecuting attorney shall notify any victims of the outcome of the hearing.

(d) In order to ensure the safety and welfare of a patient who is to be conditionally released and the citizenry of the state, the court may allow the patient to remain in custody at a facility under the supervision of the secretary for aging and disability services or the head of the appropriate secure facility for a period of time not to exceed 45 days in order to permit sufficient time for the secretary to prepare recommendations to the court for a suitable reentry program for the patient and allow adequate time for the prosecuting attorney to provide victim notification. The reentry program shall be specifically designed to facilitate the return of the patient to the community as a functioning, self-supporting citizen, and may include appropriate supportive provisions for assistance in establishing residency, securing gainful employment, undergoing needed vocational rehabilitation, receiving marital and family counseling, and such other outpatient services that appear beneficial. If a patient who is to be conditionally released will be residing in a county other than the county where the district court that ordered the conditional release is located, the court shall transfer venue of the case to the district court of the other county and send a copy of all of the court's records of the proceedings to the other court. In all cases of conditional release the court shall:

(1) Order that the patient be placed under the temporary supervision of district court probation and parole services, community treatment facility or any appropriate private agency; and

(2) require as a condition precedent to the release that the patient agree in writing to waive extradition in the event a warrant is issued pursuant to K.S.A.

22-3428b

, and amendments thereto.

(e) At any time during the conditional release period, a conditionally released patient, through the patient's attorney, or the prosecuting attorney of the county where the district court having venue is located may file a motion for modification of the conditions of release, and the court shall hold an evidentiary hearing on the motion within 14 days of its filing. The court shall give notice of the time for the hearing to the patient and the prosecuting attorney. If the court finds from the evidence at the hearing that the conditional provisions of release should be modified or vacated, it shall so order. If at any time during the transitional period the designated medical officer or supervisory personnel or the treatment facility informs the court that the patient is not satisfactorily complying with the provisions of the conditional release, the court, after a hearing for which notice has been given to the prosecuting attorney and the patient, may make orders: (1) For additional conditions of release designed to effect the ends of the reentry program; (2) requiring the prosecuting attorney to file a

petition to determine whether the patient is a mentally ill person as provided in K.S.A.

59-2957

, and amendments thereto; or (3) requiring that the patient be committed to the appropriate secure facility, state security hospital or any state hospital. In cases where a petition is ordered to be filed, the court shall proceed to hear and determine the petition pursuant to the care and treatment act for mentally ill persons and that act shall apply to all subsequent proceedings. If a patient is committed to any state hospital pursuant to this act the prosecuting attorney shall provide victim notification. The costs of all proceedings, the mental evaluation and the reentry program authorized by this section shall be paid by the county from which the person was committed.

(f) In any case in which the defense that the defendant lacked the required mental state pursuant to K.S.A.

21-5209

, and amendments thereto, is relied on, the court shall instruct the jury on the substance of this section.

(g) As used in this section and K.S.A.

22-3428a

, and amendments thereto:

(1) "Likely to cause harm to self or others" means that the person is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, or evidenced by behavior causing, attempting or threatening such injury, abuse or neglect.

(2) "Mentally ill person" means any person who:

(A) Is suffering from a severe mental disorder to the extent that such person is in need of treatment; and

(B) is likely to cause harm to self or others.

(3) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, psychologist, physician or other institution or individual authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

KSA 22-3428a — Same; annual hearing on continued commitment; procedure, notice and standards; victim notification

Same; annual hearing on continued commitment; procedure, notice and standards; victim notification.

(a) Any person found not guilty, pursuant to K.S.A.

21-5209

and

22-3221

, and amendments thereto, who remains in the state security hospital or a state hospital for over one year pursuant to a commitment under K.S.A.

22-3428

, and amendments thereto, shall be entitled annually to request a hearing to determine whether or not the person continues to be a mentally ill person. The request shall be made in writing to the district court of the county where the person is hospitalized and shall be signed by the committed person or the person's counsel. When the request is filed, the court shall give notice of the request to: (1) The county or district attorney of the county in which the person was originally ordered committed; and (2) the chief medical officer of the state security hospital or state hospital where the person is committed. The chief medical officer receiving the notice, or the officer's designee, shall conduct a mental examination of the person and shall send to the district court of the county where the person is hospitalized and to the county or district attorney of the county in which the person was originally ordered committed a report of the examination within 21 days from the date when notice from the court was received. Within 14 days after receiving the report of the examination, the county or district attorney receiving it may file a motion with the district court that gave the notice, requesting the court to change the venue of the hearing to the district court of the county in which the person was originally committed, or the court that gave the notice on its own motion may change the venue of the hearing to the district court of the county in which the person was originally committed. Upon receipt of that motion and the report of the mental examination or upon the court's own motion, the court shall transfer the hearing to the district court specified in the motion and send a copy of

the court's records of the proceedings to that court.

(b) After the time in which a change of venue may be requested has elapsed, the court having venue shall set a date for the hearing, giving notice thereof to the county or district attorney of the county, the committed person and the person's counsel. The county or district attorney shall provide victim notification. If there is no counsel of record, the court shall appoint a counsel for the committed person. The committed person shall have the right to procure, at the person's own expense, a mental examination by a physician or licensed psychologist of the person's own choosing. If a committed person is financially unable to procure such an examination, the aid to indigent defendants provisions of article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall be applicable to that person. A committed person requesting a mental examination pursuant to K.S.A.

22-4508

, and amendments thereto, may request a physician or licensed psychologist of the person's own choosing and the court shall request the physician or licensed psychologist to provide an estimate of the cost of the examination. If the physician or licensed psychologist agrees to accept compensation in an amount in accordance with the compensation standards set by the board of supervisors of panels to aid indigent defendants, the judge shall appoint the requested physician or licensed psychologist; otherwise, the court shall designate a physician or licensed psychologist to conduct the examination. Copies of each mental examination of the committed person shall be filed with the court at least seven days prior to the hearing and shall be supplied to the county or district attorney receiving notice pursuant to this section and the committed person's counsel.

(c) At the hearing the committed person shall have the right to present evidence and cross-examine the witnesses. The court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or state hospital where the person is under commitment, and shall determine whether the committed person continues to be a mentally ill person. At the hearing the court may make any order that a court is empowered to make pursuant to K.S.A.

22-3428

(c), (d) and (e), and amendments thereto. If the court finds by clear and convincing evidence the committed person is not a mentally ill person, the court shall order the person discharged; otherwise, the person shall remain committed or be conditionally released. The county or district attorney shall provide victim notification regarding the outcome of the hearing.

(d) Costs of a hearing held pursuant to this section shall be assessed against and paid by the county in which the person was originally ordered committed.

KSA 22-3428b — Same; violation of conditions of release; return to custody

Same; violation of conditions of release; return to custody.

Any person who violates an order of conditional release entered pursuant to K.S.A.

22-3428

or

22-3428a

, and any amendments to such sections, shall be subject to contempt of court proceedings. Upon a finding of probable cause to believe that a person has violated the conditions of any such order the district court may issue a warrant directing any law enforcement officer to take such person into custody and return the defendant to the custody of the court or to any facility designated by the court.

KSA 22-3429 — Mental examination, evaluation and report after conviction and prior to sentence; limit on commitment

Mental examination, evaluation and report after conviction and prior to sentence; limit on commitment.

After conviction and prior to sentence and as part of the presentence investigation authorized by K.S.A.

21-6703

, and amendments thereto, or for crimes committed on or after July 1, 1993, a presentence investigation report as provided in K.S.A.

21-6813

, and amendments thereto, the trial judge may order the defendant committed to the state security hospital for mental examination, evaluation and report. A report of the examination and evaluation shall be furnished by the chief medical officer to the judge and shall be made available to the prosecuting attorney and counsel for the defendant. A defendant may not be detained for more than 120 days under a commitment made under this section.

KSA 22-3430 — Commitment to certain institutions as a result of a K.S.A. 22-3429 examination, when; standards; costs; appeal by defendant; victim notification

Commitment to certain institutions as a result of a K.S.A.

22-3429

examination, when; standards; costs; appeal by defendant; victim notification.

(a) If the report of the examination authorized by K.S.A.

22-3429

, and amendments thereto, shows that the defendant is in need of psychiatric care and treatment, that such treatment may materially aid in the defendant's rehabilitation and that the defendant and society are not likely to be endangered by permitting the defendant to receive such psychiatric care and treatment, in lieu of confinement or imprisonment, the trial judge shall have power to commit such defendant to: (1) The state security hospital or any county institution provided for the reception, care, treatment and maintenance of mentally ill persons, if the defendant is convicted of a felony; or (2) any state or county institution provided for the reception, care, treatment and maintenance of mentally ill persons, if the defendant is convicted of a misdemeanor. The court may direct that the defendant be detained in such hospital or institution until further order of the court or until the defendant is discharged under K.S.A.

22-3431

, and amendments thereto. The county or district attorney shall notify any victims of the outcome of the hearing. No period of detention under this section shall exceed the maximum term provided by law for the crime of which the defendant has been convicted. The cost of care and treatment provided by a state institution shall be assessed in accordance with K.S.A.

59-2006

, and amendments thereto.

(b) No defendant committed to the state security hospital pursuant to this section upon conviction of a felony shall be transferred or released from such hospital except on recommendation of the staff of such hospital.

(c) The defendant may appeal from any order of commitment made pursuant to this section in the same manner and with like effect as if sentence to a jail, or to the custody of the secretary of corrections had been imposed.

KSA 22-3431 — Commitment to certain institutions as a result of mental examination and report after conviction and prior to sentence; disposition upon completion of treatment; notice and hearing; victim notification

Commitment to certain institutions as a result of mental examination and report after conviction and prior to sentence; disposition upon completion of treatment; notice and hearing; victim notification.

(a) Whenever it appears to the chief medical officer of the institution to which a defendant has been committed under K.S.A.

22-3430

, and amendments thereto, that the defendant will not be improved by further detention in such institution, the chief medical officer shall give written notice thereof to the district court where the defendant was convicted. Such notice shall include, but not be limited to: (1) Identification of the patient; (2) the course of treatment; (3) a current assessment of the defendant's psychiatric condition; (4) recommendations for future treatment, if any; and (5) recommendations regarding discharge, if any.

(b) Upon receiving such notice, the district court shall order that a hearing be held. The court shall give notice of the hearing to: (1) The state hospital or state security hospital where the defendant is under commitment; (2) the district or county attorney of the county from which the defendant was originally committed; (3) the defendant; and (4) the

defendant's attorney. The county or district attorney shall provide victim notification. The court shall inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A.

22-4503

et seq., and amendments thereto. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice.

(c) At the hearing, the defendant shall be sentenced, committed, granted probation, assigned to a community correctional services program, as provided by K.S.A.

75-5291

, and amendments thereto, or discharged as the court deems best under the circumstance. The county or district attorney shall notify any victims of the outcome of the hearing. The time spent in a state or local institution pursuant to a commitment under K.S.A.

22-3430

, and amendments thereto, shall be credited against any sentence, confinement or imprisonment imposed on the defendant.

KSA 22-3432 — Information for secretary of corrections concerning person convicted

Information for secretary of corrections concerning person convicted.

(a) It shall be the duty of the county or district attorney of the county in which a person has been convicted of a felony and sentenced to imprisonment to furnish to the secretary of corrections information pertaining to any special facts and circumstances concerning the commission of the offense or the offender that cannot be obtained from records provided to the secretary pursuant to K.S.A.

22-3427

, and amendments thereto.

(b) If applicable, such information shall be set forth on forms provided by the secretary and shall be submitted at the time such inmate is committed. Such information shall be forwarded by the secretary to the correctional institution receiving such inmate.

KSA 22-3434 — Videotape of testimony of child victim admissible in certain cases; limitations; standard of proof; objections, restrictions

Videotape of testimony of child victim admissible in certain cases; limitations; standard of proof; objections, restrictions.

(a) On motion of the attorney for any party to a criminal proceeding in which a child less than 13 years of age is alleged to be a victim of the crime, subject to the conditions of subsection (b), the court may order that the testimony of the child be taken:

(1) In a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding; or

(2) outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding if: (A) The recording is both visual and aural and is recorded on film or videotape or by other electronic means; (B) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered; (C) every voice on the recording is identified; and (D) each party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom, and a copy of a written transcript is provided to the parties.

(b) The state must establish by clear and convincing evidence that to require the child who is the alleged victim to testify in open court will so traumatize the child as to prevent the child from reasonably communicating to the jury or render the child unavailable to testify. The court shall make such an individualized finding before the state is permitted to proceed under this section.

(c) At the taking of testimony under this section:

(1) Only the attorneys for the defendant, the state and the child, any person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the recording or closed-circuit equipment may be

present in the room with the child during the child's testimony;

(2) only the attorneys may question the child;

(3) the persons operating the recording or closed-circuit equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during the child's testimony but does not permit the child to see or hear them; and

(4) the court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.

(d) If the testimony of a child is taken as provided by this section, the child shall not be compelled to testify in court during the proceeding.

(e) (1) Any objection by any party to the proceeding to a recording under subsection (a)(2) is inadmissible must be made by written motion filed with the court at least seven days before the commencement of the trial. An objection under this subsection shall specify the portion of the recording which is objectionable and the reasons for the objection. Failure to file an objection within the time provided by this subsection shall constitute waiver of the right to object to the admissibility of the recording unless the court, in its discretion, determines otherwise.

(2) The provisions of this subsection (d) shall not apply to any objection to admissibility for the reason that the recording has been materially altered.

KSA 22-3435 — Severability

Severability.

If any provisions of this act* or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

KSA 22-3436 — Prosecuting attorney; information to victims; right to be present at certain hearings

Prosecuting attorney; information to victims; right to be present at certain hearings.

This section applies if a defendant is charged with a crime pursuant to articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A.

21-6104

,

21-6325

,

21-6326

or

21-6418

through

21-6422

, and amendments thereto.

(a) The prosecuting attorney, as defined in K.S.A.

22-2202

, and amendments thereto, shall: (1) Inform the victim or the victim's family before any dismissal or declining of prosecuting charges; (2) inform the victim or the victim's family of the nature of any proposed plea agreement; and (3) inform and give notice to the victim or the victim's family of the rights established in subsection (b).

(b) The victim of a crime or the victim's family have the right to be present at any hearing where a plea agreement is reviewed or accepted and the parties may submit written arguments to the court prior to the date of the hearing.

KSA 22-3437 — Forensic examinations; admissibility; certification; notices of proffer and objection to admission; use of interactive video testimony

Forensic examinations; admissibility; certification; notices of proffer and objection to admission; use of interactive video testimony.

(a) (1) In any hearing or trial, a report concerning forensic examinations and certificate of forensic examination executed pursuant to this section shall be admissible in evidence if the report and certificate are prepared and attested by a criminalist or other employee of the Kansas bureau of investigation, Kansas highway patrol, Johnson County sheriff's laboratory, Sedgwick County regional forensic science center, or any laboratory of the federal bureau of investigation, federal postal inspection service, federal bureau of alcohol, tobacco and firearms or federal drug enforcement administration. If the examination involves a breath test for alcohol content, the report must also be admissible pursuant to K.S.A.

8-1001

, and amendments thereto, or K.S.A. 2025 Supp.

3-1007

, and amendments thereto, and be conducted by a law enforcement officer or other person who is certified by the department of health and environment as a breath test operator as provided by K.S.A.

65-1,107

et seq., and amendments thereto.

(2) Upon the request of any law enforcement agency, such person as provided in paragraph (1) performing the analysis shall prepare a certificate. Such person shall sign the certificate under oath and shall include in the certificate an attestation as to the result of the analysis. The presentation of this certificate to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this section have been complied with. This certificate shall be supported by a written declaration pursuant to K.S.A.

53-601

, and amendments thereto, or shall be sworn to before a notary public or other person empowered by law to take oaths and shall contain a statement establishing the following: The type of analysis performed; the result achieved; any conclusions reached based upon that result; that the subscriber is the person who performed the analysis and made the conclusions; the subscriber's training or experience to perform the analysis; the nature and condition of the equipment used; and the certification and foundation requirements for admissibility of breath test results, when appropriate. When properly executed, the certificate shall, subject to the provisions of paragraph (3) and notwithstanding any other provision of law, be admissible evidence of the results of the forensic examination of the samples or evidence submitted for analysis and the court shall take judicial notice of the signature of the person performing the analysis and of the fact that such person is that person who performed the analysis.

(3) Whenever a party intends to proffer in a criminal or civil proceeding, a certificate executed pursuant to this section, notice of an intent to proffer that certificate and the reports relating to the analysis in question, including a copy of the certificate, shall be conveyed to the opposing party or parties at least 21 days before the beginning of a hearing where the proffer will be used. An opposing party who intends to object to the admission into evidence of a certificate shall give notice of objection and the grounds for the objection within 14 days upon receiving the adversary's notice of intent to proffer the certificate. Whenever a notice of objection is filed, admissibility of the certificate shall be determined not later than two days before the beginning of the trial. A proffered certificate shall be admitted in evidence unless it appears from the notice of objection and grounds for that objection that the conclusions of the certificate, including the composition, quality or quantity of the substance submitted to the laboratory for analysis or the alcohol content of a blood or breath sample will be contested at trial. A failure to comply with the time limitations regarding the notice of objection required by this section shall constitute a waiver of any objections to the admission of the certificate. The time limitations set forth in this section may be extended upon a showing of good cause.

(b) (1) In any hearing or trial where there is a report concerning forensic examinations from a person as provided in subsection (a)(1), district and municipal courts may, upon request of either party, use two-way interactive video technology, including internet-based videoconferencing, to take testimony from that person if the testimony is in relation to the report.

(2) The use of any two-way interactive video technology must be in accordance with any requirements and guidelines established by the office of judicial administration, and all proceedings at which such technology is used in a district court

must be recorded verbatim by the court.

KSA 22-3438 — Severability

Severability.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

KSA 22-3439 — Felony convictions; information and forms to be forwarded to Kansas sentencing commission and Kansas bureau of investigation

Felony convictions; information and forms to be forwarded to Kansas sentencing commission and Kansas bureau of investigation.

(a) For all felony convictions for offenses committed on or after July 1, 1993, the court shall forward a signed copy of the journal entry, attached together with the presentence investigation report as provided by K.S.A.

21-6813

, and amendments thereto, to the Kansas sentencing commission within 30 days after sentencing.

(b) For probation revocations which result in the defendant's imprisonment in the custody of the department of corrections, the court shall forward a signed copy of the journal entry of revocation to the Kansas sentencing commission within 30 days of final disposition.

(c) The court shall insure that information concerning dispositions for all other felony probation revocations based upon crimes committed on or after July 1, 1993, and for all class A and B misdemeanor crimes and assault as defined in K.S.A.

21-3408

, prior to its repeal, or subsection (a) of K.S.A.

21-5412

, and amendments thereto, committed on or after July 1, 1993, is forwarded to the Kansas bureau of investigation central repository. Such information shall be transmitted on a form or in a format approved by the attorney general within 30 days of that final disposition.

KSA 22-3440 — Contact with jurors; discussion of deliberations or verdict following discharge; violations, contempt

Contact with jurors; discussion of deliberations or verdict following discharge; violations, contempt.

(a) On completion of a jury trial in a criminal action and before the jury is discharged, the judge shall inform the jurors that they have an absolute right to discuss or not to discuss the deliberations or verdict with anyone, except as provided in subsections (f) and (g). The judge shall also inform the jurors of the provisions set forth in subsections (b), (c), (d) and (e).

(b) Immediately following the discharge of the jury in a criminal action, the defendant, or the defendant's attorney or representative, or the prosecutor, or the prosecutor's representative, may discuss the jury deliberations or verdict with a member of the jury only if the juror consents to the discussion.

(c) If a discussion of the jury deliberations or verdict with a member of the jury occurs at any time other than immediately following the discharge of the jury, prior to discussing the jury, the defendant or the defendant's attorney or representative, or the prosecutor or the prosecutor's representative, shall inform the juror of the identity of the case, the party in the case that the person represents, the subject of the interview, the absolute right of the juror to discuss or not discuss the deliberations or verdict in the case with the person and the juror's right to review and have a copy of any declaration filed with the court.

(d) Any unreasonable contact with a juror by the defendant, or the defendant's attorney or representative, or by the prosecutor, or the prosecutor's representative, without the juror's consent shall be immediately reported to the trial court.

(e) Any violation of this section shall be considered a violation of a lawful court order and may be punished as contempt of court.

(f) Nothing in this section shall prohibit a law enforcement officer from discussing the deliberations or verdict with a member of the jury for the purpose of investigating an allegation of criminal conduct.

(g) Nothing in this section shall prohibit the court or a judge from discussing the deliberations or verdict with a member of the jury for any lawful purpose.

(h) This section shall be a part of and supplemental to the Kansas code of criminal procedure.

KSA 22-3501 — New trial

New trial.

(1) The court on motion of a defendant may grant a new trial to the defendant if required in the interest of justice. If trial was by the court without a jury the court on motion of a defendant for a new trial may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment. A motion for a new trial based on the ground of newly discovered evidence may be made within two years after final judgment, but if an appeal is pending the court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds shall be made within 14 days after the verdict or finding of guilty or within such further time as the court may fix during the 14-day period.

(2) A motion for a new trial shall be heard and determined by the court within 45 days from the date it is made.

KSA 22-3502 — Arrest of judgment

Arrest of judgment.

The court on motion of a defendant shall arrest judgment if the complaint, information or indictment does not charge a crime or if the court was without jurisdiction of the crime charged. The motion for arrest of judgment shall be made within 14 days after the verdict or finding of guilty, or after a plea of guilty or nolo contendere, or within such further time as the court may fix during the 14-day period.

KSA 22-3503 — Arrest of judgment without motion

Arrest of judgment without motion.

Whenever the court becomes aware of the existence of grounds which would require that a motion for arrest of judgment be sustained, if filed, the court may arrest the judgment without motion.

KSA 22-3504 — Correction of sentence

Correction of sentence.

(a) The court may correct an illegal sentence at any time while the defendant is serving such sentence. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(b) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

(c) For the purposes of this section:

(1) "Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pronounced. A sentence is not an "illegal sentence" because of a change in the law that occurs after the sentence is pronounced.

(2) "Change in the law" means a statutory change or an opinion by an appellate court of the state of Kansas, unless the opinion is issued while the sentence is pending an appeal from the judgment of conviction.

(d) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

KSA 22-3601 — Appellate jurisdiction of court of appeals and supreme court in criminal cases

Appellate jurisdiction of court of appeals and supreme court in criminal cases.

(a) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken to the court of appeals, except in those cases reviewable by law in the district court or in which a direct appeal to the supreme court is required. Whenever an interlocutory appeal is permitted in a criminal case in the district court, such appeal shall be taken

to the court of appeals.

(b) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken directly to the supreme court in the following cases:

(1) Any case in which a statute of this state or of the United States has been held unconstitutional;

(2) any case in which the defendant has been convicted of a class A felony;

(3) any case in which a maximum sentence of life imprisonment has been imposed, unless the maximum sentence has been imposed pursuant to K.S.A.

21-4643

, prior to its repeal, or K.S.A.

21-6627

, and amendments thereto; and

(4) except as provided further, any case in which the crime was committed on or after July 1, 1993, and the defendant has been convicted of an off-grid crime. The provisions of this paragraph shall not apply to any case in which the off-grid crime was:

(A) Aggravated human trafficking, K.S.A.

21-5426

(c)(3), and amendments thereto;

(B) rape, K.S.A.

21-5503

(b)(2)(B), and amendments thereto;

(C) aggravated criminal sodomy, K.S.A.

21-5504

(c)(2)(B)(ii), and amendments thereto;

(D) aggravated indecent liberties with a child, K.S.A.

21-5506

(c)(2)(C)(ii), and amendments thereto;

(E) sexual exploitation of a child, K.S.A.

21-5510

(b)(2)(B), and amendments thereto;

(F) aggravated internet trading in child pornography, K.S.A.

21-5514

(c)(3), and amendments thereto;

(G) commercial sexual exploitation of a child, K.S.A.

21-6422

(b)(2), and amendments thereto; or

(H) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.

21-5301

,

21-5302

or

21-5303

, and amendments thereto, of any such felony.

KSA 22-3602 — Appeals by defendant, when; appeals by prosecution; transfers to supreme court

Appeals by defendant, when; appeals by prosecution; transfers to supreme court.

(a) Except as otherwise provided, an appeal to the appellate court having jurisdiction of the appeal may be taken by the defendant as a matter of right from any judgment against the defendant in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed. No appeal shall be taken by the defendant from a judgment of conviction before a district judge upon a plea of guilty or nolo contendere, except that jurisdictional or other grounds going to the legality of the proceedings may be raised by the defendant as provided in K.S.A.

60-1507

, and amendments thereto.

(b) Appeals to the court of appeals may be taken by the prosecution from cases before a district judge, or a district magistrate judge who is regularly admitted to practice law in Kansas, as a matter of right in the following cases, and no others:

(1) From an order dismissing a complaint, information or indictment;

(2) from an order arresting judgment;

(3) upon a question reserved by the prosecution; or

(4) upon an order granting a new trial in any case involving a class A or B felony or for crimes committed on or after July 1, 1993, in any case involving an off-grid crime.

(c) Procedures for appeals by the prosecution enumerated in subsection (b) shall be as provided in supreme court rules.

(d) Appeals to a district judge may be taken by the prosecution from cases before a district magistrate judge who is not regularly admitted to practice law in Kansas as a matter of right in the cases enumerated in subsection (b) and from orders enumerated in K.S.A.

22-3603

, and amendments thereto.

(e) Any criminal case on appeal to the court of appeals may be transferred to the supreme court as provided in K.S.A.

20-3016

and

20-3017

, and amendments thereto, and any party to such case may petition the supreme court for review of any decision of the court of appeals as provided in subsection (b) of K.S.A.

20-3018

, and amendments thereto, except that any such party may appeal to the supreme court as a matter of right in any case in which a question under the constitution of either the United States or the state of Kansas arises for the first time as a result of the decision of the court of appeals.

(f) For crimes committed on or after July 1, 1993, an appeal by the prosecution or the defendant relating to sentences imposed pursuant to a presumptive sentencing guidelines system as provided in K.S.A.

21-4701

et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, shall be as provided in K.S.A.

21-4721

, prior to its repeal, or K.S.A.

21-6820

, and amendments thereto.

KSA 22-3603 — Interlocutory appeals by the state

Interlocutory appeals by the state.

When a judge of the district court, prior to the commencement of trial of a criminal action, makes an order quashing a warrant or a search warrant, suppressing evidence or suppressing a confession or admission an appeal may be taken by the prosecution from such order if notice of appeal is filed within 14 days after entry of the order. Further proceedings in the trial court shall be stayed pending determination of the appeal.

KSA 22-3604 — Release of defendant pending appeal by prosecution

Release of defendant pending appeal by prosecution.

(1) Except as provided in subsection (3), a defendant shall not be held in jail nor subject to an appearance bond during the pendency of an appeal by the prosecution.

(2) The time during which an appeal by the prosecution is pending shall not be counted for the purpose of determining whether a defendant is entitled to discharge under K.S.A.

22-3402

, and amendments thereto. For purposes of this section, "an appeal by the prosecution" includes, but is not limited to, appeals authorized by subsection (b) of K.S.A.

22-3602

, and amendments thereto, appeals authorized by K.S.A.

22-3603

, and amendments thereto, and any appeal by the prosecution which seeks discretionary review in the supreme court of Kansas or the United States supreme court. Such an appeal remains "pending" until final resolution by the court of last resort.

(3) A defendant charged with a class A, B or C felony or, if the felony was committed on or after July 1, 1993, an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 through 4 felony crime shall not be released from jail or the conditions of such person's appearance bond during the pendency of an appeal by the prosecution. The time during which an appeal by the prosecution is pending in a class A, B or C felony or, if the felony was committed on or after July 1, 1993, an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 through 4 felony case shall not be counted for the purpose of determining whether the defendant is entitled to discharge under K.S.A.

22-3402

, and amendments thereto.

KSA 22-3605 — Decision and disposition of case on appeal; stay of mandate

Decision and disposition of case on appeal; stay of mandate.

(a) Any appellate court may reverse, affirm or modify the judgment or order appealed from, or may order a new trial in the district court. In either case the cause must be remanded to the district court with proper instructions, together with the decision of the appellate court, within the time and in the manner to be prescribed by rule of the supreme court.

(b) (1) In appeals from criminal actions and in other post-conviction actions arising from criminal prosecutions, the issuance of the mandate from the appellate court shall be automatically stayed when:

(A) A party files a notice with the appellate court that it intends to file a petition for writ of certiorari to the United States supreme court; and

(B) the time has not expired for filing such a petition under applicable United States supreme court rules.

(2) If the mandate from the appellate court has already been issued when a party files its notice, the mandate from the appellate court shall be withdrawn and stayed.

(3) The stay shall be lifted when:

(A) If a petition for writ of certiorari to the United States supreme court is filed, the court denies such petition or issues such court's final order following granting such petition; or

(B) if no petition for writ of certiorari to the United States supreme court is filed, the time expires for filing such petition under applicable United States supreme court rules.

KSA 22-3606 — Procedure on appeal

Procedure on appeal.

Except as otherwise provided by statute or rule of the supreme court, the statutes and rules governing procedure on appeals to an appellate court in civil cases shall apply to and govern appeals to an appellate court in criminal cases.

KSA 22-3607 — Disposition of defendant when judgment reversed on appeal

Disposition of defendant when judgment reversed on appeal.

When a judgment of conviction or sentence is reversed, and it appears that no crime has been committed, the appellate court shall direct that the defendant be discharged. If it appears that the defendant is guilty of a crime, although improperly charged, the appellate court shall order the defendant to be held in custody, subject to the order of the court in which he or she was convicted.

KSA 22-3608 — Time for appeal from judgment of district court

Time for appeal from judgment of district court.

(a) If sentence is imposed, the defendant may appeal from the judgment of the district court not later than 10 days after the expiration of the district court's power to modify the sentence. The power to revoke or modify the conditions of probation or the conditions of assignment to a community correctional services program shall not be deemed power to modify the sentence. The provisions of this subsection shall not apply to crimes committed on or after July 1, 1993.

(b) If the imposition of sentence is suspended, the defendant may appeal from the judgment of the district court within 10 days after the order suspending imposition of sentence. The provisions of this subsection shall not apply to crimes committed on or after July 1, 1993.

(c) For crimes committed on or after July 1, 1993, the defendant shall have 14 days after the judgment of the district court to appeal.

KSA 22-3609 — Appeals from municipal courts

Appeals from municipal courts.

(a) The defendant shall have the right to appeal to the district court of the county from any judgment of a municipal court which adjudges the defendant guilty of a violation of the ordinances of any municipality of Kansas or any findings of contempt. The appeal shall be assigned by the chief judge to a district judge. The appeal shall stay all further proceedings upon the judgment appealed from.

(b) An appeal to the district court shall be taken by filing, in the district court of the county in which the municipal court is located, a notice of appeal and any appearance bond required by the municipal court. Municipal court clerks are hereby authorized to accept notices of appeal and appearance bonds under this subsection and shall forward such notices and bonds to the district court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date the sentence is imposed.

(c) The notice of appeal shall designate the judgment or part of the judgment appealed from. The defendant shall cause notice of the appeal to be served upon the city attorney prosecuting the case. The judge whose judgment is appealed from or the clerk of the court, if there is one, shall certify the complaint and warrant to the district court of the county, but failure to do so shall not affect the validity of the appeal.

(d) Except as provided herein, the trial of municipal appeal cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the defendant. A jury in a municipal appeal case shall consist of six members. All appeals taken by a defendant from a municipal judge in contempt findings, cigarette or tobacco infraction or traffic infraction cases shall be tried by the court.

(e) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to K.S.A.

12-4416

(b), and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

(f) At the conclusion of the case, the district court shall send notice of dismissal, conviction or acquittal to the municipal court clerk.

KSA 22-3609a — Appeals from district magistrate judges not regularly admitted to practice law

Appeals from district magistrate judges not regularly admitted to practice law.

(1) A defendant shall have the right to appeal to a district judge from any judgment of a district magistrate judge who is not regularly admitted to practice law in Kansas. The chief judge shall be responsible for assigning a district judge for any such appeal. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to a district judge shall be taken by filing a notice of appeal with the clerk of the court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date the sentence is imposed.

(3) The clerk of the district court shall deliver the complaint, warrant and any appearance bond to the district judge to whom such appeal is assigned. The case shall be tried de novo before the assigned district judge.

(4) No advance payment of a docket fee shall be required when the appeal is taken.

(5) All appeals taken by a defendant in misdemeanor cases from a district magistrate judge who is not regularly admitted to practice law in Kansas shall be tried by the court unless a jury trial is requested in writing by the defendant. All appeals taken by a defendant in traffic infraction and cigarette or tobacco infraction cases from a district magistrate judge who is not regularly admitted to practice law in Kansas shall be to the court.

(6) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to subsection (c) of K.S.A.

22-2909

, and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

KSA 22-3610 — Hearing on appeal; exception

Hearing on appeal; exception.

(a) When a case is appealed to the district court, such court shall hear and determine the cause on the original complaint, unless the complaint shall be found defective, in which case the court may order a new complaint to be filed and the case shall proceed as if the original complaint had not been set aside. The case shall be tried de novo in the district court.

(b) Notwithstanding subsection (a), appeal from a conviction rendered pursuant to subsection (b) of K.S.A.

12-4416

shall be conducted only on the record of the stipulation of facts relating to the complaint.

KSA 22-3611 — Judgment on appeal

Judgment on appeal.

If upon appeal to the district court the defendant is convicted, the district court shall impose sentence upon him and render judgment against him for all costs in the case, both in the district court and in the court appealed from.

KSA 22-3612 — Criminal appeals from district court; attorney general to invoke county or district attorney's assistance; costs; criminal appeals cost fund

Criminal appeals from district court; attorney general to invoke county or district attorney's assistance; costs; criminal appeals cost fund.

(a) In representing the interests of the state in appeals from criminal actions in the district courts of this state to the supreme court or court of appeals or in other post-conviction actions arising from criminal prosecutions, the attorney general shall invoke the assistance of the county or district attorney of the county in which the action originally commenced. The reasonable costs of such representation shall be allowed and paid by the board of county commissioners from the county general fund for any services rendered by such county's county or district attorney pursuant to this section or by the attorney general pursuant to an agreement under subsection (b).

(b) The attorney general may publish a schedule of such costs to be charged by the office of attorney general for services rendered by the attorney general, not to exceed the hourly rate provided in K.S.A.

22-4507

, and amendments thereto. The attorney general may enter into agreements with any county or district attorney for the payment of such costs and any such agreement shall supersede, in whole or in part as such agreement may provide, the

schedule of costs published pursuant to this section.

(c) All moneys paid to the attorney general pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the criminal appeals cost fund, which is hereby created. Moneys in the criminal appeals cost fund may be expended by the attorney general for the purpose of representing the interests of the state in criminal appeals and post-conviction proceedings. All expenditures from the criminal appeals cost fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee.

KSA 22-3613 — Writ of habeas corpus relief granted; appeal by prosecution; stay of underlying criminal case

Writ of habeas corpus relief granted; appeal by prosecution; stay of underlying criminal case.

(a) When a district court has granted relief in a proceeding under K.S.A.

60-1507

, and amendments thereto, and the prosecution files a docketing statement in an appellate court seeking an appeal from the district court's decision to grant relief, the underlying criminal case shall automatically be stayed, and the time during which the prosecution's appeal is pending shall not be counted for the purpose of determining whether a defendant is entitled to discharge under K.S.A.

22-3402

, and amendments thereto, until the mandate in the prosecution's appeal is issued.

(b) Notwithstanding the stay required by subsection (a), a court may release the prisoner on bond in accordance with K.S.A.

22-2804

, and amendments thereto, regardless of whether the prisoner has filed a notice of appeal.

(c) The stay of the underlying criminal case in subsection (a) may be lifted upon a motion filed in appellate court if the court finds that the prisoner:

(1) Has made a strong showing that the prisoner is entitled to relief; and

(2) will be irreparably injured if the stay is not lifted.

(d) If the stay in subsection (a) is lifted:

(1) The time during which the prosecution's appeal is pending shall not be counted for the purpose of determining whether a defendant is entitled to discharge under K.S.A.

22-3402

, and amendments thereto, until the mandate in the prosecution's appeal is issued; and

(2) the prisoner shall be entitled to a new bond hearing in the underlying criminal case pursuant to K.S.A.

22-2802

, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas code of criminal procedure.

KSA 22-3701 — Pardons and commutations; duties of prisoner review board; notification to victims

Pardons and commutations; duties of prisoner review board; notification to victims.

(a) The governor may pardon, or commute the sentence of, any person convicted of a crime in any court of this state upon such terms and conditions as prescribed in the order granting the pardon or commutation.

(b) The prisoner review board, hereafter referred to as the board, shall adopt rules and regulations governing the procedure for initiating, processing, and reviewing applications for pardon, or commutation of sentence filed by and on behalf of persons convicted of crime.

(c) Except as otherwise provided, no pardon or commutation of sentence shall be granted until more than 30 days after written notice of the application therefor has been given to: (1) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (2) any victim of the person's crime or the victim's family, if the person was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A.

21-6104

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21-6325

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21-6326

or

21-6418

through

21-6422

, and amendments thereto. Notice of such application for pardon or commutation of sentence shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a 12-month period shall be paid by the state. If more than one notice of application is published during any 12-month period the additional cost of publication shall be paid by the applicant. Subject to the provisions of subsection (d), if written notification is not given to such victim who is alive and whose address is known to the secretary of corrections or, if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections, the governor shall not grant or deny such application until a time at least 30 days after notification is given by publication as provided in this section.

(d) All applications for pardon or commutation of sentence shall be referred to the board. The board shall examine each case and submit a report, together with such information as the board may have concerning the applicant, to the governor within 120 days after referral to the board. The governor shall not grant or deny any such application until the governor has received the report of the board or until 120 days after the referral to the board, whichever time is the shorter and the provisions of subsection (c) have been satisfied.

KSA 22-3702 — Form of pardon

Form of pardon.

A pardon shall be in writing, signed by the governor, attested by the great seal of the state and shall be authority for the release and discharge of the person named therein.

KSA 22-3703 — Report of pardons to legislature

Report of pardons to legislature.

The governor at each regular session of the legislature, shall communicate to both houses of the legislature a list of all persons pardoned by him during the preceding year, with a statement of the offense of which each was convicted, the time of imprisonment or amount of fine, and the condition, if any, upon which such pardon was granted.

KSA 22-3704 — Reprieves in capital cases

Reprieves in capital cases.

In cases where the death penalty has been imposed the governor may order the postponement of the execution of the sentence for a limited time. At the expiration of such time the sentence of the court shall be carried out.

KSA 22-3705 — Commutation of sentence, reduction of penalty; restrictions

Commutation of sentence, reduction of penalty; restrictions.

(a) The governor may, when the governor deems it proper or advisable, commute a sentence in any criminal case by reducing the penalty as follows:

(1) If the sentence is death, to imprisonment for life without the possibility of parole and not to any lesser sentence;

(2) except as provided in subsection (b), if the sentence is to imprisonment, by reducing the duration of such imprisonment;

(3) if the sentence is a fine, by reducing the amount thereof; or

(4) if the sentence is both imprisonment and fine, by reducing either or both.

(b) The governor shall not commute a sentence of life without possibility of parole.

KSA 22-3706 — Person acting as agent or representative of individual seeking release; contingent fee prohibited; statement and affidavit

Person acting as agent or representative of individual seeking release; contingent fee prohibited; statement and affidavit.

No person acting as agent or representative for an individual before the board for pardon, commutation of sentence, parole or revocation of parole, conditional release or postrelease supervision shall contract for or receive a fee contingent upon a certain decision by the board. Such agent or representative shall submit a statement on the applicant's behalf to the prisoner review board in writing and shall submit therewith an affidavit stating such agent's representative's name; place of residence; the name of the applicant being represented or * has been represented; the fee, if any, paid to or to be paid to such agent or representative by any person for such services; that such fee is not or was not a contingent fee. If any person representing any applicant for pardon, commutation of sentence, or parole shall fail to file such affidavit, the application shall not be considered. Any affidavit filed as provided in this section shall be a public record.

KSA 22-3709 — Officers of board; panels authorized; vote required to parole certain inmates

Officers of board; panels authorized; vote required to parole certain inmates.

The chairperson and vice-chairperson of the prisoner review board shall be designated by the secretary of corrections. The chairperson of the board shall have the authority to organize and administer the activities of the board. The chairperson of the board may designate panels, consisting of two members of the board, which shall have the full authority and power of the board to order the denial, grant or revocation of an inmate's parole or conditional release, or for crimes committed on or after July 1, 1993, grant parole for off-grid crimes or revocation of postrelease supervision or to order the revocation of an inmate's conditional release, upon hearing by one or more members of the panel, and by a majority vote of the board.

KSA 22-3710 — Kansas prisoner review board; seal, orders, records, reports

Kansas prisoner review board; seal, orders, records, reports.

The prisoner review board shall adopt an official seal of which the courts shall take judicial notice. The orders of the board shall not be reviewable except as to compliance with the terms of this act or other applicable laws of this state. The board shall keep a record of its acts and shall notify each institution and the secretary of corrections of its decisions relating to the persons who are or have been confined therein. At the close of each fiscal year, the board shall submit to the governor and to the legislature a report with statistical and other data of its work, including research studies which it may make of probation, sentencing, parole, postrelease supervision or related functions. Such report may be part of the annual report of the department of corrections, so long as such information is presented separately and distinctly.

KSA 22-3711 — Certain records privileged

Certain records privileged.

The presentence report, the preparole report, the pre-postrelease supervision report and the supervision history, obtained in the discharge of official duty by any member or employee of the prisoner review board or any other employee of the department of corrections, shall be privileged and shall not be disclosed directly or indirectly to anyone other than the prisoner review board, the judge, the attorney general or others entitled to receive the information, except that the board, secretary of corrections or court may permit the inspection of the report or parts of it by the defendant, inmate, defendant's or inmate's attorney or other person having a proper interest in it, whenever the best interest or welfare of a particular defendant or inmate makes the action desirable or helpful.

KSA 22-3712 — Placement in diagnostic or treatment facility as condition of release

Placement in diagnostic or treatment facility as condition of release.

As a condition of probation, parole or postrelease supervision, a probationer, parolee or person on postrelease supervision may be placed in a diagnostic, or treatment facility by order of the court or prisoner review board. Placement in a diagnostic or treatment facility shall not exceed 90 days or the maximum period of the prison sentence that could be imposed, but may be renewed for further ninety-day periods on certificates presented to the court by the director of such facility.

KSA 22-3713 — Prisoner review board; hearings; personnel and accounting services

Prisoner review board; hearings; personnel and accounting services.

(a) The prisoner review board may authorize one or more of its members to conduct hearings on behalf of the board.

(b) The secretary of corrections shall provide the prisoner review board with necessary personnel and accounting services.

KSA 22-3716 — Arrest for violating condition of probation, assignment to community corrections, suspension of sentence or nonprison sanction, procedure; time limitation on issuing warrant; limitations on serving sentence in department of corrections' facility or serving period of postrelease supervision, exceptions

Arrest for violating condition of probation, assignment to community corrections, suspension of sentence or nonprison sanction, procedure; time limitation on issuing warrant; limitations on serving sentence in department of corrections' facility or serving period of postrelease supervision, exceptions.

(a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time when a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing by the supervising court services or community correctional services officer, waives such hearing, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A.

21-6804

(i), and amendments thereto, and a violation is established, the court may impose the violation sanctions as provided in subsection (c)(1).

(B) Except as otherwise provided, if the original crime of conviction was a misdemeanor or a felony specified in K.S.A.

21-6804

(i), and amendments thereto, and a violation is established, the court may:

(i) Continue or modify the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;

(ii) impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsection (b)(4) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h); or

(iii) revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence that might originally have been imposed.

(4) Except as otherwise provided, if the defendant waives the right to a hearing, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h); and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h).

(c) (1) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A.

21-6804

(i), and amendments thereto, and a violation is established, the court may impose the following sanctions:

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;

(B) continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and an intermediate sanction of confinement in a county jail to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsection (b)(4) shall not exceed 18 total days during the term of supervision, except as provided in subsection (h); or

(C) if the violator already had a sanction imposed pursuant to subsection (c)(1)(B) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence that might originally have been imposed.

(2) Except as otherwise provided in subsections (c)(3) and (c)(7), no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already had at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony offenders as described in K.S.A.

75-5291

(a)(3), and amendments thereto.

(4) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed consecutively pursuant to the provisions of K.S.A.

21-6606

, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(6) A violation sanction imposed pursuant to subsection (c)(1) shall not be longer than the amount of time remaining on the offender's underlying prison sentence.

(7) The court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1) without having previously imposed a sanction pursuant to subsection (c)(1) if:

(A) The court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the offender will not be served by such sanction;

(B) the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction was originally granted as the result of a dispositional departure granted by the sentencing court pursuant to K.S.A.

21-6815

, and amendments thereto;

(C) the offender commits a new felony or misdemeanor while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction; or

(D) the offender absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction.

(8) If an offender is serving multiple probation terms concurrently, any violation sanctions imposed pursuant to subsection (c)(1), or any sanction imposed pursuant to subsection (c)(9), shall be imposed concurrently.

(9) If the original crime of conviction was a felony, except for violations of K.S.A.

8-1567

or

8-2,144

, and amendments thereto, and the court makes a finding that the offender has committed one or more violations of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may impose confinement in a county jail not to exceed 60 days upon each such finding. Such confinement is separate and distinct from the violation sanctions provided in subsection (c)(1) and shall not be imposed at the same time as any such violation sanction.

(10) The violation sanctions provided in this subsection shall apply to any violation of conditions of release or assignment or a nonprison sanction occurring on and after July 1, 2013, regardless of when the offender was sentenced for the original crime or committed the original crime for which sentenced.

(d) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as

time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, a felony offender whose nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1) shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A.

21-6824

, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

(h) If the court continues or modifies the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, pursuant to subsection (b) or (c), the court shall authorize an additional 18 days of sanction time in a county jail to be reserved for sanctions as set forth in subsection (b)(3), (b)(4) or (c)(1).

KSA 22-3717 — Parole or postrelease supervision; eligibility; interviews, notices and hearings; rules and regulations; conditions of parole or postrelease supervision

Parole or postrelease supervision; eligibility; interviews, notices and hearings; rules and regulations; conditions of parole or postrelease supervision.

(a) Except as otherwise provided by this section; K.S.A. 1993 Supp.

21-4628

, prior to its repeal; K.S.A.

21-4624

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21-4635

through

21-4638

and

21-4642

, prior to their repeal; K.S.A.

21-6617

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21-6620

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21-6623

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21-6624

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21-6625

and

21-6626

, and amendments thereto; and K.S.A.

8-1567

, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A.

21-4618

, prior to its repeal, or K.S.A.

21-6707

, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A.

21-6617

, and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A.

21-4635

through

21-4638

, prior to their repeal, and K.S.A.

21-6620

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21-6623

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21-6624

and

21-6625

, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in K.S.A.

21-5402

(a)(2), and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(3) Except as provided by subsections (b)(1), (b)(2) and (b)(5), K.S.A. 1993 Supp.

21-4628

, prior to its repeal, K.S.A.

21-4635

through

21-4638

, prior to their repeal, and K.S.A.

21-6620

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21-6623

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21-6624

and

21-6625

, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(4) Except as provided by K.S.A. 1993 Supp.

21-4628

, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A.

21-4618

, prior to its repeal, or K.S.A.

21-6707

, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(5) An inmate sentenced to imprisonment for a violation of K.S.A.

21-3402

(a), prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(6) An inmate sentenced to imprisonment pursuant to K.S.A.

21-4643

, prior to its repeal, or K.S.A.

21-6627

, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A.

21-4608

, prior to its repeal, or K.S.A.

21-6606

, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A.

21-4643

, prior to its repeal, or K.S.A.

21-6627

, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months on postrelease supervision.

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, committed on or after July 1, 1993, but prior to July 1, 2006, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A.

21-3523

, prior to its repeal, or K.S.A.

21-5509

, and amendments thereto, or unlawful sexual relations, K.S.A.

21-3520

, prior to its repeal, or K.S.A.

21-5512

, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C), plus the amount of good time and program credit earned and retained pursuant to K.S.A.

21-4722

, prior to its repeal, or K.S.A.

21-6821

, and amendments thereto, on postrelease supervision.

(i) If the sentencing judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A.

21-4721

, prior to its repeal, or K.S.A.

21-6820

, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to K.S.A.

21-4714

(e), prior to its repeal, or K.S.A.

21-6813

(e), and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex

offender treatment be carried out.

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A.

21-4718

, prior to its repeal, or K.S.A.

21-6817

, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A.

21-6604

, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K.S.A.

22-4901

through

22-4910

, and amendments thereto.

(viii) Persons convicted of K.S.A.

21-3510

or

21-3511

, prior to their repeal, or K.S.A.

21-5508

, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) (i) Except as provided in subsection (v), persons sentenced to imprisonment for a sexually violent crime committed on or after July 1, 2006, when the offender was 18 years of age or older, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(ii) Persons sentenced to imprisonment for a sexually violent crime committed on or after the effective date of this act, when the offender was under 18 years of age, and who are released from prison, shall be released to a mandatory period of postrelease supervision for 60 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A.

21-4722

, prior to its repeal, or K.S.A.

21-6821

, and amendments thereto.

(2) Persons serving a period of postrelease supervision pursuant to subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner review board for early discharge. Upon payment of restitution, the prisoner review board may provide for early discharge.

(3) Persons serving a period of incarceration for a supervision violation shall not have the period of postrelease supervision modified until such person is released and returned to postrelease supervision.

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction is revoked pursuant to K.S.A.

22-3716

(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to K.S.A.

22-3716

(c), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(5) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A.

21-3502

, prior to its repeal, or K.S.A.

21-5503

, and amendments thereto;

(B) indecent liberties with a child, K.S.A.

21-3503

, prior to its repeal, or K.S.A.

21-5506

(a), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A.

21-3504

, prior to its repeal, or K.S.A.

21-5506

(b), and amendments thereto;

(D) criminal sodomy, K.S.A.

21-3505

(a)(2) and (a)(3), prior to its repeal, or K.S.A.

21-5504

(a)(3) and (a)(4), and amendments thereto;

(E) aggravated criminal sodomy, K.S.A.

21-3506

, prior to its repeal, or K.S.A.

21-5504

(b), and amendments thereto;

(F) indecent solicitation of a child, K.S.A.

21-3510

, prior to its repeal, or K.S.A.

21-5508

(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A.
21-3511
, prior to its repeal, or K.S.A.
21-5508
(b), and amendments thereto;
(H) sexual exploitation of a child, K.S.A.
21-3516
, prior to its repeal, or K.S.A.
21-5510
, and amendments thereto;
(I) aggravated sexual battery, K.S.A.
21-3518
, prior to its repeal, or K.S.A.
21-5505
(b), and amendments thereto;
(J) aggravated incest, K.S.A.
21-3603
, prior to its repeal, or K.S.A.
21-5604
(b), and amendments thereto;
(K) aggravated human trafficking, as defined in K.S.A.
21-3447
, prior to its repeal, or K.S.A.
21-5426
(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
(L) internet trading in child pornography, as defined in K.S.A.
21-5514
(a), and amendments thereto;
(M) aggravated internet trading in child pornography, as defined in K.S.A.
21-5514
(b), and amendments thereto;
(N) commercial sexual exploitation of a child, as defined in K.S.A.
21-6422
, and amendments thereto; or
(O) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.
21-3301
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21-3302
or
21-3303
, prior to their repeal, or K.S.A.

21-5301

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21-5302

or

21-5303

, and amendments thereto, of a sexually violent crime as defined in this section.

(6) As used in this subsection, "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.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A.

21-4724

, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.

21-4628

, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A.

75-5210a

, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A.

74-7338

, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A.

75-5210a

, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A.

75-5210a

, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A.

75-5210a

, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A.

75-5210a

, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A.

75-5210a

, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced

for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A.

77-415

et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board shall require that the inmate:

(1) Obey all laws and ordinances and report any law enforcement contact to the inmate's supervision officer within 24 hours after such contact;

(2) not engage in physical violence or threats of violence of any kind and, if the inmate is being supervised for conviction of a felony, not purchase or possess a dangerous weapon, including a firearm, while on supervision;

(3) report to the inmate's supervision officer as directed and be truthful in all matters;

(4) remain within the state of Kansas or other specified areas as defined by the defendant's supervision officer;

(5) reside at the inmate's approved residence unless the defendant receives permission from the inmate's supervision officer to relocate and notify the inmate's supervision officer within 24 hours after any emergency changes in residence or contact information;

(6) not possess, use or distribute any controlled substances except those prescribed by a licensed medical professional;

(7) not possess or consume any form of alcohol or intoxicating substance or enter any establishment where alcohol is sold or consumed as the primary business;

(8) submit to any form of alcohol or substance use testing directed by the inmate's supervision officer and not alter or tamper with the specimen or test;

(9) participate in assessment, treatment, programming and other directives of the court or the inmate's supervision officer;

(10) submit to searches of the person and the person's effects, vehicle, residence and property by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or

without a search warrant and with or without cause, except that nothing in this paragraph shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment;

(11) submit to searches of the person and the person's effects, vehicle, residence and property by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity;

(12) refrain from contacting victims unless authorized by the board to contact a victim as part of rehabilitative or therapeutic purposes;

(13) pay the administrative fee imposed pursuant to K.S.A.

22-4529

, and amendments thereto, unless the board finds compelling circumstances that would render payment unworkable; and

(14) unless the board finds compelling circumstances that would render a plan of payment unworkable, reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A.

22-4522

, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) Any law enforcement officer who conducts a search pursuant to subsection (m)(11) shall submit a written report to the inmate's parole officer not later than the close of business the next day after such search is conducted. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(o) If the court that sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances that would render a plan of restitution unworkable.

(p) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(q) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(r) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(s) An inmate who is allocated regular good time credits as provided in K.S.A.

22-3725

, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life-threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions that result in a financial savings to the state.

(t) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (u).

(u) For offenders sentenced prior to July 1, 2014, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

(1) On or before September 1, 2013, for offenders convicted of:

(A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;

(2) on or before November 1, 2013, for offenders convicted of:

(A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;

(B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and

(3) on or before January 1, 2014, for offenders convicted of:

(A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.

(v) An inmate sentenced to imprisonment pursuant to K.S.A.

21-4643

, prior to its repeal, or K.S.A.

21-6627

, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(w) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to K.S.A.

21-6604

(r), and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(x) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A.

22-4902

, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by K.S.A.

21-5510

, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A.

22-4902

, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

KSA 22-3718 — Conditional release; notice

Conditional release; notice.

Upon release, an inmate who has served the inmate's maximum term or terms, less such work and good behavior credits as have been earned, shall be subject to such written rules and conditions as the prisoner review board may impose, until the expiration of the maximum term or terms for which the inmate was sentenced or until the inmate is otherwise discharged. If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of release pursuant to this section, the board may set aside restitution as a condition of release payment of restitution, if the board finds compelling circumstances which would render a plan of restitution unworkable. If the court which sentenced an inmate specified reimbursement of all or part of the expenditures by the state

board of indigents' defense services as a condition of release, the board may set aside such reimbursement, if the board finds compelling circumstances which would render a plan of reimbursement unworkable. Prior to the release of any inmate on parole, conditional release or expiration of sentence, if an inmate is released into the community under a program under the supervision of the secretary of corrections, the secretary shall give written notice of such release to any victim or victim's family as provided in K.S.A.

22-3727

, and amendments thereto.

KSA 22-3719 — Information from correctional institution officials

Information from correctional institution officials.

It shall be the duty of all correctional institution officials to grant to the members of the prisoner review board, or its properly accredited representatives, access at all reasonable times to any inmate, to provide for the board or such representative facilities for communicating with and observing such inmate, and to furnish to the board such reports as the board shall require concerning the conduct and character of any inmate in their custody and any other facts deemed by the board to be pertinent in determining any issue before the board.

KSA 22-3720 — Subpoena power

Subpoena power.

The prisoner review board shall have power to issue subpoenas requiring the attendance of any witnesses and the production of any records, books, papers and documents that it considers necessary for the investigation of the issues before it. Subpoenas may be signed and oaths administered by any member of the board. Subpoenas so issued may be served by any law enforcement officer, in the same manner as similar process in the district court. Any person who testifies falsely, fails to appear when subpoenaed or fails or refuses to produce material pursuant to the subpoena shall be subject to the same orders and penalties to which a person before a court is subject. Any district court of this state, upon application of the board, may in its discretion compel the attendance of witnesses, the production of material and the giving of testimony before the board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before the district court.

KSA 22-3722 — Service on parole, conditional release and postrelease supervision; discharge; restoration of civil rights

Service on parole, conditional release and postrelease supervision; discharge; restoration of civil rights.

(a) The period served on parole or conditional release shall be deemed service of the term of confinement, and, subject to the provisions contained in K.S.A.

75-5217

, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. The period served on postrelease supervision shall vest in and be subject to the provisions contained in K.S.A.

75-5217

, and amendments thereto, relating to an inmate who is a fugitive from or has fled from justice. The service of the postrelease supervision period shall not toll except as provided by K.S.A.

75-5217

, and amendments thereto. The total time served shall not exceed the postrelease supervision period established at sentencing.

(b) When an inmate on parole or conditional release has performed the obligations of the release for such time as shall satisfy the prisoner review board that final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the inmate but no such order of discharge shall be made in any case within a period of less than one year after the date of release except where the sentence expires earlier thereto. When an inmate has reached the end of the postrelease supervision period, the board shall issue a certificate of discharge to the releasee. Such discharge, and the discharge of an inmate who has served the inmate's term of imprisonment, shall have the effect of restoring all civil rights lost by operation of law upon

commitment, and the certification of discharge shall so state. Nothing herein contained shall be held to impair the power of the governor to grant a pardon or commutation of sentence in any case.

KSA 22-3723 — Transfer of offenders under treaties

Transfer of offenders under treaties.

Whenever a treaty is in force between the United States and a foreign country providing for the transfer of offenders between the United States and such foreign country, the governor is authorized to give the approval of the state of Kansas to a transfer as provided in the treaty, upon the application of a person under the jurisdiction of the secretary of corrections or the secretary for aging and disability services.

KSA 22-3725 — Good time credits, crimes committed prior to July 1, 1993

Good time credits, crimes committed prior to July 1, 1993.

(a) Except as otherwise provided for crimes committed by inmates on or after July 1, 1993, for the purpose of determining an inmate's eligibility for parole or conditional release, regardless of when the inmate was sentenced or committed the crime for which sentenced, good time credits shall be allocated as follows:

GOOD TIME TABLE

(Assumed 360-Day Years, 30-Day Months)

SENTENCE

GOOD TIME EARNED

MUST SERVE

Minimum (or) Maximum

Years

Months

Years

Months

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4

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8

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(b) Maximum good time credits for sentences of less than two years shall be computed as follows: One day for every two days served and one month for every year served.

(c) Maximum good time credits for sentences two years or greater shall be computed as follows: One-half of the sentence.

(d) Good time credits shall be awarded on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(e) The provisions of this section shall not apply to crimes committed by inmates on or after July 1, 1993. Good time calculations for such crimes shall be as provided in K.S.A.

21-4722

, prior to its repeal, or K.S.A.

21-6821

, and amendments thereto.

(f) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

(1) Filed a false or malicious action or claim with the court;

(2) brought an action or claim with the court solely or primarily for delay or harassment;

(3) testified falsely or otherwise submitted false evidence or information to the court;

(4) attempted to create or obtain a false affidavit, testimony or evidence; or

(5) abused the discovery process in any judicial action or proceeding.

KSA 22-3726 — Supervised furlough; crimes committed prior to July 1, 1993

Supervised furlough; crimes committed prior to July 1, 1993.

The secretary of corrections may place, on a six-month supervised furlough, any inmate who is classified at a custody level not higher than minimum and who will be eligible for parole under K.S.A.

22-3717

, and amendments thereto, by the end of the six-month period. If, at the end of the six-month period, the secretary determines that the inmate has successfully completed the furlough, the secretary shall certify that fact to the prisoner review board, which shall promptly order the inmate's release on parole, without hearing, under the level of supervision specified by the secretary and subject to such conditions as imposed by the board. The provisions of this section shall not apply to crimes committed by inmates on or after July 1, 1993.

KSA 22-3727 — Secretary of corrections; notification to victims prior to release of certain inmates

Secretary of corrections; notification to victims prior to release of certain inmates.

(a) Prior to the release of any inmate on parole, conditional release, expiration of sentence or postrelease supervision, if an inmate is released into the community under a program under the supervision of the secretary of corrections, or after the escape of an inmate or death of an inmate while in the secretary of corrections' custody, the secretary of corrections shall give written notice of such release, escape or death to any victim of the inmate's crime who is alive and whose address is known to the secretary or, if the victim is deceased, to the victim's family if the family's address is known to the secretary. Such notice shall be required to be given to the victim or the victim's family only if the inmate was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A.

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, and amendments thereto. Except for notifications of releases due to a court order, escape or death, notification shall be given at least 14 working days prior to the release of such inmate. Failure to notify the victim or the victim's family as provided in this section shall not be a reason for postponement of parole, conditional release or other forms of release.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparents or grandparents.

KSA 22-3727a — County or district attorney; notification to victims of the escape or death of certain committed defendants or inmates

County or district attorney; notification to victims of the escape or death of certain committed defendants or inmates.

(a) The county or district attorney shall, as soon as practicable, provide notification as provided in K.S.A.

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and

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, and amendments thereto, and upon the escape or death of a committed defendant while in the custody of the secretary for aging and disability services, to any victim of the defendant's crime whose address is known to the county or district attorney, and the victim's family, if so requested and the family's addresses are known to the county or district attorney. Such notice shall be required to be given only if the defendant was charged with any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A.

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, and amendments thereto.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparents or grandparents.

KSA 22-3728 — Functional incapacitation release; procedures; notice; conditions; supervision upon release

Functional incapacitation release; procedures; notice; conditions; supervision upon release.

(a) (1) Upon application of the secretary of corrections, the prisoner review board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.

(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to be functionally incapacitated. Such rules and regulations shall include criteria and guidelines for determining whether the functional incapacitation precludes the person from posing a threat to the public.

(3) Subject to the provisions of subsections (a)(4) and (a)(5), a functional incapacitation release shall not be granted until at least 30 days after written notice of the application has been given to: (A) The prosecuting attorney and the judge of the court in which the person was convicted; and (B) any victim of the person's crime or the victim's family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary, or if the victim is deceased, to the victim's family if the family's address is known to the secretary. Subject to the provisions of subsection (a)(4), if there is no known address for the victim, if alive, or the victim's family, if deceased, the board shall not grant or deny such application until at least 30 days after notification is given by publication in the county of conviction. Publication costs shall be paid by the department of corrections.

(4) All applications for functional incapacitation release shall be referred to the board. The board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall determine whether a hearing is necessary on the application. The board may request additional information or evidence it deems necessary from a medical or mental health practitioner.

(5) The board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A.

75-5217

, and amendments thereto, if the person's functional incapacity significantly diminishes, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence, or

discharged by the board. Subject to the provisions of subsection (f) of K.S.A.

75-5217

, and amendments thereto, the person shall receive credit for the time during which the person is on functional incapacitation release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

(6) The secretary of corrections shall cause the person to be supervised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(5).

(7) The decision of the board on the application or any revocation shall be final and not subject to review by any administrative agency or court.

(8) In determining whether a person is functionally incapacitated, the board shall consider the following: (A) The person's current condition as confirmed by medical or mental health care providers, including whether the condition is terminal;

(B) the person's age and personal history;

(C) the person's criminal history;

(D) the person's length of sentence and time the person has served;

(E) the nature and circumstances of the current offense;

(F) the risk or threat to the community if released;

(G) whether an appropriate release plan has been established; and

(H) any other factors deemed relevant by the board.

(b) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A.

22-3701

, and amendments thereto.

(c) Nothing in this section shall apply to the release of people with terminal medical conditions as described in K.S.A.

22-3729

, and amendments thereto.

(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.

(e) This section does not apply to any person under sentence of death or life without the possibility of parole.

KSA 22-3729 — Terminal medical release; procedures; notice; conditions; revocation; supervision upon release

Terminal medical release; procedures; notice; conditions; revocation; supervision upon release.

(a) (1) Upon application of the secretary of corrections, the chairperson of the prisoner review board may grant release to any person deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days upon such terms and conditions as prescribed in the order granting such release.

(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to have a terminal medical condition likely to cause death within 30 days. Such rules and regulations shall include criteria and guidelines for determining whether the terminal medical condition precludes the person from posing a threat to the public.

(3) All applications for a terminal medical condition release shall be referred to the chairperson of the board. The chairperson of the board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the chairperson of the board determines that the person has been deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition likely to cause death within 30 days and does not represent a future risk to public safety. The chairperson of the board may request additional information or evidence the chairperson of the board deems necessary from a doctor licensed to practice medicine and surgery in Kansas.

(4) The chairperson of the board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A.

75-5217

, and amendments thereto, if the person's illness or condition significantly improves, the person does not die within 30 days of release, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence or discharged by the board. Subject to the provisions of subsection (f) of K.S.A.

75-5217

, and amendments thereto, the person shall receive credit for the time during which the person is on terminal medical condition release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

(5) The secretary of corrections shall cause the person to be supervised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(4).

(6) The decision of the chairperson of the board on the application and the decision of the board regarding any revocation shall be final and not subject to review by any administrative agency or court.

(7) In determining whether a person meets the criteria to be released under this section, the chairperson of the board shall consider the following:

(A) The person's current condition as confirmed by a doctor licensed to practice medicine and surgery in Kansas, including whether the condition is terminal and likely to cause death within 30 days;

(B) the person's age and personal history;

(C) the person's criminal history;

(D) the person's length of sentence and time the person has served;

(E) the nature and circumstances of the current offense;

(F) the risk or threat to the community if released;

(G) whether an appropriate release plan has been established; and

(H) any other factors deemed relevant by the board member.

(b) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A.

22-3701

, and amendments thereto.

(c) The secretary shall give notice of the granting of a terminal medical condition release to: (1) The prosecuting attorney and the judge of the court in which the person was convicted; and (2) any victim of the person's crime if alive or the victim's family if the victim is deceased, whose address is known by the secretary.

(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.

KSA 22-3730 — Community parenting release; duties and authority of secretary of corrections

Community parenting release; duties and authority of secretary of corrections.

(a) The secretary of corrections may transfer an offender from a correctional facility to home detention in the community if the secretary determines that community parenting release is an appropriate placement and:

(1) The offender is serving a current sentence for a nondrug severity level 4 through 10 felony or a drug severity level 3 through 5 felony and is determined to be low, low-moderate or moderate risk on a standardized risk assessment tool;

(2) the offender has no prior or current conviction for a sex offense or an inherently dangerous felony as defined in K.S.A.

21-5402

, and amendments thereto, not including a drug severity level 3 through 5 felony;

(3) the offender has not been found by the United States attorney general to be subject to a deportation detainer or order;

(4) the offender signs any release of information waivers required to allow information regarding current or prior child in need of care cases involving the offender to be shared with the department of corrections;

(5) the offender had physical custody of such offender's minor child or was a legal guardian or custodian with physical custody of a minor child at the time the offense for which the offender is serving a sentence was committed;

(6) the offender has 12 months or less remaining of the offender's sentence; and

(7) the secretary of corrections determines that such placement is in the best interests of the child.

(b) Prior to transferring an offender from a correctional facility to home detention pursuant to this section, the secretary of corrections shall obtain information from the department for children and families regarding any child in need of care case involving the offender. Such information shall be used by the secretary of corrections in determining whether placing an offender in community parenting release is in the best interests of the child.

(c) Offenders placed on community parenting release shall provide to the secretary of corrections an approved residence and living arrangement prior to transfer to home detention.

(d) The secretary of corrections shall:

(1) Require offenders placed on community parenting release to:

(A) Comply with the provisions of K.S.A.

21-6609

, and amendments thereto; and

(B) participate in programming and treatment that the secretary determines is needed; and

(2) assign a parole officer to monitor the offender's compliance with conditions of community parenting release.

(e) The secretary of corrections has the authority to return any offender serving the remainder of such offender's sentence on community parenting release to a correctional facility if the offender is not complying with community parenting release requirements.

KSA 22-3801 — Liability for costs

Liability for costs.

(a) If the defendant in a criminal case is convicted, the court costs shall be taxed against the defendant and shall be a judgment against the defendant which may be enforced as judgments for payment of money in civil cases.

(b) Jury fees are not court costs and shall be paid by the county in all criminal cases.

(c) The county shall not be reimbursed for the cost of employing a special prosecutor.

KSA 22-3802 — When costs taxed to complaining witness

When costs taxed to complaining witness.

If it appears to the court that the prosecution was instituted without probable cause and from malicious motives, the court may require the complaining witness or other person instituting the prosecution to appear and answer concerning his motives for instituting the prosecution. If, upon hearing, the court determines that the prosecution was instituted without probable cause and from malicious motives all costs in the case shall be taxed against the complaining witness or other person initiating the prosecution.

KSA 22-3803 — Taxation of costs

Taxation of costs.

At the conclusion of each criminal case the court shall tax the costs against the party responsible for payment and shall cause to be delivered to such responsible party a complete statement of the costs, specifying each item of service and the fee assessed for such service. When the costs are ordered paid by the county, the statement of costs shall not include that portion of the docket fee which is to be paid to the county general fund for the services of the clerk of the district court and the sheriff. Such statement shall be filed in the office of county clerk and shall be allowed by the board of county commissioners and paid as other claims against the county. When the claim has been allowed by the board of county commissioners, payment shall be made to the clerk of the court who shall distribute such funds to the persons entitled to receive them.

KSA 22-3805 — Commitment to mental institutions; costs

Commitment to mental institutions; costs.

The costs of the proceedings, and transportation and clothing of any person committed by the court under K.S.A.

22-3303

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22-3428

and

22-3429

, shall be paid out of the estate of such person, or by any person bound by law to maintain him or her, or by the county, as in the case of mentally ill persons sent to the hospitals.

KSA 22-3901 — Common nuisances; scope

Common nuisances; scope.

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 the sale of sexual relations;

(f) commercial sexual exploitation of a child;

(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, and amendments thereto;

(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, and amendments thereto;

(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. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, 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. 2010 Supp.

21-36a01

through

21-36a17

, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, 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

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22-3903

and

22-3904

, and amendments thereto.

KSA 22-3902 — Procedure

Procedure.

(1) Unless otherwise provided by law, proceedings under K.S.A.

22-3901

through

22-3904

, and amendments thereto, shall be governed by the provisions of the Kansas code of civil procedure relating to the abatement of common nuisances.

(2) (A) In addition to the procedure established by this section, if a person is arrested for an unlawful act listed in K.S.A.

22-3901

, and amendments thereto, the attorney general, city, county or district attorney may petition the court for a hearing to determine whether an unlawful activity is or has been occurring on such owner's property. The owner of the property on which such person is or was committing an unlawful activity may be given notice of such hearing. Except as provided by paragraph (B), a hearing shall be held before the court within 30 days of the notification. If the court determines by a preponderance of the evidence that an unlawful act occurred, such act shall render void any lease under which a tenant holds possession, and shall cause the right of possession to revert to the owner who may evict the tenant. If the owner does not commence eviction proceedings against the tenant within 30 days of the court determination, the attorney general or the city, county or district attorney may proceed to file a petition pursuant to subsection (3). The provisions of this subsection are in addition to any remedy provided pursuant to the residential landlord and tenant act.

(B) In the case of a violation of subsection (k) of K.S.A.

22-3901

, and amendments thereto, a hearing shall be held before the court within seven days of the notification.

(3) Proceedings under K.S.A.

22-3901

through

22-3904

, and amendments thereto, shall be instituted only in the name of the state of Kansas upon the petition of the attorney general or the city, county or district attorney to enjoin a nuisance within the city, county or district.

(4) The petition shall describe any real estate alleged to be used or to have been used as a place where such common nuisance is or was maintained or permitted and shall identify the owner or person in charge of such real estate. It shall describe any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used in such unlawful activity. It shall pray for the particular relief sought with respect to such property.

(5) The petition for injunction may include or be accompanied by an application for an order for the seizure of the effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property described in the petition. If the court finds that there is probable cause to believe that the personal property described is or has been used for any of the unlawful purposes set forth in K.S.A.

22-3901

, and amendments thereto, the court may order the sheriff or other law enforcement officer to seize such personalty and to hold it in custody pending further order of the court. An order for seizure shall particularly describe the personal property to be seized.

(6) An order for seizure of materials alleged to be obscene shall not be issued until after a hearing at which evidence in support of the application for such order has been heard. At least seven days notice of such hearing shall be given to the owner or person in possession of such material. Pending such hearing, the court may make an order prohibiting the owner or person in possession from removing such material from the jurisdiction of the court.

(7) No bond or other security shall be required for any restraining order, order for seizure or injunction issued under K.S.A.

22-3901

through

22-3904

, and amendments thereto, in an action brought by the attorney general or city, county or district attorney.

(8) The provisions of K.S.A.

22-3901

through

22-3904

, and amendments thereto, shall not limit nor otherwise affect proceedings under K.S.A.

60-908

, and amendments thereto, but shall be supplemental and in addition to, and not in lieu of, the remedy provided by that statute.

(9) The attorney general or the city, county or district attorney shall give notice of proceedings under K.S.A.

22-3901

through

22-3904

, and amendments thereto, by sending a copy of the petition to enjoin a nuisance by certified mail, return receipt requested, to each person having ownership of or a security interest in the property if: (a) The property is of a type for which title, registration or deed is required by law; (b) the owner of the property is known in fact at the time of seizure; or (c) the property is subject to a security interest perfected in accordance with the uniform commercial code. The attorney general or the city, county or district attorney shall be obligated only to make diligent search and inquiry as to the owner of the property and if, after diligent search and inquiry, the attorney general or city, county or district attorney is unable to ascertain the owner, the requirement of actual notice by mail with respect to persons having perfected security interest in the property shall not be applicable.

KSA 22-3903 — Proceedings in rem

Proceedings in rem.

The real or personal property against which the order of abatement is sought may be named as a party defendant in a proceeding under this article. In such case, summons shall be served on the owner or person in possession of such property. Any person claiming an interest in the property shall, upon application be permitted to intervene as a party

defendant.

KSA 22-3904 — Judgment

Judgment.

(1) Upon final judgment that any real property is being or has been used as a place where any of the unlawful activities set forth in K.S.A.

22-3901

, and amendments thereto, are carried on or permitted to be carried on, the court may order that any house, room, building or other structure located on such real estate be closed and padlocked for a period of not more than two years, subject to modification in the manner provided by K.S.A.

60-910

, and amendments thereto, if the court finds that the owner of the property knew or should have known under the circumstances of the maintenance of a common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances. The court may require, as part of the judgment, that the owner, lessee, tenant or occupant enter into a bond to the state of Kansas, in such amount and with security as the court may require, conditioned that such owner, lessee, tenant or occupant will not within a period of two years use or permit the use of such real estate in violation of law. If any condition of such bond is violated, the whole amount may be recovered as a penalty. In addition, the court may assess a civil penalty not to exceed $25,000 against any or all defendants, based upon the severity of the nuisance and its duration. Such penalty shall be paid into the county treasury, if recovered by a county or district attorney, and into the city treasury, if recovered by a city attorney.

(2) Upon final judgment that any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property are designed for and have been used in carrying on any of the unlawful activities set forth in K.S.A.

22-3901

, and amendments thereto, the court may order that such effects, equipment, paraphernalia, fixtures, appliances, musical instruments and other personal property be publicly destroyed by the sheriff or other law enforcement officer or that such personal property be sold in the manner provided for sales in execution of judgment.

(3) The proceeds of any sale of personal property pursuant to subsection (2) shall be applied as follows:

(a) First, to the fees and costs of the abatement or removal of the nuisance and the sale.

(b) Second, to the costs of closing the structure and keeping it closed.

(c) Third, to payment of the costs of the action.

(d) Fourth, to payment of any civil penalty imposed pursuant to this section or any fine imposed for contempt in the proceedings.

(e) Fifth, to the owner of the personal property.

(4) Subject to the provisions of subsection (3), upon final judgment for the state the court shall adjudge that any defendant who was maintaining the common nuisance pay all costs, including a reasonable fee, fixed by the court, to be paid to the prosecuting attorney. Such costs shall be a lien upon any real property against which an order of abatement is obtained, if the court finds that the owner of such property knew or should have known under the circumstances of the maintenance of the common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances.

(5) For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining and carrying on any of the unlawful activities set forth in K.S.A.

22-3901

, and amendments thereto.

KSA 22-3905 — Maintenance of a common nuisance

Maintenance of a common nuisance.

(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.

KSA 22-4001 — Death penalty, how executed

Death penalty, how executed.

(a) The mode of carrying out a sentence of death in this state shall be by intravenous injection of a substance or substances in a quantity sufficient to cause death in a swift and humane manner.

(b) The secretary of corrections shall supervise the carrying out of each sentence of death and shall determine the procedures therefor, which shall be consistent with this act and the other laws of the state. The secretary of corrections shall designate one or more executioners and other persons necessary to assist in carrying out the sentence of death as provided in this section. The identity of executioners and other persons designated to assist in carrying out the sentence of death shall be confidential.

(c) The secretary of corrections shall select the type of substance or substances to be administered in carrying out a sentence of death by intravenous injection in a swift and humane manner. The secretary of health and environment shall certify to the secretary of corrections that the substance or substances selected by the secretary of corrections will result in death in a swift and humane manner. If the secretary of corrections desires to change the substance or substances to be administered from those previously certified by the secretary of health and environment, the proposed substance or substances also shall be certified as provided in this section.

(d) The secretary of corrections may designate in writing a warden of one of the correctional institutions under the secretary's supervision to perform the duties imposed upon the secretary by this section and by K.S.A.

22-4002

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22-4003

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22-4013

and

22-4014

, and amendments thereto.

KSA 22-4002 — Where death penalty inflicted

Where death penalty inflicted.

When any person is sentenced to death, the punishment shall be inflicted at a state correctional facility designated by the secretary of corrections, under the supervision of the secretary of corrections or the warden designated by the secretary and in such a manner as to exclude the view of all persons except those permitted to be present as provided in K.S.A.

22-4003

, and amendments thereto.

KSA 22-4003 — Witnesses of executions

Witnesses of executions.

* In addition to the secretary of corrections or the warden designated by the secretary, the executioner and persons designated pursuant to K.S.A.

22-4001

, and amendments thereto, to assist in the execution, the following persons, and no others, may be present at the execution: (1) A member of the clergy attending the prisoner; (2) not more than three persons designated by the prisoner; and (3) not more than 10 persons designated by the secretary of corrections as official witnesses. The secretary shall consider the inclusion of members of the immediate family of any deceased victim of the prisoner as witnesses when designating official witnesses. The identity of persons present at the execution, other than the secretary or the warden designated by the secretary, shall be confidential. A witness may elect to reveal such witness' own identity, but in no event shall a witness reveal the identity of any other person present at the execution.

(b) All witnesses shall be 18 years of age or older.

(c) The secretary may deny the attendance of any person selected or designated as a witness when the secretary determines it is necessary for reasons of security and order of the institution.

(d) As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, stepchild, parent, grandparent, grandchild, sibling or the spouse of any member of the immediate family specified in this subsection.

KSA 22-4004 — Military force, when to attend

Military force, when to attend.

If the secretary of corrections considers the presence of a military force necessary to carry into effect the provisions of this act, the secretary shall notify the governor thereof. The governor may call out such of the military force of the state as in the governor's judgment may be necessary for the purpose.

KSA 22-4005 — Return of proceedings by secretary of corrections

Return of proceedings by secretary of corrections.

When a sentence of death has been carried out, the secretary of corrections shall cause written notice thereof to be given to the clerk of the court where the conviction was rendered, and the clerk shall file the notice with the record of conviction and sentence.

KSA 22-4006 — Procedure to determine sanity of convict

Procedure to determine sanity of convict.

(a) At any time prior to execution, a convict under sentence of death, such convict's counsel or the warden of the correctional institution or sheriff having custody of such convict may request a determination of the convict's sanity by a district judge of the judicial district in which such convict was tried and sentenced. If the district judge determines that there is not sufficient reason to believe that the convict is insane, the judge shall so find and refuse to suspend the execution of such convict. If the district judge determines that there is sufficient reason to believe that the convict is insane, the judge shall suspend the execution and conduct a hearing to determine the sanity of the convict.

(b) At the hearing, the district judge shall determine the issue of the convict's sanity. The judge shall order a psychiatric or psychological examination of the convict. For that purpose, the court shall appoint two licensed physicians or licensed psychologists, or one of each, qualified by training and practice to make such examination, to examine the convict and report their findings in writing to the judge within 14 days after the order of examination is issued. The convict shall have the right to present evidence and cross-examine any witnesses at the hearing. No statement made by the convict in the course of any examination provided for by this section, whether or not the convict consents to the examination, shall be admitted in evidence against the convict in any criminal proceeding.

(c) If, at the conclusion of a hearing pursuant to this section, the judge determines that the convict is sane, the judge shall enter an order recording the determination. A copy of the order shall be delivered to the clerk of the supreme court and to the secretary of corrections. Upon receipt of the order, the supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court, commanding the secretary or a warden designated pursuant to K.S.A.

22-4001

, and amendments thereto, to proceed to carry out the sentence of execution during the week designated by the supreme court. A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court.

(d) If, at the conclusion of a hearing pursuant to this section, the judge determines that the convict is insane, the judge shall suspend the execution until further order. The judge shall enter an order recording the determination. A copy of the order shall be delivered to the clerk of the supreme court and the secretary of corrections. Upon receipt of the order, the

supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court suspending the sentence. A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court. Any time thereafter when the judge has sufficient reason to believe that the convict has become sane, the judge again shall determine the sanity of the convict as provided by this section. Proceedings pursuant to this section may continue to be held at such times as the district judge orders until it is determined either that such convict is sane or incurably insane.

KSA 22-4009 — Procedure when convict appears to be pregnant

Procedure when convict appears to be pregnant.

(a) If a convict under sentence of death appears to be pregnant or alleges to be pregnant, the person having custody of the convict shall notify the secretary of corrections. The secretary shall designate one or more licensed physicians to examine the convict to determine if the convict is pregnant. If the convict is not pregnant, the execution shall be carried out as previously ordered. If the convict is pregnant, the secretary of corrections shall notify the clerk of the supreme court. Upon receipt of the notice, the supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court postponing the execution of the sentence of death. A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court.

(b) When the execution of a sentence of death is postponed because of pregnancy, the secretary of corrections shall wait until the child is born or the pregnancy is otherwise terminated and then the secretary shall notify the clerk of the supreme court of the birth of the child or termination of the pregnancy. Upon receipt of the notice, the supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court, commanding the secretary or a warden designated pursuant to K.S.A.

22-4001

, and amendments thereto, to proceed to carry out the sentence of execution during the week designated by the supreme court. A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court. At any time during the postponement of the execution, the secretary may order an examination as provided in this section to determine whether the convict remains pregnant. The costs of each medical examination conducted pursuant to this section shall be paid by the county where the case originated.

KSA 22-4011 — Escape of convict; procedure

Escape of convict; procedure.

If any person who has been sentenced to death escapes and is not retaken before the time fixed for execution, it shall be lawful for any sheriff or other officer or person to rearrest and return the person to the custody of the secretary of corrections. Upon such return to custody, the secretary of corrections shall give notice thereof to the clerk of the supreme court. Upon receipt of such notice, the supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court, commanding the secretary or a warden designated pursuant to K.S.A.

22-4001

, and amendments thereto, to proceed to carry out the sentence of execution during the week designated by the supreme court which shall be carried into effect in the same manner as provided by statute for the execution of an original sentence of death. A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court.

KSA 22-4012 — Death order

Death order.

Whenever any person has been sentenced to death, it shall be the duty of the clerk of the court before which the conviction was rendered to issue an order, under the seal of the court, which shall recite the conviction and sentence and be directed to the secretary of corrections. The clerk shall deliver the order to the sheriff of the county in which the conviction was rendered, and such sheriff promptly shall transport such convicted person to the state correctional institution designated by the secretary of corrections and deliver such convict, together with the order, into the custody of the warden of the designated institution, who shall receive and safely keep such convict until the time of execution, or until otherwise ordered by the secretary or other competent authority. The warden shall notify the secretary of corrections of the receipt of the convict and such order.

KSA 22-4013 — Execution of death sentence

Execution of death sentence.

(a) It shall be the duty of the secretary of corrections or the warden designated by the secretary to proceed to execute a sentence of death in the manner prescribed by this act.

(b) Upon receipt of an order of the district court as provided by this act, the supreme court shall issue to the secretary of corrections a warrant under seal of the supreme court, commanding the secretary or a warden designated pursuant to K.S.A.

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, and amendments thereto, to proceed to carry out the sentence of execution during the week designated by the supreme court. The week designated in the warrant shall be sufficient to enable the secretary to give notice as provided in subsection (c). A copy of the warrant shall be delivered to the secretary of corrections and the clerk of the district court. For purposes of this act, the term "week" shall mean the time period from 12:01 a.m. Sunday through and including 11:59 p.m. the following Saturday. If the week designated in the warrant commanding the execution of a death sentence begins on a day of the week other than a Sunday, or sets out a particular date for the execution, the secretary of corrections shall notify the clerk of the supreme court.

(c) The secretary of corrections shall carry out the execution commanded by the warrant issued by the supreme court during the week designated by the supreme court on a date selected by the secretary. The secretary shall give notice of the date selected by the secretary for the execution at least seven calendar days before the execution to the clerk of the supreme court, the clerk of the district court in which the defendant was convicted, the defendant, the defendant's counsel and the attorney general. The secretary may carry out the execution at any time during the date selected or as soon thereafter as the secretary deems appropriate.

KSA 22-4014 — When death sentence executed after suspension

When death sentence executed after suspension.

If a sentence of execution is suspended by an order of a court, the suspension shall continue until the supreme court orders otherwise. If the sentence is affirmed, the supreme court shall order the execution of the sentence of death and shall designate a week during which the sentence of execution shall be carried out if the week previously designated by the court has passed. Otherwise, the execution shall be carried out during the week previously designated by the court. It shall be the duty of the clerk of the supreme court to issue to the secretary of corrections a warrant under the seal of the court, commanding the secretary or a warden designated pursuant to K.S.A.

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, and amendments thereto, to proceed to carry the sentence into execution during the week designated by the court. The week during which the sentence of execution is to be carried out shall be stated in the warrant. Upon receipt of the warrant it shall be the duty of the secretary of corrections to cause the sentence to be executed as provided by this act during the time designated by the court.

KSA 22-4016 — Severability

Severability.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

KSA 22-4104 — Deputization of employees of other state to return violators

Deputization of employees of other state to return violators.

The secretary of corrections is hereby authorized and empowered to deputize any person regularly employed by another state to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole, postrelease supervision, assignment to a community correctional services program or probation as granted by this state. In any matter relating to the return of such person, any agent so deputized shall have all the powers of a law enforcement officer of this state.

KSA 22-4105 — Written deputization; evidence of

Written deputization; evidence of.

Any deputization pursuant to this act shall be in writing and any person authorized to act as an agent of this state pursuant hereto shall carry formal evidence of his deputization and shall produce the same upon demand.

KSA 22-4106 — Agreements with officials of other states authorized

Agreements with officials of other states authorized.

The secretary of corrections is hereby authorized, subject to the approval of the secretary of administration, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole, postrelease supervision assignment to a community correctional services program or probation as granted by this state.

KSA 22-4110 — Interstate compact for adult offender supervision

Interstate compact for adult offender supervision.

This act may be cited as the Interstate Compact for Adult Offender Supervision.

ARTICLE I

PURPOSE

(a) The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

(c) In addition, this compact will: Create a Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and By-laws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

(a) As used in this compact, unless the context clearly requires a different construction:

(1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(2) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

(3) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(4) "Compacting State" means any state which has enacted the enabling legislation for this compact.

(5) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(6) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact.

(7) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(8) "Non-compacting state" means any state which has not enacted the enabling legislation for this compact.

(9) "Offender" means an adult placed under, or subject, to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

(10) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

(11) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

(12) "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

(13) "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

ARTICLE III

THE COMPACT COMMISSION

(a) The compacting states hereby create the "Interstate Commission for Adult Offender Supervision." The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein; including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations: Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

(c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

(d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(e) The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the By-laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the Interstate Commission and performs other duties as directed by Commission

or set forth in the By-laws.

ARTICLE IV

THE STATE COUNCIL

(a) Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.

(b) Each compacting state retains the rights to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary.

(c) In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V

POWERS AND DUTIES OF THE

INTERSTATE COMMISSION

(a) The Interstate Commission shall have the following powers:

(1) To adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission.

(2) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and Rules promulgated by the compact commission.

(4) To enforce compliance with compact provisions, Interstate Commission rules, and by-laws, using all necessary and proper means, including but not limited to, the use of judicial process.

(5) To establish and maintain offices.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

(8) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(13) To establish a budget and make expenditures and levy dues as provided in Article X of this compact.

(14) To sue and be sued.

(15) To provide for dispute resolution among compacting states.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(18) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF

THE INTERSTATE COMMISSION

(a) By-laws. The Interstate Commission shall, by a majority of the members, within twelve months of the first Interstate Commission meeting, adopt By-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission;

(2) establishing an executive committee and such other committees as may be necessary. Providing reasonable standards and procedures:

(i) For the establishment of committees, and

(ii) governing any general or specific delegation of any authority or function of the Interstate Commission;

(3) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(4) establishing the titles and responsibilities of the officers of the Interstate Commission;

(5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any compacting state, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and

(6) providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(7) providing transition Rules for "start up" administration of the compact;

(8) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) Officers and Staff. (1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the By-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; PROVIDED THAT, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

(c) Corporate Records of the Interstate Commission. The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

(d) Qualified Immunity, Defense and Indemnification. (1) The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; except, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The Interstate Commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; except, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(3) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII

ACTIVITIES OF THE INTERSTATE

COMMISSION

(a) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(c) Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The By-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

(e) The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclosure trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigatory records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;

(9) specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant provision AUTHORIZING CLOSURE OF THE MEETING. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its By-laws and Rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII

RULEMAKING FUNCTIONS OF THE

INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this Article and the By-laws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA").

All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any compacting state.

(d) When promulgating a Rule, the Interstate Commission shall:

(1) Publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule;

(2) allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) provide an opportunity for an informal hearing; and

(4) promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record. Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

(e) Subjects to be addressed within 12 months after the first meeting must at a minimum include:

(i) Notice to victims and opportunity to be heard;

(ii) offender registration and compliance;

(iii) violations/returns;

(iv) transfer procedures and forms;

(v) eligibility for transfer;

(vi) collection of restitution and fees from offenders;

(vii) data collection and reporting;

(viii) the level of supervision to be provided by the receiving state;

(ix) transition Rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;

(x) mediation, arbitration and dispute resolution.

(f) The existing Rules governing the operation of the previous compact superceded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

(g) Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule.

ARTICLE IX

OVERSIGHT, ENFORCEMENT, AND

DISPUTE RESOLUTION BY

THE INTERSTATE COMMISSION

(a) Oversight. (1) The Interstate Commission shall oversee the Interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) Dispute Resolution. (1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and non-compacting states.

The Interstate Commission shall enact a By-law or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) Enforcement. The Interstate Commission, in the reasonable exercise of it's discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII (b), of this compact.

ARTICLE X

FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of Interstate movement of offenders in each compacting state and shall promulgate a Rule binding upon all compacting states which governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its By-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE

DATE AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a Compacting State.

(b) The Compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35

th

jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

(c) Amendments to the Compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII

WITHDRAWAL, DEFAULT,

TERMINATION, AND JUDICIAL

ENFORCEMENT

(a) Withdrawal. (1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; except, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the Compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(b) Default. (1) If the Interstate Commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the By-laws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties:

(i) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

(ii) remedial training and technical assistance as directed by the Interstate Commission;

(iii) suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the By-laws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state; the majority and minority leaders of the defaulting state's legislature, and the State Council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission By-laws, or duly promulgated Rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions

and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the defaulting state's Legislature and the State Council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the Rules.

(c) Judicial Enforcement. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated Rules and By-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

(d) Dissolution of Compact. (1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the By-laws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND

OTHER LAWS

(a) Other Laws. (1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) Binding Effect of the Compact. (1) All lawful actions of the Interstate Commission, including all Rules and By-laws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

KSA 22-4111 — Kansas council for interstate adult offender supervision; membership; meetings; responsibilities; compensation

Kansas council for interstate adult offender supervision; membership; meetings; responsibilities; compensation.

(a) The Kansas council for interstate adult offender supervision shall consist of the following members:

(1) The governor or the governor's designee;

(2) the chief justice of the supreme court or the chief justice's designee;

(3) the attorney general or the attorney general's designee;

(4) a person representing crime victims groups appointed by the attorney general;

(5) one county attorney or district attorney appointed by the governor;

(6) one private defense counsel appointed by the governor;

(7) the chairperson of the prisoner review board or such chairperson's designee;

(8) the secretary of corrections or the secretary's designee;

(9) two senators, one shall be appointed by the president of the senate and one shall be appointed by the minority leader of the senate; and

(10) two representatives, one shall be appointed by the speaker of the house of representatives and one shall be appointed by the minority leader of the house of representatives.

(b) The appointments shall be made within 30 days after the effective date of this act. The initial meeting of the council shall be convened within 60 days after the effective date of this act by the secretary of corrections at a time and place designated by the secretary of corrections. The council shall elect a chairperson and may elect any additional officers from among its members necessary to discharge its duties.

(c) Meetings of the council subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the council.

(d) The council shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(e) Each member of the council appointed by the governor or the attorney general shall be appointed for a term of four years. All other members shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(f) The council shall oversee and administer the state's participation in the interstate compact for adult offenders supervision, K.S.A.

22-4110

, and amendments thereto, and shall develop policies concerning the operations and procedures of the compact within the state. The council shall appoint the compact administrator.

(g) Each member of the council shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A.

75-3223

, and amendments thereto, for each day or part thereof actually spent on council activities.

(h) The provisions of this section shall take effect and be in force from and after the later of July 1, 2002, or upon enactment into law by the 35

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jurisdiction of the interstate compact for adult offenders supervision.

KSA 22-4201 — Definitions

Definitions.

"Witness" as used in this article shall include a person whose testimony is desired in any proceedings or investigation by a grand jury or in a criminal action, prosecution or proceeding.

The word "state" shall include any territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

KSA 22-4202 — Summoning witness in this state to testify in another state

Summoning witness in this state to testify in another state.

If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, and of any other state through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons.

In any such hearing the certificate shall be prima facie evidence of all the facts stated therein. If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day, that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

KSA 22-4203 — Out-of-state witnesses; fees and mileage

Out-of-state witnesses; fees and mileage.

(1) If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of that court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure the witness' attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(2) If the witness is summoned to attend and testify in this case the witness shall be tendered the mileage rate established pursuant to K.S.A.

75-3203a

, and amendments thereto, for each mile by the ordinary traveled route to and from the court where the prosecution is pending and an amount equal to that provided for witness fees under K.S.A.

28-125

, and amendments thereto, for each day that the witness is required to travel and attend as a witness.

(3) A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within the state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If

such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

KSA 22-4204 — Exemption from arrest and service of process

Exemption from arrest and service of process.

If a person comes into this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state purusant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons. If a person passes through this state while going to another state in obedience to a summons to attend and to testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

KSA 22-4205 — Uniformity of interpretation

Uniformity of interpretation.

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

KSA 22-4206 — Invalidity of part

Invalidity of part.

If any provision of this article or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

KSA 22-4207 — Definitions

Definitions.

(1) As used in this act: (a) "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

(b) "Penal institution" includes a jail, prison, penitentiary, house of correction, or other place of penal detention.

(c) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory of the United States.

KSA 22-4208 — Summoning confined witness in this state to appear in another state; court order

Summoning confined witness in this state to appear in another state; court order.

A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation, or action, and (3) that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him at the hearing.

If at the hearing the judge determines (1) that the witness may be material and necessary, (2) that his attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness, (3) that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order, and (4) that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass, the judge shall issue an order, with a copy of the certificate attached, (a) directing the witness to attend and testify, (b) directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified

in the order, and (c) prescribing such conditions as the judge shall determine.

KSA 22-4209 — Terms and conditions of order

Terms and conditions of order.

The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

KSA 22-4210 — Summoning person confined in another state; certification; notice to attorney general; exceptions to act

Summoning person confined in another state; certification; notice to attorney general; exceptions to act.

If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation, or action, and (3) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

This act does not apply to any person in this state confined as mentally ill, in need of mental treatment, or under sentence of death or life without the possibility of parole.

KSA 22-4211 — Order of compliance by judge in this state

Order of compliance by judge in this state.

The judge of the court in this state may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

KSA 22-4212 — Immunity of witness from arrest or service of process in this state for prior act

Immunity of witness from arrest or service of process in this state for prior act.

If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or another state, he shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this state under the order.

KSA 22-4213 — Construction of act

Construction of act.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

KSA 22-4214 — Citation of act

Citation of act.

This act may be cited as the "uniform rendition of prisoners as witnesses in criminal proceedings act."

KSA 22-4215 — Severability

Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

KSA 22-4301 — Request for final disposition of detainer by prisoners; duties of official custodian; dismissal, when

Request for final disposition of detainer by prisoners; duties of official custodian; dismissal, when.

(a) Any inmate in the custody of the secretary of corrections may request final disposition of any untried indictment, information, motion to revoke probation or complaint pending against such person in this state. The request shall be in writing, addressed and delivered to the court in which the indictment, information, motion to revoke probation or complaint is pending, to the county attorney charged with the duty of prosecuting it and to the secretary of corrections. Such request shall set forth the place of imprisonment.

(b) The secretary shall promptly inform each inmate in writing of the source and nature of any untried indictment, information, motion to revoke probation or complaint against such inmate of which the secretary has knowledge or notice, and of such inmate's right to make a request for final disposition thereof.

(c) Failure of the secretary to inform an inmate, as required by this section, within one year after a detainer has been filed at the institution shall entitle such inmate to a final dismissal of the indictment, information, motion to revoke probation or complaint with prejudice.

KSA 22-4302 — Delivery of request to custodian; officials' duties

Delivery of request to custodian; officials' duties.

Upon receipt of a request made pursuant to K.S.A.

22-4301

, and amendments thereto, the secretary of corrections shall promptly:

(a) Certify the term of commitment under which the inmate is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of parole eligibility of the inmate, and any decisions of the prisoner review board relating to the inmate;

(b) for crimes committed on or after July 1, 1993, certify the length of time served on the prison portion of the sentence, any good time earned and the projected release date for the commencement of the postrelease supervision term; and

(c) send by registered or certified mail, return receipt requested, one copy of the request and certificate to the court and one copy to the county attorney to whom it is addressed.

KSA 22-4303 — Trial within 180 days after receipt of request and certification, exceptions; dismissal, when

Trial within 180 days after receipt of request and certification, exceptions; dismissal, when.

(a) Detainers shall be disposed of in the order in which they are placed with the secretary of corrections, except in the case of an inmate with detainers from multiple jurisdictions, the district or county attorneys in such jurisdictions may agree to a different order of disposition. The secretary of corrections shall allow transportation of the inmate for the purpose of disposing of detainers.

(b) (1) Following the receipt of the certificate by the court and county attorney from the secretary of corrections, the indictment, information or complaint shall be brought to trial, or the motion to revoke probation shall be brought for a hearing:

(A) If the inmate has one detainer, within 180 days;

(B) if the inmate has detainers from multiple jurisdictions, the first detainer shall be brought within 180 days and each subsequent detainer shall be brought within 180 days after return of the inmate to the secretary or transportation of the inmate to the jurisdiction following disposition of a previous detainer; or

(C) within such additional time as the court for good cause shown in open court may grant.

(2) The requirements of paragraph (1) shall not apply to any time during which a continuance or delay has been requested or agreed to by the inmate or the inmate's attorney.

(3) The requirements of paragraph (1) shall not apply to any time during which a motion to determine competency of the inmate is pending or any time during which an inmate is determined to be incompetent to stand trial.

(4) If, after receipt of such certificate, the indictment, information or complaint is not brought to trial within the time period specified in this subsection, or the motion to revoke probation is not brought for a hearing within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information, motion to revoke probation or complaint be of any further force or effect, and the court shall dismiss it with prejudice.

KSA 22-4304 — Escape of inmate voids request, when

Escape of inmate voids request, when.

Escape from custody of any inmate subsequent to such inmate's execution of a request for final disposition of an untried indictment, information, motion to revoke probation or complaint voids such request.

KSA 22-4305 — Article inapplicable to adjudged mentally ill or incapacitated persons

Article inapplicable to adjudged mentally ill or incapacitated persons.

This article does not apply to any person adjudged to be a mentally ill person or an incapacitated person.

KSA 22-4306 — Inmates to be informed of provisions of this article; recordation

Inmates to be informed of provisions of this article; recordation.

The secretary shall arrange for all inmates to be informed in writing of the provisions of this article, and for a record thereof to be placed in the inmate's file.

KSA 22-4308 — Citation of article

Citation of article.

This article may be cited as the mandatory disposition of detainers act.

KSA 22-4401 — Agreement on detainers; contents

Agreement on detainers; contents.

The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

THE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to article III hereof or at the time that a request for custody or availability is initiated pursuant to article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to article III or article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred and eighty (180) days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: Provided, That for good cause

shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) For persons who commit crimes on or after July 1, 1993, the custodian shall specify the length of time served on the prison portion of the sentence, any good time earned and the projected release date for the commencement of the postrelease supervision term.

(c) The written notice and request for final disposition referred to in paragraph (a) or (b) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(d) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) or (b) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(f) Any request for final disposition made by a prisoner pursuant to paragraph (a) or (b) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (e), and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(g) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) or (b) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further, That there shall be a period of thirty (30) days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or

availability and of the reasons therefor.

(c) For persons who commit crimes on or after July 1, 1993, the custodian shall specify the length of time served on the prison portion of the sentence, any good time earned and the projected release date for the commencement of the postrelease supervision term.

(d) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(e) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(f) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under article III or article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article III or article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also

pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

KSA 22-4402 — Appropriate court defined

Appropriate court defined.

The phrase "appropriate court" as used in the agreement on detainers shall, with reference to the courts of this state, mean the district courts.

KSA 22-4403 — Enforcement and cooperation

Enforcement and cooperation.

All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

KSA 22-4404 — Application of habitual act

Application of habitual act.

Nothing in this act or in the agreement on detainers shall be construed to require the application of the habitual act to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

KSA 22-4405 — Escape from custody; felony; penalty

Escape from custody; felony; penalty.

Any person who shall escape from custody while in this state pursuant to the agreement on detainers shall be guilty of a felony and upon conviction thereof shall be imprisoned for a term of not less than one nor more than 10 years. On or after

July 1, 1993, any person who shall escape from custody while in this state pursuant to the agreement on detainers shall be guilty of an unranked felony and upon conviction the court shall fix an appropriate sentence.

KSA 22-4406 — Delivery of person under terms of agreement

Delivery of person under terms of agreement.

It shall be lawful and mandatory upon the warden, superintendent or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

KSA 22-4407 — Central administrator

Central administrator.

The governor shall designate an appropriate state officer or employee to serve as central administrator of and information agent for the agreement on detainers.

KSA 22-4408 — Transmittal of act to authorities of other states

Transmittal of act to authorities of other states.

Copies of this act shall be transmitted by the secretary of state to the governor of each state, the attorney general and the secretary of state of the United States, and the council of state governments.

KSA 22-4501 — Panel of attorneys for indigents' defense services; eligibility; amendment, review and approval; appointments to aid defendants, method

Panel of attorneys for indigents' defense services; eligibility; amendment, review and approval; appointments to aid defendants, method.

(a) The judge or judges of the district court of each county shall prepare, and file in the office of the clerk of the district court, a list of attorneys who are eligible for assignment to represent indigent persons accused of crimes, such list to be known as the panel for indigents' defense services.

(b) Each member of the panel for indigents' defense services shall be available to represent indigent defendants upon the appointment of any judge of the district court of the judicial district in which such member maintains an office for the practice of law, or any adjacent judicial district. All such appointments shall be in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. A judge of the district court may appoint an attorney who is a member of the panel for indigents' defense services of a county other than the county where the case is pending only after such judge of the district court has found that no member of the panel for indigents' defense services of the county where the case is pending is eligible or qualified to represent the defendant.

(c) The panel for indigents' defense services may be amended by the addition of names thereto or the deletion of names therefrom whenever the removal of attorneys to or from the district or any other cause makes such action appropriate, and at least once annually it shall be reviewed and approved by the judge or judges of the district court of the county.

(d) The state board of indigents' defense services shall provide by rule and regulation for the assignment of attorneys to the panel for indigents' defense services, for the distribution of the list of panel members to the judges of the district court and law enforcement officials of the judicial district, and for the appointment, by rotation or otherwise, of counsel from the panel for indigents' defense services to represent indigent persons charged with crimes in such cases and under such circumstances as may be required by law.

KSA 22-4502 — Procedure to obtain services for representation before appearance

Procedure to obtain services for representation before appearance.

The state board for indigents' defense services shall prescribe by rule and regulation the procedure to be followed by law enforcement officials in obtaining the services of counsel from the panel for indigents' defense services to represent indigent persons detained by such law enforcement officials prior to appearance before a court.

KSA 22-4503 — Entitlement of defendant to counsel; appointment of counsel, when; access to defendant; duty of appointed counsel

Entitlement of defendant to counsel; appointment of counsel, when; access to defendant; duty of appointed counsel.

(a) A defendant charged by the state of Kansas in a complaint, information or indictment with any felony is entitled to have the assistance of counsel at every stage of the proceedings against such defendant and a defendant in an extradition proceeding, or a habeas corpus proceeding pursuant to K.S.A.

22-2710

, and amendments thereto, is entitled to have assistance of counsel at such proceeding. A person subject to an order or commitment pursuant to K.S.A.

22-3428

or K.S.A.

59-2965

, and amendments thereto, shall be entitled to the assistance of counsel at every stage of a habeas corpus proceeding brought by such person and the provisions of this section relating to defendants shall be applicable to such persons.

(b) If such a defendant appears before any court without counsel to assist and conduct the defendant's defense, it shall be the duty of the court to inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney. The court shall give the defendant an opportunity to employ counsel of the defendant's own choosing if the defendant states the defendant is able to do so. If the defendant asks to consult with counsel of the defendant's own choosing, the defendant shall be given a reasonable opportunity to do so.

(c) If it is determined that the defendant is not able to employ counsel, as provided in K.S.A.

22-4504

, and amendments thereto, the court shall appoint an attorney from the panel for indigents' defense services or otherwise in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. A record of the proceedings provided for by this section shall be entered in the journal, and any order binding the defendant for trial or directing further detention upon the charge and the journal entry of trial and judgment shall recite the substance of such proceedings.

(d) Counsel employed by or appointed for the defendant shall have free access to the defendant at all times for the purpose of conferring with the defendant relative to the charge, for advising the defendant respecting the defendant's plea and for the preparation of the defense, if a defense is to be made. It is the duty of an attorney appointed by the court to represent a defendant, without charge to such defendant, to inform the defendant fully of the crime charged against the defendant and the penalty therefor, and in all respects fully and fairly to represent the defendant in the action.

(e) If, after the attorney's appointment, the attorney learns that the defendant has funds or other resources sufficient to enable the defendant to employ counsel, the attorney shall report these facts to the court and ask permission to withdraw from the case or to be permitted to accept compensation for services.

KSA 22-4504 — Same; determination of indigency; partial indigency, effect; disposition of payments for appointed counsel services; no fee for electronic access to court records

Same; determination of indigency; partial indigency, effect; disposition of payments for appointed counsel services; no fee for electronic access to court records.

(a) When any defendant who is entitled to have the assistance of counsel, under the provisions of K.S.A.

22-4503

, and amendments thereto, claims to be financially unable to employ counsel, the court shall require that the defendant file an affidavit containing such information and in the form as prescribed by rules and regulations adopted by the state board of indigents' defense services. The affidavit filed by the defendant shall become a part of the permanent file of the case. The court may interrogate the defendant under oath concerning the contents of the affidavit and may direct the county or district attorney, sheriff, marshal or other officer of the county to investigate and report upon the financial condition of the defendant and may also require the production of evidence upon the issue of the defendant's financial inability to employ counsel.

(b) Upon the basis of the defendant's affidavit, the defendant's statements under oath, and such other competent evidence as may be brought to the attention of the court, which shall be made part of the record in the case, the court shall determine whether the defendant is financially unable to employ counsel. In making such determination the court

shall consider the defendant's assets and income; the amount needed for the payment of reasonable and necessary expenses incurred, or which must be incurred to support the defendant and the defendant's immediate family; the anticipated cost of effective representation by employed counsel; and any property which may have been transferred or conveyed by the defendant to any person without adequate monetary consideration after the commission of the alleged crime. If the defendant's assets and income are not sufficient to cover the anticipated cost of effective representation by employed counsel when the length and complexity of the anticipated proceedings are taken fully into account, the defendant shall be determined indigent in full or in part and the court shall appoint an attorney as provided in K.S.A.

22-4503

, and amendments thereto. If the court determines that the defendant is financially able to employ counsel, the court shall so advise the defendant and shall give the defendant a reasonable opportunity to employ an attorney of the defendant's own choosing. All determinations by a court as to whether a defendant is financially unable to employ counsel shall be subject to and in accordance with rules and regulations adopted by the state board of indigents' defense services under this act.

(c) The court shall inform the defendant for whom counsel is appointed that the amount expended by the state in providing counsel and other defense services may be entered as a judgment against the defendant if the defendant is convicted and found to be financially able to pay the amount, and that an action to recover such amount may be brought against any person to whom the defendant may have transferred or conveyed any of the defendant's property without adequate monetary consideration after the date of the commission of the alleged crime. A determination by the court that the defendant is financially unable to employ counsel or pay other costs of the defendant's defense may preclude a recovery from the defendant but may not preclude recovery from any person to whom the defendant may have transferred or conveyed any property without adequate monetary consideration after the date of the commission of the alleged crime.

(d) If found to be indigent in part, the defendant shall be promptly informed of the terms under which the defendant may be expected to pay for counsel. Any payments pursuant to such terms shall apply upon any judgment entered pursuant to K.S.A.

22-4513

, and amendments thereto. Payments made for services of appointed counsel provided under K.S.A.

22-4503

, and amendments thereto, shall be paid to the clerk of the district court. The clerk of the district court shall remit all moneys received as payment for services of appointed counsel under this section to the state board of indigents' defense services at least monthly and the board shall remit all moneys received under this section 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 state general fund.

(e) The determination that a defendant is indigent or partially indigent shall be subject to review at any time by any court before whom the cause is then pending.

(f) The state board of indigents' defense services shall adopt rules and regulations in accordance with K.S.A.

77-415

et seq., and amendments thereto, relating to the income, assets and anticipated costs of representation for the purpose of determining whether a defendant is financially able to employ counsel and the ability of a defendant to contribute to the cost of the defendant's legal defense services.

(g) Whenever it is determined that electronic access to court records is necessary to present a defendant's cause adequately and it is further determined that the defendant is indigent, the court having jurisdiction in the matter shall order that the records be supplied to the defendant, at no charge, by the electronic access service. The state board of indigents' defense services shall be exempt from paying user fees to access electronic court records.

KSA 22-4505 — Appeals; record; capital murder cases; appointment of counsel; assignment, standards and compensation

Appeals; record; capital murder cases; appointment of counsel; assignment, standards and compensation.

(a) When a defendant has been convicted in the district court of any felony, the court shall inform the defendant of such defendant's right to appeal the conviction to the appellate court having jurisdiction and that if the defendant is financially unable to pay the costs of such appeal such defendant may request the court to appoint an attorney to represent the defendant on appeal and to direct that the defendant be supplied with a transcript of the trial record.

(b) If the defendant files an affidavit stating that the defendant intends to take an appeal in the case and if the court determines, as provided in K.S.A.

22-4504

, and amendments thereto, that the defendant is not financially able to employ counsel, the court shall appoint counsel from the panel for indigents' defense services or otherwise in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services, to represent the defendant and to perfect and handle the appeal. If the defendant files a verified motion for transcript stating that a transcript of the trial record is necessary to enable the defendant to prosecute the appeal and that the defendant is not financially able to pay the cost of procuring such transcript, and if the court finds that the statements contained therein are true, the court shall order that such transcript be supplied to the defendant as provided in K.S.A.

22-4509

, and amendments thereto, and paid for by the state board of indigents' defense services pursuant to claims submitted therefor.

(c) Upon an appeal or petition for certiorari addressed to the supreme court of the United States, if the defendant is without means to pay the cost of making and forwarding the necessary records, the supreme court of Kansas may by order provide for the furnishing of necessary records.

(d) (1) The state board of indigents' defense services shall provide by rule and regulation for: (A) The assignment of attorneys to the panel for indigents' defense services to represent indigent persons who have been convicted of capital murder and are under sentence of death, in the direct review of the judgment;

(B) standards of competency and qualification for the appointment of counsel in capital cases under this section; and

(C) the reasonable compensation of counsel appointed to represent individuals convicted of capital murder and under a sentence of death in the appeal of such cases and for reasonable and necessary litigation expense associated with such appeals.

(2) If a defendant has been convicted of capital murder and is under a sentence of death, the district court shall make a determination on the record whether the defendant is indigent. Upon a finding that the defendant is indigent and accepts the offer of representation or is unable competently to decide whether to accept or reject the offer, the court shall appoint one or more counsel, in accordance with subsection (d)(1), to represent the defendant. If the defendant rejects the offer of representation, the court shall find on the record, after a hearing if necessary, whether the defendant rejected the offer of representation with the understanding of its legal consequences. The court shall deny the appointment of counsel upon a finding that the defendant is competent and not indigent.

(3) Counsel appointed to represent the defendant, under this section, shall not have represented the defendant at trial unless the defendant and counsel expressly request continued representation.

KSA 22-4506 — Persons in custody after felony conviction; habeas corpus or K.S.A. 60-1507 motions; capital murder cases; appointment of counsel; assignment, standards and compensation; no fee for electronic access to court records

Persons in custody after felony conviction; habeas corpus or K.S.A.

60-1507

motions; capital murder cases; appointment of counsel; assignment, standards and compensation; no fee for electronic access to court records.

(a) Whenever any person who is in custody under a sentence of imprisonment upon conviction of a felony files a petition for writ of habeas corpus or a motion attacking sentence under K.S.A.

60-1507

and files with such petition or motion such person's affidavit stating that the petition or motion is filed in good faith and that such person is financially unable to pay the costs of such action and to employ counsel therefor, the court shall make a preliminary examination of the petition or motion and the supporting papers.

(b) If the court finds that the petition or motion presents substantial questions of law or triable issues of fact and if the petitioner or movant has been or is thereafter determined to be an indigent person as provided in K.S.A.

22-4504

, and amendments thereto, the court shall appoint counsel from the panel for indigents' defense services or otherwise in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services, to assist such person and authorize the action to be filed without a deposit of security for costs. If the petition or motion in such case raises questions shown by the trial record, the court shall order that the petitioner or movant be supplied with a transcript of the trial proceedings, or so much thereof as may be necessary to present the issue, without cost to such person.

(c) If an appeal is taken in such action and if the trial court finds that the petitioner or movant is an indigent person, the trial court shall appoint counsel to conduct the appeal, order that the appellant be supplied with a record of the proceedings or so much thereof as such counsel determines to be necessary and order that the deposit of security for costs be waived.

(d) (1) The state board of indigents' defense services shall provide by rule and regulation for: (A) The assignment of attorneys to the panel for indigents' defense services to represent indigent persons, who have been convicted of capital murder and are under sentence of death, upon a filing of a petition for writ of habeas corpus or a motion attacking sentence under K.S.A.

60-1507

, and amendments thereto;

(B) standards of competency and qualification for the appointment of counsel in capital cases under this section; and

(C) the reasonable compensation of counsel appointed to represent individuals convicted of capital murder and under a sentence of death, during proceedings conducted pursuant to subsection (a), (b) or (c) and for reasonable and necessary litigation expense associated with such proceedings.

(2) If a petitioner or movant, who has been convicted of capital murder and is under a sentence of death, files a petition for writ of habeas corpus or a motion attacking sentence under K.S.A.

60-1507

, and amendments thereto, the district court shall make a determination on the record whether the petitioner or movant is indigent. Upon a finding that the petitioner or movant is indigent and accepts the offer of representation or is unable competently to decide whether to accept or reject the offer, the court shall appoint one or more counsel, in accordance with subsection (d)(1), to represent the petitioner or movant. If the petitioner or movant rejects the offer of representation, the court shall find on the record, after a hearing if necessary, whether the petitioner or movant rejected the offer of representation with the understanding of its legal consequences. The court shall deny the appointment of counsel upon a finding that the petitioner or movant is competent and not indigent.

(3) Counsel appointed to represent the petitioner or movant shall not have represented the petitioner or movant at trial or on direct appeal therefrom unless the petitioner or movant and counsel expressly request continued representation.

(e) Whenever it is determined that electronic access to court records is necessary to present a petitioner's cause adequately and it is further determined that the petitioner or movant is an indigent person, the court having jurisdiction in the matter shall order that the records be supplied to the defendant, at no charge, by the electronic access service. The state board of indigents' defense services shall be exempt from paying user fees to access electronic court records.

KSA 22-4507 — Compensation and reimbursement of expenses for services to indigents; procedures for payment; exemption from fees for electronic access to court records

Compensation and reimbursement of expenses for services to indigents; procedures for payment; exemption from fees for electronic access to court records.

(a) An attorney, other than a public defender or assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person, as provided by article 45 of chapter 22 of the Kansas Statutes Annotated,

and amendments thereto, shall, at the conclusion of such service or any part thereof, be entitled to compensation for such services and to be reimbursed for expenses reasonably incurred by such person in performing such services. Compensation for services shall be paid in accordance with standards and guidelines contained in rules and regulations adopted by the state board of indigents' defense services under this section.

(b) Claims for compensation and reimbursement shall be certified by the claimant and presented to the court at sentencing. A supplemental claim may be filed at such later time as the court may in the interest of justice determine if good cause is shown why the claim was not presented at sentencing. In accordance with standards and guidelines adopted by the state board of indigents' defense services under this section, all such claims shall be reviewed and approved by one or more judges of the district court before whom the service was performed, or, in the case of proceedings in the court of appeals, by the chief judge of the court of appeals and, in the case of proceedings in the supreme court, by the departmental justice for the department in which the appeal originated. Each claim shall be supported by a written statement, specifying in detail the time expended, the services rendered, the expenses incurred in connection with the case and any other compensation or reimbursement received. When properly certified and reviewed and approved, each claim for compensation and reimbursement shall be filed in the office of the state board of indigents' defense services. If the claims meet the standards established by the board, the board shall authorize payment of the claim.

(c) (1) Such attorney shall be compensated at a rate not less than $120 per hour and not more than $140 per hour, except that:

(A) The chief judge of any judicial district may negotiate an hourly rate less than the maximum rate for attorneys who voluntarily accept appointments in that district; or

(B) contract counsel shall be compensated at the rate or rates specified in the contract between the board and the assigned counsel.

(2) If the state board of indigents' defense services determines that the appropriations for indigents' defense services or the moneys allocated by the board for a county or judicial district will be insufficient in any fiscal year to pay in full claims filed and reasonably anticipated to be filed in such year under this section, the board may adopt a formula for prorating the payment of pending and anticipated claims under this section.

(d) The state board of indigents' defense services may make expenditures for payment of claims filed under this section from appropriations for the current fiscal year regardless of when the services were rendered.

(e) The state board of indigents' defense services shall adopt rules and regulations prescribing standards and guidelines governing the filing, processing and payment of claims under this section.

(f) An attorney, other than a public defender, assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person and who accesses electronic court records for an indigent person, as provided by this act, shall be exempt from paying fees to access electronic court records.

KSA 22-4508 — Investigative, expert and other services; ex parte proceedings; compensation; claim, approval, payment

Investigative, expert and other services; ex parte proceedings; compensation; claim, approval, payment.

An attorney other than a public defender who acts as counsel for a defendant who is financially unable to obtain investigative, expert or other services necessary to an adequate defense in the defendant's case may request them in an ex parte application addressed to the district court where the action is pending. Upon finding, after appropriate inquiry in the ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the district court shall authorize counsel to obtain the services on behalf of the defendant. The district court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. Within the standards and guidelines adopted by the state board of indigents' defense services, the district court shall determine reasonable compensation for the services and approve payment to the organization or person who rendered them upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source. Payment shall be made in the manner provided in K.S.A.

22-4507

, and amendments thereto.

KSA 22-4509 — Transcripts

Transcripts.

Whenever it is determined that a transcript of all or some part of the trial or other proceeding is necessary to enable a person who is entitled to appeal, or to pursue another post-conviction remedy, to present such person's cause adequately and it is further determined that the appellant or petitioner or movant is financially unable to pay for the preparation of such transcript, the district court shall order that the transcript be supplied to the appellant or petitioner or movant by the official reporter of the district court.

KSA 22-4510 — Reimbursement of state treasury; payment under act exclusive

Reimbursement of state treasury; payment under act exclusive.

Whenever the court finds that funds are available for payment from or on behalf of a defendant, the court shall direct that such funds be paid to the court for deposit in the state treasury to the credit of the state general fund as provided in subsection (c) of K.S.A.

22-4504

, and amendments thereto, as reimbursement to the appropriation current at the time of payment, to carry out the provisions of this act. Except as authorized or directed under this act, no person or organization may request or accept any payment or promise of payment for representation or services performed for a defendant pursuant to court appointment or order.

KSA 22-4511 — Termination of appointment or reimbursement after appointment of counsel, when; counsel after proceedings begun; substitutions

Termination of appointment or reimbursement after appointment of counsel, when; counsel after proceedings begun; substitutions.

(a) If at any time after appointment of counsel the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel or to make partial payment for representation, the court may terminate the appointment of counsel or authorize payment as provided in K.S.A.

22-4504

or

22-4510

, and amendments thereto, as the interests of justice may dictate.

(b) If at any stage of the proceedings, including appeal, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in K.S.A.

22-4503

,

22-4505

or

22-4506

, and amendments thereto, and authorize payment as provided in K.S.A.

22-4507

, and amendments thereto, as the interests of justice may dictate.

(c) The court having jurisdiction of the case may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceeding.

KSA 22-4512 — Transfer of funds to general fund; liabilities imposed on state board; special funds abolished

Transfer of funds to general fund; liabilities imposed on state board; special funds abolished.

(a) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the aid to indigent defendants fund and all moneys in the aid to indigent defendants reimbursement fund to the state general fund.

(b) On the effective date of this act, all liabilities of the aid to indigent defendants fund and all liabilities of the aid to indigent defendants reimbursement fund existing prior to that date are hereby imposed on the state board of indigents' defense services.

(c) The aid to indigent defendants fund and the aid to indigent defendants reimbursement fund are hereby abolished.

KSA 22-4512a — Duties of court appointing counsel or authorizing expenditures to be charged against fund

Duties of court appointing counsel or authorizing expenditures to be charged against fund.

Whenever a court appoints counsel for an indigent defendant or a material witness held in custody or authorizes any expenditure which may be a charge against the state board of indigents' defense services, the court shall promptly forward to the board a copy of the order making the appointment or authorizing the expenditure, together with any other information and in the form required by rules and regulations of the board.

KSA 22-4513 — Liability of defendant for expenditures by state board; judgment; determination of amount and method of payment; liability of others for expenditures

Liability of defendant for expenditures by state board; judgment; determination of amount and method of payment; liability of others for expenditures.

(a) If the defendant is convicted, all expenditures made by the state board of indigents' defense services to provide counsel and other defense services to such defendant or the amount allowed by the board of indigents' defense reimbursement tables as provided in K.S.A.

22-4522

, and amendments thereto, whichever is less, shall be taxed against the defendant and shall be enforced as judgments for payment of money in civil cases.

(b) In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(c) Whenever any judgment has been entered pursuant to subsection (a) of this section, a sum equal to such judgment may be recovered by the state of Kansas for the benefit of the state general fund from any persons to whom the indigent defendant shall have transferred any of the defendant's property without adequate monetary consideration after the commission of the alleged crime, to the extent of the value of such transfer, and such persons are hereby made liable to reimburse the state of Kansas with interest at 6% per annum. Any action to recover judgment for such expenditures shall be prosecuted by the attorney general, who may require the assistance of the county attorney of the county in which the action is to be filed, and such action shall be governed by the provisions of the code of civil procedure relating to actions for the recovery of money. No action shall be brought against any person under the provisions of this section to recover for sums expended on behalf of an indigent defendant, unless such action shall have been filed within two years after the date of the expenditure by the state board of indigents' defense services.

KSA 22-4514a — Domestic nonprofit corporations providing legal services to indigent inmates; submission of budget to state board; payments to corporation; annual statement of expenditures

Domestic nonprofit corporations providing legal services to indigent inmates; submission of budget to state board; payments to corporation; annual statement of expenditures.

(a) Any nonprofit corporation, organized under the laws of the state of Kansas for the purpose of providing legal services to indigent inmates of Kansas correctional institutions may submit its annual operating budget for the next fiscal year of the state, including salaries and all other expenses of operation, to the state board of indigents' defense services. Such budget shall set forth the maximum obligation of financial aid and contributions proposed for payment by the state board of indigents' defense services and the availability of any additional funds from the federal government and other sources

to meet such operating costs.

(b) If such budget is approved by the state board of indigents' defense services, the amount of the maximum obligation of financial aid to be paid by the state board of indigents' defense services as set forth in the approved budget may then be paid in a lump sum amount to the corporation on July 1 of the next fiscal year.

(c) After the end of the fiscal year, any such nonprofit corporation shall furnish an audited statement of actual expenditures incurred to the director of the budget. Any balance remaining unused shall be applied to the next budget for the purposes specified in this section.

KSA 22-4515 — Severability of act

Severability of act.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

KSA 22-4518 — Applicability of laws relating to aid to indigent defendants

Applicability of laws relating to aid to indigent defendants.

Except as otherwise stated herein, all provisions of K.S.A.

22-4501

to

22-4514

, inclusive, shall be applicable to the operation of the district defender office, and all legal services provided by the district defender and any deputy district defender.

KSA 22-4519 — Appointment and terms; qualifications

Appointment and terms; qualifications.

(a) There is hereby created within the executive branch of state government the state board of indigents' defense services, which shall consist of nine members appointed by the governor, subject to confirmation by the senate as provided in K.S.A.

75-4315b

, and amendments thereto. Except as provided by K.S.A.

46-2601

, no person appointed to the commission* shall exercise any power, duty or function as a member of the commission* until confirmed by the senate.

(b) The terms of members who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, all appointments shall be for terms of three years and until their successors are appointed and confirmed.

(c) Of the nine members of the board, there shall be:

(1) Subject to the provisions of K.S.A.

75-4315c

, and amendments thereto, two members from the first congressional district, of whom one shall be a lawyer registered with the Kansas supreme court, and at least one member from each other congressional district in the state;

(2) at least one member from each county in the state having a population in excess of 100,000, who shall be a lawyer registered with the Kansas supreme court, but not more than five members from such counties; and

(3) five members who are lawyers registered with the Kansas supreme court and four members who are not lawyers.

(d) No more than five members of the board shall be from the same political party.

(e) No member of the board shall be, or shall be employed by, a judicial officer or a law enforcement officer and no member of the board shall be an employee of the board.

(f) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall hold office for the remainder of such term.

(g) No member of the board shall serve more than two consecutive three-year terms.

KSA 22-4520 — Prohibition on interfering with professional duties of counsel

Prohibition on interfering with professional duties of counsel.

The state board of indigents' defense services shall not make any decision regarding the handling of any case nor interfere with the appointed counsel, contract counsel or public defender, or any member of the staff thereof, in carrying out their professional duties.

KSA 22-4521 — Meetings; officers; quorum; compensation and allowances

Meetings; officers; quorum; compensation and allowances.

(a) At the first meeting of the state board of indigents' defense services and at the first meeting held each calendar year thereafter, the board shall elect a chairperson and a secretary from among its members.

(b) The board shall meet at least quarterly and at such other times as called by the chairperson. Meetings of the board shall be at such places as the board determines.

(c) Five members of the board constitute a quorum for the transaction of business and the affirmative vote of five members of the board is required for any action by the board.

(d) The members of the board shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A.

75-3212

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KSA 22-4522 — Powers and duties

Powers and duties.

The state board of indigents' defense services shall:

(a) Provide, supervise and coordinate, in the most efficient and economical manner possible, the constitutionally and statutorily required counsel and related services for each indigent person accused of a felony and for such other indigent persons as prescribed by statute;

(b) establish, in each county or combination of counties designated by the board, a system of appointed counsel, contractual arrangements for providing contract counsel or public defender offices, or any combination thereof, on a full- or part-time basis, for the delivery of legal services for indigent persons accused of felonies;

(c) approve an annual operating budget for the board and submit that budget as provided in K.S.A.

75-3717

, and amendments thereto;

(d) collect payments from indigent defendants as ordered by the court by methods including, but not limited to, utilization of debt collection procedures authorized by K.S.A.

75-6201

et seq., and amendments thereto;

(e) adopt rules and regulations in accordance with K.S.A.

77-415

et seq., and amendments thereto, which are necessary for the operation of the board and the performance of its duties and for the guidance of appointed counsel, contract counsel and public defenders, including, but not limited to:

(1) Standards for entitlement to legal representation at public expense;

(2) standards and guidelines for compensation of appointed counsel and investigative, expert and other services within the limits of appropriations;

(3) criteria for employing contract counsel;

(4) qualifications, standards and guidelines for public defenders, appointed counsel and contract counsel; and

(5) adopt and maintain reimbursement tables which set forth the cost to the board of indigents' defense services for each separate category of service provided;

(f) prepare and submit to the governor and legislature an annual report on the operations of the board; and

(g) hold a hearing before changing the system for providing legal services for indigent persons accused of felonies in any county or judicial district if such a hearing is requested by two or more members of the board.

KSA 22-4523 — Additional powers

Additional powers.

The state board of indigents' defense services may:

(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses;

(b) prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons;

(c) conduct programs having a general objective of training and educating attorneys and other persons who are involved in the legal representation of indigent persons;

(d) appoint public defenders and provide for the establishment and staffing of public defender offices;

(e) enter into contracts pursuant to competitive bids or by negotiation, as determined and administered by the board, with one or more attorneys or professional corporations providing legal services, or any combination thereof, to provide for legal defense services for indigent persons, and no such contract shall be subject to the provisions of K.S.A.

75-3739

, and amendments thereto;

(f) enter into contracts with cities or counties to provide, at the expense of the city or county, for the defense of misdemeanors or other defense services required to be provided at public expense;

(g) provide technical aid and assistance to counsel providing legal representation to indigent persons, including assistance on appeals; and

(h) accept and expend governmental and private grants.

KSA 22-4524 — State director of indigents' defense services; civil service status of director and other officers and employees

State director of indigents' defense services; civil service status of director and other officers and employees.

(a) There is hereby created the position of state director of indigents' defense services. The director shall be in the unclassified service under the Kansas civil service act, shall be appointed by the state board of indigents' defense services and shall devote full time to the performance of the duties of the office of director.

(b) The state director of indigents' defense services, the assistant director and all attorneys appointed or employed by the state board of indigents' defense services shall be in the unclassified service under the Kansas civil service act. All other officers and employees of the board shall be in the classified service.

(c) Each person who has been employed continuously for at least the six-month period immediately prior to the effective date of this act who is an officer or employee of the board, which is placed in the classified service under the Kansas civil service act by this act, shall continue in such position and shall attain permanent status in that classified position without examination and without a probationary period. Such person shall retain all retirement benefits earned prior to the effective date of this act and such person's service shall be deemed to have been continuous.

KSA 22-4525 — Duties of state director

Duties of state director.

The state director of indigents' defense services shall be chief executive officer of the state board of indigents' defense services. In addition thereto, the director shall:

(a) Supervise the operation, policies and procedures of the office of the board;

(b) prepare and submit to the board an annual report of the operation of the office in such form as the board directs; and

(c) perform such other duties as the board requires.

KSA 22-4526 — Disposition of moneys received under contracts with cities and counties

Disposition of moneys received under contracts with cities and counties.

All moneys received by the state board of indigents' defense services under contracts entered into with one or more cities or counties under subsection (f) of K.S.A.

22-4523

, and amendments thereto, shall be remitted by the board 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 indigents defense services fund.

KSA 22-4527 — Abolition of board of supervisors of panels to aid indigent defendants; transfer of officers and employees, rules and regulations, directives and standards, and records and property to new board; existing defense services systems continued subject to change

Abolition of board of supervisors of panels to aid indigent defendants; transfer of officers and employees, rules and regulations, directives and standards, and records and property to new board; existing defense services systems continued subject to change.

(a) The board of supervisors of panels to aid indigent defendants created by K.S.A.

22-4514

is hereby abolished.

(b) On the effective date of this act, all officers and employees who were engaged immediately preceding the effective date of this act in the performance of powers, duties and functions of the board of supervisors of panels to aid indigent defendants or public defenders and who, in the opinion of the state board of indigents' defense services, are necessary to perform the powers, duties and functions of the state board of indigents' defense services under this act, may become officers and employees of the state board of indigents' defense services. Any such officer or employee shall retain all retirement benefits and all rights which had accrued to or vested in such officer or employee in the unclassified service under the Kansas civil service act immediately preceding the effective date of this act, and the service of each such officer and employee shall be deemed to have been continuous. All transfers and any abolishment of positions of personnel shall be in accordance with law and applicable rules and regulations.

(c) All rules and regulations, orders, directives and standards of the board of supervisors of panels to aid indigent defendants or of the supreme court relating to powers, duties and functions transferred to or imposed upon the state board of indigents' defense services, which rules and regulations, orders, directives and standards were in existence immediately preceding the effective date of this act, shall continue to be effective and shall be deemed to be the rules and regulations, orders, directives and standards of the state board of indigents' defense services until amended, revoked or nullified pursuant to law.

(d) The system providing legal defense services for indigent persons which is in existence and effect in each county and judicial district immediately preceding the effective date of this act shall continue in existence and effect subject to change by the state board of indigents' defense services in accordance with this act.

(e) On and after the effective date of this act, all books, records and other property which relate to providing legal defense services for indigent persons and belonging to the supreme court, the board of supervisors of panels to aid indigent defendants or offices of public defenders immediately preceding the effective date of this act shall become the property of the state board of indigents' defense services.

(f) Whenever the board of supervisors of panels to aid indigent defendants is mentioned by statute, contract or other document, the reference shall be deemed to apply to the state board of indigents' defense services.

KSA 22-4528 — Citation of act

Citation of act.

The provisions of K.S.A.

22-4501

to

22-4518

, inclusive, and amendments thereto, and K.S.A.

22-4519

to 22-4528, inclusive, shall be construed together and may be cited as the indigents' defense services act.

KSA 22-4529 — Entitlement of defendant to counsel; application fee; disposition of moneys

Entitlement of defendant to counsel; application fee; disposition of moneys.

Any defendant entitled to counsel pursuant to K.S.A.

22-4503

, and amendments thereto, shall pay an application fee in the amount of $100 to the clerk of the district court. Any defendant entitled to counsel in a proceeding for a violation of a condition of release pursuant to K.S.A.

22-3716

, and amendments thereto, shall pay an application fee of $100 to the clerk of the district court. Such fee shall be paid regardless of whether the defendant has paid application fees pursuant to this section in any other proceeding. If it appears to the satisfaction of the court that payment of the application fee will impose manifest hardship on the defendant, the court may waive payment of all or part of the application fee. All moneys received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the indigents' defense services fund. If the defendant is acquitted or the case is dismissed, any application fee paid pursuant to this section shall be remitted to the defendant.

KSA 22-4602 — Effect on pending actions

Effect on pending actions.

(1) The trial of any prosecution commenced prior to the effective date of this chapter, and proceedings incidental thereto, shall be governed by this chapter unless the defendant elects to be proceeded against under the law in force at the time the prosecution was commenced. Such election shall be made by the defendant in open court or in writing at or prior to the time of commencement of trial.

(2) Appeals commenced prior to the effective date of this chapter shall be governed by the provisions of this chapter from and after its effective date.

KSA 22-4603 — Employment of county and city prisoners

Employment of county and city prisoners.

(1) Whenever any able-bodied prisoner is confined in the county jail or the jail of any town or city, having been convicted of a misdemeanor or of a violation of an ordinance of such town or city, the sheriff of such county, or the marshal or the chief of police of such town or city, under the direction of the county commissioners or the governing body of the town or city, may allow such persons to work at suitable public or charitable employment for not more than eight hours on each working day.

(2) A person so employed shall receive a credit on any fine and costs imposed in an amount equal to $5 for each full hour spent by the person in the specified work.

(3) Persons held in jail and awaiting trial or held on civil process, may, with their consent, be likewise so employed and shall receive a credit on any fines and costs in an amount equal to $5 for each full hour spent by the person in the specified work, or if there are no such fines and costs, compensation for such employment in an amount agreed to by the person and the city or county, but not less than $5 a day, to be paid by the city or the county.

(4) Any prisoner employed as above provided, shall continue to be deemed prisoners during the hours of their employment and subject to all laws, rules and regulations relating to prisoners.

KSA 22-4605 — Release from custody; query criminal databases

Release from custody; query criminal databases.

(a) No person, whether convicted or being held on suspicion of charges, who is incarcerated by the state or any political subdivision thereof shall be released from custody until the custodian of such person has queried available state and federal criminal databases to determine whether there are any outstanding warrants for such person's arrest.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

KSA 22-4606 — Racial and other profiling; definitions

Racial and other profiling; definitions.

As used in this act:

(a) "Governmental unit" means the state, or any county, city or other political subdivision thereof, or any department, division, board or other agency of any of the foregoing, except governmental unit shall not include the board of education of any school district employing school security officers.

(b) "Law enforcement agency" means the governmental unit employing the law enforcement officer.

(c) "Law enforcement officer" has the meaning ascribed thereto in K.S.A.

74-5602

, and amendments thereto, except law enforcement officer shall not include school security officers designated as school law enforcement officers pursuant to K.S.A.

72-6146

, and amendments thereto.

(d) "Racial or other biased-based policing" means the unreasonable use of race, ethnicity, national origin, gender or religion by a law enforcement officer in deciding to initiate an enforcement action. It is not racial or other biased-based policing when race, ethnicity, national origin, gender or religion is used in combination with other identifying factors as part of a specific individual description to initiate an enforcement action.

(e) "Enforcement action" means any law enforcement act, as described in K.S.A.

22-4609

, and amendments thereto, during a nonconsensual contact with an individual or individuals.

(f) "Collection of data" means that information collected by Kansas law enforcement officers after each traffic stop.

KSA 22-4609 — Profiling prohibited as basis for making stop, search or arrest

Profiling prohibited as basis for making stop, search or arrest.

It is unlawful to use racial or other biased-based policing in:

(a) Determining the existence of probable cause to take into custody or to arrest an individual;

(b) constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle; or

(c) determining the existence of probable cause to conduct a search of an individual or a conveyance.

KSA 22-4610 — Law enforcement policies preempting profiling, requirements; annual training required; community advisory boards; annual reports of complaints

Law enforcement policies preempting profiling, requirements; annual training required; community advisory boards; annual reports of complaints.

(a) All law enforcement agencies in this state shall adopt a detailed, written policy to preempt racial or other biased-based policing. Each agency's policy shall include the definition of racial or other biased-based policing found in K.S.A.

22-4606

, and amendments thereto.

(b) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies within one year after the effective date of this act. The policies and data collection procedures shall be available for public inspection during normal business hours.

(c) The policies adopted pursuant to this section shall include, but not be limited to, the following:

(1) A detailed written policy that prohibits racial or other biased-based policing and that clearly defines acts constituting racial or other biased-based policing using language that has been recommended by the attorney general.

(2) (A) The agency policies shall require annual racial or other biased-based policing training which shall include, but not be limited to, training relevant to racial or other biased-based policing. Distance learning training technology shall be allowed for racial or other biased-based policing training.

(B) Law enforcement agencies may appoint an advisory body of not less than five persons composed of representatives of law enforcement, community leaders and educational leaders to recommend and review appropriate training curricula.

(3) (A) For law enforcement agencies of cities or counties that have exercised the option to establish community advisory boards pursuant to K.S.A.

22-4611b

, and amendments thereto, use of such community advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and communications related to racial or other biased-based policing by law enforcement officers and agencies.

(B) Community advisory boards shall receive training on fair and impartial policing and comprehensive plans for law enforcement agencies.

(4) Policies for discipline of law enforcement officers who engage in racial or other biased-based policing.

(5) A provision that, if the investigation of a complaint of racial or other biased-based policing reveals the officer was in direct violation of the law enforcement agency's written policies regarding racial or other biased-based policing, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules and regulations, resolutions, ordinances or policies, including demerits, suspension or removal of the officer from the agency.

(6) Provisions for community outreach and communications efforts to inform the public of the individual's right to file with the law enforcement agency or the office of the attorney general complaints regarding racial or other biased-based policing, which outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.

(7) Procedures for individuals to file complaints of racial or other biased-based policing with the agency, which, if appropriate, may provide for use of current procedures for addressing such complaints.

(d) (1) Each law enforcement agency shall compile an annual report for the period of July 1 to June 30 and shall submit the report on or before July 31 to the office of the attorney general for review. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.

(2) The annual report shall include:

(A) The number of racial or other biased-based policing complaints received;

(B) the date each racial or other biased-based policing complaint is filed;

(C) action taken in response to each racial or other biased-based policing complaint;

(D) the disposition of each racial or other biased-based policing complaint;

(E) the date each racial or other biased-based policing complaint is closed;

(F) whether or not all agency law enforcement officers not exempted by Kansas commission on peace officers' standards and training received the training required in subsection (c)(2)(A);

(G) whether the agency has a policy prohibiting racial or other biased-based policing;

(H) whether the agency policy mandates specific discipline for sustained complaints of racial or other biased-based policing;

(I) whether the agency has a community advisory board; and

(J) whether the agency has a racial or other biased-based policing comprehensive plan or if it collects traffic or pedestrian stop data.

KSA 22-4611 — Complaints, office of attorney general, procedure; civil action

Complaints, office of attorney general, procedure; civil action.

(a) Any person who believes such person has been subjected to racial or other biased-based policing by a law enforcement officer or agency may file a complaint with the law enforcement agency. The complainant may also file a complaint with the office of the attorney general. The office of the attorney general shall review and, if necessary, investigate the complaint and may find there is insufficient evidence of racial or other biased-based policing or may forward the complaint for further review and possible action to the Kansas commission on peace officers' standards and training. The commission shall review and, if necessary, further investigate the complaint. The commission may take action on the officer's certification or other corrective action as allowed by its governing statutes and rules and regulations. The commission shall consult with the head of the law enforcement agency before taking final action regarding discipline of any law enforcement officer or other disposition of the complaint.

(b) Within 10 days of receiving a complaint, the office of the attorney general shall provide notification that such complaint has been filed to the accused officer and to the head of the accused officer's law enforcement agency, including a copy of all complaint documentation submitted by the complainant.

(c) Upon disposition of a complaint as provided for in subsection (a) the complainant shall have a civil cause of action in the district court against the law enforcement officer or law enforcement agency, or both, and shall be entitled to recover damages if it is determined by the court that such officer or agency engaged in racial or other biased-based policing. The court may allow the prevailing party reasonable attorney fees and court costs.

KSA 22-4611a — Cities, counties, comprehensive plans; contents; data collection

Cities, counties, comprehensive plans; contents; data collection.

(a) The governing body of a city or the sheriff of the county may develop a comprehensive plan in conjunction with a community advisory board, if one exists, or with community leaders to prevent racial or other biased-based policing or may require the law enforcement agency of such city or county to collect traffic or pedestrian stop data and make such data available to the public.

(b) Any comprehensive plan adopted pursuant to this section shall include the following:

(1) Policies prohibiting racial or other biased-based policing to guide well-meaning officers and address racist officers;

(2) policies to promote the recruitment and hiring of a diverse workforce to ensure the workforce is comprised of people who can police in a race-neutral and nonbiased fashion;

(3) training to promote employees' controlled responses to override racial and other biases;

(4) ongoing training of supervisors to enable them to detect and respond effectively to biased behavior;

(5) implement a style of policing that promotes positive interactions between police officers and all communities;

(6) whether or not the governing body or sheriff has included data collection as part of the comprehensive plan; and

(7) other matters deemed appropriate.

(c) Data collection, if required, may consist of, but shall not be limited to, one or more of the following for every vehicle or pedestrian stop:

(1) Originating agency and officer identifier number;

(2) time and date of the stop;

(3) duration of the stop in ranges of one to 15 minutes, 16 to 30 minutes or more than 30 minutes;

(4) beat, district, territory or response area where the traffic stop is conducted;

(5) primary reason for the officer's investigation, and specifically, whether the stop was call related or self initiated;

(6) primary reason for the stop, and specifically, whether the stop was based on a moving violation, an equipment violation, reasonable suspicion of a criminal offense, other violation, to render service or assistance, suspicious circumstances, pre-existing knowledge or special detail;

(7) if a vehicle stop, the county code of vehicle registration, if registered in Kansas, and state code, if registered outside Kansas;

(8) age, race, gender and ethnicity of the primary person stopped by the officer;

(9) source of the information required by paragraph (8), and specifically, whether it was obtained from officer perception or investigation;

(10) whether the officer was aware of the information required by paragraph (8) prior to the stop;

(11) if a vehicle stop, the number of occupants in the stopped vehicle, including the driver;

(12) type of action taken, including citation, warning, search, arrest, assistance provided or no action. If the action taken is an arrest, the data collection shall also include the type of arrest, including warrant, resisting arrest, property crime, persons crime, drug crime, traffic crime, DUI or other type of arrest;

(13) if a search was conducted, the rationale for the search, including vehicle indicators, verbal indicators, physical or visual indicators, document indicators (DOT), incident to arrest or other rationale;

(14) if a search was conducted, the type of search, including consent search, consent requested but consent denied, inventory, stop and frisk, search warrant, incident to arrest, plain view or probable cause; or

(15) if a search was conducted, the type of contraband seized, if any, including currency, firearms, other weapons, drugs, drug paraphernalia, alcohol products, tobacco products, stolen property or other contraband.

(d) Nothing in this section shall require a governmental entity to collect data concerning pedestrian stops.

KSA 22-4611b — Community advisory boards; establishment, cities, counties

Community advisory boards; establishment, cities, counties.

The governing body of any city, by ordinance or the sheriff of any county may, establish a community advisory board to work with the law enforcement agency of such city or county in accordance with the provisions of K.S.A.

22-4606

et seq., and amendments thereto.

KSA 22-4612 — Payment rate county, city or law enforcement agency liable to pay health care provider for person in custody; exceptions

Payment rate county, city or law enforcement agency liable to pay health care provider for person in custody; exceptions.

(a) Except as otherwise provided in this section, a county, a city, a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care provider or the medicaid rate. The provisions of this section shall not apply if a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract.

(b) Nothing in this section shall prevent a county or city law enforcement agency, a county department of corrections, the Kansas highway patrol or such agencies' authorized vendors from entering into agreements with health care providers for the provision of health care services at terms, conditions and amounts that are different than the medicaid rate.

(c) It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or such agencies' agents, to determine, under agreement with the secretary of health and environment, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

(d) Nothing in this section shall be construed to create a duty on the part of a health care provider to render health care services to a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol.

(e) As used in this section:

(1) "County or city law enforcement agency" means a city police department, a county sheriff's department, a county law enforcement department as defined in K.S.A.

19-4401

, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A.

12-345

, and amendments thereto.

(2) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed physician assistant, a person licensed by the behavioral sciences regulatory board, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a registered nurse, and* advanced nurse practitioner, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed practical nurse, a licensed physical therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A.

65-2899

, and amendments thereto, a psychiatric hospital licensed under K.S.A.

39-2001

et seq., and amendments thereto, a licensed social worker or a mental health center or mental health clinic licensed by the secretary for aging and disability services and any health care provider licensed by the appropriate regulatory body in another state that has a current approved provider agreement with the secretary of health and environment.

(3) "Medicaid rate" means the terms, conditions and amounts a health care provider would be paid for health care services rendered pursuant to a contract or provider agreement with the secretary of health and environment.

KSA 22-4613 — Prohibition against releasing person from custody to avoid cost of medical treatment; court order

Prohibition against releasing person from custody to avoid cost of medical treatment; court order.

(a) A law enforcement officer having custody of a person shall not release such person from custody merely to avoid the cost of necessary medical treatment while the person is receiving treatment from a health care provider unless the health care provider consents to such release, or unless the release is ordered by a court of competent jurisdiction. When the law enforcement officer is satisfied that probable cause no longer exists to believe the suspect committed a crime based upon the ongoing investigation, or the prosecuting attorney gives notice that no prosecution will be forthcoming at this time, the law enforcement officer may release such person from custody. Upon the date of notification to the health care provider that the person is being released from custody because the ongoing investigation indicates that probable cause no longer exists or a decision by the prosecuting attorney that no charges will be filed, the law enforcement agency shall no longer be responsible for the cost of such person's medical treatment.

(b) As used in this section:

(1) "Law enforcement officer" has the meaning ascribed thereto in K.S.A.

22-2202

, and amendments thereto.

(2) "Health care provider" has the meaning ascribed thereto in K.S.A.

22-4612

, and amendments thereto.

KSA 22-4614 — Alleged victims of certain offenses, polygraph examination prohibited

Alleged victims of certain offenses, polygraph examination prohibited.

No law enforcement officer, government official or prosecutor shall request or require any person who is alleged to be a victim of an offense described in article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A.

21-6419

through

21-6422

, and amendments thereto, human trafficking or aggravated human trafficking as defined in K.S.A.

21-5426

, and amendments thereto, or incest or aggravated incest as defined in K.S.A.

21-5604

, and amendments thereto, to submit to a polygraph examination or similar truth telling device as a condition for proceeding with an investigation, or charging or prosecuting such an offense.

KSA 22-4615 — Call location information of telecommunications device in emergency situation; telecommunications carriers; Kansas bureau of investigation database, law enforcement agency access

Call location information of telecommunications device in emergency situation; telecommunications carriers; Kansas bureau of investigation database, law enforcement agency access.

(a) Upon request of a law enforcement agency, a wireless telecommunications carrier shall provide call location information concerning the telecommunications device of the user to the requesting law enforcement agency in order to respond to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

(b) Notwithstanding any other provision of law to the contrary, nothing in this section prohibits a wireless telecommunications carrier from establishing protocols by which the carrier could voluntarily disclose call location information.

(c) No cause of action shall lie in any court against any wireless telecommunications carrier, its officers, employees, agents or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section.

(d) (1) All wireless telecommunications carriers registered to do business in the state of Kansas or submitting to the jurisdiction thereof and all resellers of wireless telecommunications services shall submit their emergency contact information to the Kansas bureau of investigation in order to facilitate requests from a law enforcement agency for call location information in accordance with this section. This contact information must be submitted annually by June 15

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or immediately upon any change in contact information.

(2) The Kansas bureau of investigation shall maintain a database containing emergency contact information for all wireless telecommunications carriers registered to do business in the state of Kansas and shall make the information immediately available upon request to all public safety answer points in the state.

(e) Rules and regulations shall be promulgated by the director of the Kansas bureau of investigation to fulfill the requirements of this section no later than July 1, 2011.

(f) This section shall be known and may be cited as the Kelsey Smith act.

KSA 22-4616 — Domestic violence offenses; designation; special sentencing provision

Domestic violence offenses; designation; special sentencing provision.

(a) On and after July 1, 2011, in all criminal cases filed in the district court, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense. On and after July 1, 2013, in all criminal cases filed in the municipal court, if there is evidence that the defendant committed a domestic violence offense, the trier of fact shall determine whether the defendant committed a domestic violence offense.

(1) Except as provided further, if the trier of fact determines that the defendant committed a domestic violence offense, the court shall place a domestic violence designation on the criminal case and the defendant shall be subject to the provisions of subsection (p) of K.S.A.

21-6604

, and amendments thereto.

(2) The court shall not place a domestic violence designation on the criminal case and the defendant shall not be subject to the provisions of subsection (p) of K.S.A.

21-6604

, and amendments thereto, only if the court finds on the record that:

(A) The defendant has not previously committed a domestic violence offense or participated in a diversion upon a complaint alleging a domestic violence offense; and

(B) the domestic violence offense was not used to coerce, control, punish, intimidate or take revenge against a person with whom the offender is involved or has been involved in a dating relationship or against a family or household member.

(b) The term "domestic violence offense" shall have the meaning provided in K.S.A.

21-5111

, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

KSA 22-4617 — Designation as domestic violence offense case number

Designation as domestic violence offense case number.

In all criminal cases, when a complaint is filed charging a defendant with commission of any crime whereby the underlying factual basis includes an act of domestic violence, as defined in K.S.A.

21-5111

, and amendments thereto, the court may place a "DV" designation in the unique identifying case number assigned to such case. Nothing in this section shall be construed to limit the courts of this state from adopting a system of case designation deemed by the courts to be beneficial to the efficient administration of justice.

KSA 22-4618 — Reporting of sexually violent crimes and pornographic materials

Reporting of sexually violent crimes and pornographic materials.

(a) As used in this section:

(1) "Nudity" means the showing, unclothed or with less than a fully opaque covering, of the human male or female genitals, pubic area, buttocks or female breast below a point immediately above the top of the areola.

(2) "Pornographic materials" means sexual devices or books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video presentations, computer-generated images or pictures, slides or other visual representations, whether made or produced by electronic, mechanical or other means, which depict, describe or simulate sexually explicit conduct or nudity.

(3) "Sexually explicit conduct" means acts of masturbation, sexual intercourse, sodomy, sadomasochistic abuse or physical contact with a person's clothed or unclothed genitals, pubic area or buttocks or with a human female's breast.

(4) "Sexually violent crime" means the same as in K.S.A.

22-4902

, and amendments thereto.

(b) The Kansas bureau of investigation will work with the office of the attorney general and with state and local law enforcement to identify a process to uniformly report data to the central repository enabling the production of a report generated at least annually to identify the total number of sexually violent crimes reported and the number of such crimes where pornographic materials are seized or documented as evidence. This process shall be in place within one year of the implementation of a capable central repository system.

(c) Reports of materials found pursuant to the provisions of subsection (b) shall be used for statistical purposes only.

(d) Upon implementation of a central repository system, the Kansas bureau of investigation shall:

(1) Make the necessary changes to the Kansas standard offense report and the Kansas incident based reporting system handbook; and

(2) promulgate rules and regulations concerning the training for law enforcement agencies to implement the provisions of this section.

(e) Nothing in this section shall be construed to expand the scope of the officer's search.

(f) The provisions of this section are subject to appropriations.

KSA 22-4619 — Eyewitness procedures; law enforcement policies, requirements; available to public

Eyewitness procedures; law enforcement policies, requirements; available to public.

(a) All law enforcement agencies in this state shall adopt a detailed, written policy relating to the procedures to be employed when a citizen is asked to identify a person in the context of a criminal investigation.

(b) All law enforcement agencies in this state shall collaborate with the county or district attorney in the appropriate jurisdiction to adopt written policies regarding eyewitness procedures. Such policies shall be made available to all officers of such agency.

(c) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies within two years after the effective date of this act. Such policies shall be available for public inspection during normal business hours.

(d) The policies adopted pursuant to this section shall include, but not be limited to, identifying the procedures the law enforcement agency should employ when asking a citizen to identify a person in the context of a criminal investigation. The procedures should include:

(1) Use of blind and blinded procedures;

(2) instructions to the witness that the perpetrator may or may not be present;

(3) use of non-suspect fillers who are reasonably similar to the perpetrator and do not make the suspect stand out; and

(4) after an identification is made by the witness, eliciting a confidence statement, in the witness's own words, regarding the level of certainty in the selection.

KSA 22-4620 — Electronic recording of certain felony custodial interrogations; law enforcement policies, requirements; available to public

Electronic recording of certain felony custodial interrogations; law enforcement policies, requirements; available to public.

(a) All law enforcement agencies in this state shall adopt a detailed, written policy requiring electronic recording of any custodial interrogation conducted at a place of detention.

(b) All local law enforcement agencies in this state shall collaborate with the county or district attorney in the appropriate jurisdiction regarding the contents of written policies required by this section.

(c) Policies adopted pursuant to this section shall be made available to all officers of such agency and shall be available for public inspection during normal business hours.

(d) Policies adopted pursuant to this section shall include the following:

(1) A requirement that an electronic recording shall be made of an entire custodial interrogation at a place of detention when the interrogation concerns a homicide or a felony sex offense;

(2) a requirement that if the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded;

(3) a statement of exceptions to the requirement to electronically record custodial interrogations, including, but not limited to:

(A) An equipment malfunction preventing electronic recording of the interrogation in its entirety, and replacement equipment is not immediately available;

(B) the officer, in good faith, fails to record the interrogation because the officer inadvertently fails to operate the recording equipment properly, or without the officer's knowledge the recording equipment malfunctions or stops recording;

(C) the suspect affirmatively asserts the desire to speak with officers without being recorded;

(D) multiple interrogations are taking place, exceeding the available electronic recording capacity;

(E) the statement is made spontaneously and not in response to an interrogation question;

(F) the statement is made during questioning that is routinely asked during the processing of an arrest of a suspect;

(G) the statement is made at a time when the officer is unaware of the suspect's involvement in an offense covered by the policy;

(H) exigent circumstances make recording impractical;

(I) at the time of the interrogation, the officer, in good faith, is unaware of the type of offense involved; and

(J) the recording is damaged or destroyed, without bad faith on the part of any person or entity in control of the recording; and

(4) requirements pertaining to the retention and storage requirements of the electronic recording.

(e) (1) During trial, the officer may be questioned pursuant to the rules of evidence regarding any violation of the policies adopted pursuant to this section.

(2) Lack of an electronic recording shall not be the sole basis for suppression of the interrogation or confession.

(f) Every electronic recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A.

45-229

, and amendments thereto.

(g) As used in this section:

(1) "Custodial interrogation" means questioning of a person to whom warnings given pursuant to Miranda v. Arizona, 384 U.S. 436 (1966), are required to be given;

(2) "place of detention" means a fixed location under the control of a Kansas law enforcement agency where individuals are questioned about alleged crimes; and

(3) "electronic recording" means audio or audiovisual recording. An audiovisual recording is preferred.

KSA 22-4621 — Submission of sexual assault kits for testing; law enforcement policies, requirements; available for public inspection

Submission of sexual assault kits for testing; law enforcement policies, requirements; available for public inspection.

(a) All law enforcement agencies in this state shall adopt a written policy requiring submission of all sexual assault kits that correspond to a law enforcement report of sexual assault to the Johnson county sheriff's office criminalistics laboratory, Sedgwick county regional forensic science center, the Kansas bureau of investigation or another accredited forensic laboratory.

(b) Such policy shall:

(1) Ensure that all sexual assault kits that correspond to a law enforcement report of sexual assault are submitted to a laboratory described in subsection (a) for analysis within 30 business days from the collection of the kit for examination; and

(2) include a procedure to ensure the examination results are received by the investigating officer upon the completion of the examination.

(c) All law enforcement agencies in this state shall collaborate with the county or district attorneys in the appropriate jurisdiction regarding the contents of the written policies required by this section.

(d) Policies adopted pursuant to this section shall be made available to all law enforcement officers employed by such law enforcement agency and shall be available for public inspection during normal business hours.

(e) Policies required by this section shall be adopted and implemented by all law enforcement agencies in this state prior to January 31, 2023.

KSA 22-4701 — Definitions

Definitions.

As used in this act, unless the context clearly requires otherwise:

(a) "Central repository" means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A.

38-2326

, and amendments thereto.

(b) "Criminal history record information" means all data initiated or collected by a criminal justice agency on a person pertaining to a reportable event, and any supporting documentation. Criminal history record information does not include:

(1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;

(2) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;

(3) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide;

(4) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation; or

(5) information regarding the release, assignment to work release, or any other change in custody status of a person confined by the department of corrections or a jail.

(c) "Criminal justice agency" means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

(1) State, county, municipal and railroad police departments, sheriffs' offices and countywide law enforcement agencies, correctional facilities, jails and detention centers;

(2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;

(3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts;

(4) the Kansas sentencing commission; and

(5) the prisoner review board.

(d) "Criminal justice information system" means the equipment, including computer hardware and software, facilities, procedures, agreements and personnel used in the collection, processing, preservation and dissemination of criminal history record information and any electronically stored information from a state agency or municipality.

(e) "Electronically stored information" means any documents or writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained either directly or, if necessary, after translation from a state agency or municipality into a reasonably useable form.

(f) "Director" means the director of the Kansas bureau of investigation.

(g) "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:

(1) The transmittal of such information within a criminal justice agency;

(2) the reporting of such information as required by this act; or

(3) the transmittal of such information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

(h) "Reportable event" means an event specified or provided for in K.S.A.

22-4705

, and amendments thereto.

KSA 22-4704 — Criminal history record information; rules and regulations

Criminal history record information; rules and regulations.

(a) In accordance with the provisions of K.S.A.

77-415

et seq., and amendments thereto, the director shall adopt appropriate rules and regulations for agencies in the executive branch of government and for criminal justice agencies other than those that are part of the judicial branch of government to implement the provisions of this act.

(b) The director shall develop procedures to permit and encourage the transfer of criminal history record information among and between courts and affected agencies in the executive branch, and especially between courts and the central repository.

(c) The rules and regulations adopted by the director shall include those: (1) Governing the collection, reporting, and dissemination of criminal history record information by criminal justice agencies;

(2) necessary to insure the security of all criminal history record information reported, collected and disseminated by and through the criminal justice information system;

(3) necessary for the coordination of all criminal justice data and information processing activities as they relate to criminal history record information;

(4) governing the dissemination of criminal history record information;

(5) governing the procedures for inspection and challenging of criminal history record information;

(6) governing the auditing of criminal justice agencies to insure* that criminal history record information is accurate and complete and that it is collected, reported, and disseminated in accordance with this act;

(7) governing the development and content of agreements between the central repository and criminal justice and noncriminal justice agencies; and

(8) governing the exercise of the rights of inspection and challenge provided in this act.

(d) The rules and regulations adopted by the director shall not include any provision that allows the charging of a fee for information requests for the purpose of participating in a block parent program, including, but not limited to, the McGruff house program.

(e) Rules and regulations adopted by the director may not be inconsistent with the provisions of this act.

(f) On or before July 1, 2014, the director shall adopt rules and regulations requiring district courts to electronically report all case filings and dispositions for violations of K.S.A.

8-1567

or K.S.A.

21-5426

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21-6419

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21-6420

,

21-6421

or

21-6422

, and amendments thereto, to the central repository.

KSA 22-4705 — Establishment of criminal justice information system central repository; reportable events; reporting, sharing and authorization of information; fees

Establishment of criminal justice information system central repository; reportable events; reporting, sharing and authorization of information; fees.

(a) The following events are reportable events under this act:

(1) Issuance of an arrest warrant;

(2) an arrest;

(3) release of a person after arrest without the filing of a charge;

(4) the filing of a charge;

(5) dismissal or quashing of an indictment or criminal information;

(6) an acquittal, conviction or other disposition at or following trial, including a finding of probation before judgment;

(7) imposition of a sentence;

(8) commitment to a correctional facility, whether state or locally operated;

(9) release from detention or confinement;

(10) an escape from confinement;

(11) a pardon, reprieve, commutation of sentence or other change in a sentence, including a change ordered by a court;

(12) judgment of an appellate court that modifies or reverses the lower court decision;

(13) order of a court in a collateral proceeding that affects a person's conviction, sentence or confinement, including any expungement or annulment of arrests or convictions pursuant to state statute; and

(14) any other event arising out of or occurring during the course of criminal justice proceedings declared to be reportable by rule or regulation of the director.

(b) There is hereby established a criminal justice information system central repository for the collection, storage, and dissemination of criminal history record information and any electronically stored information from a state agency or municipality. The central repository shall be operated by the Kansas bureau of investigation under the administrative control of the director.

(c) The Kansas bureau of investigation may enter into an agreement with any state agency or municipality to allow for the sharing and authentication of any electronically stored information held by the state agency or municipality, in whole or in part, to the central repository.

(d) Except as otherwise provided by this subsection, every criminal justice agency shall report criminal history record information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this act. A criminal justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(e) Reporting methods may include:

(1) Submittal of criminal history record information by a criminal justice agency directly to the central repository;

(2) if the information can readily be collected and reported through the court system, submittal to the central repository by the administrative office of the courts;

(3) if the information can readily be collected and reported through criminal justice agencies that are part of a geographically based information system, submittal to the central repository by the agencies; or

(4) any transfer of electronically stored information by a state agency or municipality to the central repository.

(f) Nothing in this section shall prevent a criminal justice agency from maintaining more detailed information than is required to be reported to the central repository. However, the dissemination of that criminal history record information is governed by the provisions of this act.

(g) The director may determine, by rule and regulation, the reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.

(h) Except as otherwise provided in this subsection, no court or criminal justice agency may assess fees or charges against the central repository for providing criminal history record information created prior to, on or after July 1, 2011. A court or criminal justice agency may assess a fee or charge against the central repository for providing criminal history record information if such court or criminal justice agency has previously provided such criminal history record information as required by law.

KSA 22-4706 — Agreements between central repository and criminal justice agencies

Agreements between central repository and criminal justice agencies.

The director, pursuant to the rules and regulations adopted, shall develop agreements between the central repository and criminal justice agencies pertaining to:

(a) The method by which the agency will report information, including the method of identifying an offender in a manner that permits other criminal justice agencies to locate the offender at any stage in the criminal justice system, the time of reporting, the specific data to be reported by the agency, and the place of reporting;

(b) the services to be provided to the agency by the central repository;

(c) the conditions and limitations upon the dissemination of criminal history record information by the agency;

(d) the maintenance of security in all transactions between the central repository and the agency;

(e) the method of complying with the right of a person to inspect, challenge, and correct criminal history record information maintained by the agency;

(f) audit requirements to ensure the accuracy of all information reported or disseminated;

(g) the timetable for the implementation of the agreement;

(h) sanctions for failure of the agency to comply with any of the provisions of this act, including the revocation of any agreement between the agency and the central repository and appropriate judicial or administrative proceedings to enforce compliance; and

(i) other provisions that the director may deem necessary.

KSA 22-4707 — Restrictions on dissemination of criminal history record information; penalties

Restrictions on dissemination of criminal history record information; penalties.

(a) A criminal justice agency and the central repository may not disseminate criminal history record information except in strict accordance with laws including applicable rules and regulations adopted pursuant to this act. A criminal justice agency may not request such information from the central repository or another criminal justice agency unless it has a legitimate need for the information.

(b) Noncriminal justice persons and agencies may receive criminal history record information for such purposes and under such conditions as may be authorized by law, including rules and regulations adopted pursuant to this act.

(c) In addition to any other remedy or penalty authorized by law, any individual violating or causing a violation of the provisions of this section shall be deemed guilty of a class A nonperson misdemeanor. If the person is employed or licensed by a state or local government agency, a conviction shall constitute good cause to terminate employment or to revoke or suspend a license.

KSA 22-4708 — Disclosure of status of pending investigations and proceedings

Disclosure of status of pending investigations and proceedings.

Notwithstanding the provisions of the preceding section, a criminal justice agency may disclose the status of a pending investigation of a named person, or the status of a pending proceeding in the criminal justice system, if the request for information is reasonably contemporaneous with the event to which the information relates and the disclosure is otherwise appropriate.

KSA 22-4709 — Inspection of record information on individuals

Inspection of record information on individuals.

(a) Subject to the provisions of this act and rules and regulations adopted pursuant thereto, any person may inspect and challenge criminal history record information maintained by a criminal justice agency concerning themselves. A person's attorney may inspect such information if such attorney satisfactorily establishes his or her identity and presents a written authorization from his or her client.

(b) Nothing in this section requires a criminal justice agency to make a copy of any information or allows a person to remove any document for the purpose of making a copy of it. A person having the right of inspection may make notes of the information.

KSA 22-4710 — Unlawful for employers to require certain acts; exceptions; penalties

Unlawful for employers to require certain acts; exceptions; penalties.

(a) It is unlawful for any employer or prospective employer to require a person to inspect or challenge any criminal history record information relating to that person for the purpose of obtaining a copy of the person's record in order to qualify for employment.

(b) Any person violating the provisions of this section shall be deemed guilty of a class A misdemeanor.

(c) Notwithstanding the provisions of subsection (a) or any other provision of this act, an employer may require a job applicant or a prospective independent contractor to sign a release allowing the employer to access the applicant's or independent contractor's criminal history record information for purposes of determining the applicant's fitness for employment.

(d) The bureau may charge an employer a reasonable fee for the preparation of a report detailing such criminal history record information, and pursuant to rules and regulations may establish a fee schedule or charge varying rates depending upon the quantity of information provided.

(e) The bureau shall be immune from any and all claims or causes of action arising from the release of criminal history record information provided to an employer pursuant to a release signed by a job applicant.

(f) No employer shall be liable for any employment decision or decision to enter into a contract with an independent contractor based upon knowledge of such criminal history record information, provided the information that led to the employment or contracting decision reasonably bears upon the independent contractor's, applicant's or employee's trustworthiness, or the safety or well-being of the employer's employees or customers.

KSA 22-4711 — Prior record information; rights and duties

Prior record information; rights and duties.

Criminal history record information which was recorded prior to the effective date of this act is subject to the right of access and challenge in accordance with this act. However, the duty of a criminal justice agency is to make a reasonable search for such information. There is no duty to provide access to criminal history record information that cannot be located after a reasonable search.

KSA 22-4713 — Criminal justice employment, fingerprinting; use and disclosure of criminal history record information for employment; confidentiality; penalties for improper use or disclosure

Criminal justice employment, fingerprinting; use and disclosure of criminal history record information for employment; confidentiality; penalties for improper use or disclosure.

(a) A criminal justice agency as defined in K.S.A.

22-4701

, and amendments thereto, shall require an applicant for criminal justice employment to be fingerprinted and shall submit such fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of verifying the identification of a person and in the official determination of the qualifications and fitness of such person to be employed or to maintain employment.

(b) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

(1) A city clerk for the position of chief of police as described in K.S.A.

12-1,120

, and amendments thereto;

(2) a county election officer for a candidate for sheriff as described in K.S.A.

19-826

, and amendments thereto;

(3) the governor for an appointment to the position of Kansas highway patrol superintendent as described in K.S.A.

74-2113

, and amendments thereto; and

(4) a state, county, city, university, railroad, tribal, horsethief reservoir benefit district or school law enforcement agency for the purpose of admitting applicants as defined in K.S.A.

74-5602

, and amendments thereto, in connection with such application as described in K.S.A.

74-5605

, and amendments thereto.

(c) In addition to the disclosure in subsection (b), the Kansas bureau of investigation shall certify any adult conviction record, if such record is found, of a chief of police or candidate for sheriff to the Kansas attorney general.

(d) (1) Fingerprints and criminal history record information received pursuant to this section shall be confidential and shall not be subject to the provisions of the Kansas open records act, K.S.A.

45-215

et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A.

45-229

, and amendments thereto, prior to July 1, 2029.

(2) Disclosure or use of any information received pursuant to this section for any purpose other than the purpose described in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office.

KSA 22-4714 — Employment with governmental agency other than criminal justice agency; use of fingerprints and disclosure of criminal history record information by the agency for employment, licensure, certification or permit; confidentiality of such records; reasonable fees for conducting criminal history record checks; penalties for improper use or disclosure

Employment with governmental agency other than criminal justice agency; use of fingerprints and disclosure of criminal history record information by the agency for employment, licensure, certification or permit; confidentiality of such records; reasonable fees for conducting criminal history record checks; penalties for improper use or disclosure.

(a) A governmental agency other than a criminal justice agency as defined in K.S.A.

22-4701

, and amendments thereto, identified in subsection (b) may require a person to be fingerprinted and shall submit such fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of verifying the identification of a person and in the official determination of the qualifications and fitness of such person to be issued or maintain employment, licensure, registration, certification or a permit, act as an agent of a licensee, hold ownership of a licensee or serve as a director or officer of a licensee.

(b) (1) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions and juvenile expunged records to:

(A) The Kansas department for children and families or the Kansas department for aging and disability services for initial or continuing employment or participation in any program administered for the placement, safety, protection or treatment of vulnerable children or adults as described in K.S.A.

75-53,105

, and amendments thereto;

(B) the attorney general for applicants as defined in K.S.A.

75-7b01

, and amendments thereto, in connection with such application as described in K.S.A.

75-7b04

and

75-7b17

, and amendments thereto;

(C) the attorney general for applicants as defined in K.S.A.

75-7c02

, and amendments thereto, in connection with such application as described in K.S.A.

75-7c05

, and amendments thereto;

(D) the attorney general for applicants as defined in K.S.A.

75-7b01

, and amendments thereto, in connection with such application for certification as described in K.S.A.

75-7b21

, and amendments thereto; and

(E) the attorney general for applicants as defined in K.S.A. 7e01, and amendments thereto, in connection with such application as described in K.S.A.

75-7e03

, and amendments thereto.

(2) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records and juvenile expunged records to:

(A) The state lottery for candidates for employees as defined in K.S.A.

74-8702

, and amendments thereto, in connection with such employment as described in K.S.A.

74-8704

, and amendments thereto; and

(B) the Kansas racing and gaming commission for candidates for employees or licensees as defined in K.S.A.

74-8802

, and amendments thereto, in connection with such employment or license as described in K.S.A.

74-8804

, and amendments thereto, including an applicant for a simulcasting license.

(3) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

(A) The emergency medical services board for applicants as defined in K.S.A.

65-6129

, and amendments thereto, in connection with such application as described in K.S.A.

65-6129

, and amendments thereto;

(B) the department of administration for candidates for sensitive employees as defined in K.S.A.

75-3707e

, and amendments thereto, in connection with such employment as described in K.S.A.

75-3707e

, and amendments thereto; and

(C) the state gaming agency for candidates for employees and licensees as defined in K.S.A.

74-9802

, and amendments thereto, in connection with such employment or license as described in K.S.A.

74-9805

, and amendments thereto.

(4) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and adult expunged records to:

(A) The supreme court and state board of law examiners for applicants as defined in K.S.A.

7-127

, and amendments thereto, in connection with such application as described in K.S.A.

7-127

, and amendments thereto; and

(B) the commission on peace officers' standards and training for applicants for certification under the Kansas law enforcement training act as described in K.S.A.

74-5607

, and amendments thereto.

(5) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and juvenile adjudications to:

(A) The athletic commission within the Kansas department of commerce for a candidate for boxing commission as defined in K.S.A.

74-50,182

, and amendments thereto, in connection with such appointment as described in K.S.A.

74-50,184

, and amendments thereto;

(B) the secretary of health and environment for employees at a child care facility as defined in K.S.A.

65-503

, and amendments thereto, in connection with such employment as described in K.S.A.

65-516

, and amendments thereto;

(C) the secretary of commerce for final applicants for a sensitive position or employees in a sensitive position as defined in K.S.A. 2025 Supp.

74-5005a

, and amendments thereto, in connection with such employment as described in K.S.A. 2025 Supp.

74-5005a

, and amendments thereto;

(D) the secretary of labor for employees as defined in K.S.A.

75-5702

, and amendments thereto, in connection with such employment as described in K.S.A.

75-5702

, and amendments thereto; and

(E) the state bank commissioner for any officer, partner, member, owner, principal or director of an applicant or registrant in connection with such application or registration as described in K.S.A. 2025 Supp.

9-2411

, and amendments thereto.

(6) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and juvenile adjudications to:

(A) The secretary for aging and disability services for applicants as defined in K.S.A.

39-970

, and amendments thereto, in connection with such application as described in K.S.A.

39-970

, and amendments thereto;

(B) the Kansas department for aging and disability services for applicants as defined in K.S.A.

39-2009

, and amendments thereto, in connection with such application as described in K.S.A.

39-2009

, and amendments thereto; and

(C) the secretary for aging and disability services for applicants as defined in K.S.A.

65-5117

, and amendments thereto, in connection with such application as described in K.S.A.

65-5117

, and amendments thereto.

(7) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and adult non-convictions to:

(A) The division of motor vehicles within the department of revenue for applicants for reinstatement of a license to drive a commercial motor vehicle as described in K.S.A.

8-2,142

, and amendments thereto;

(B) the board of examiners in optometry for applicants or licensees as defined in K.S.A.

65-1501

, and amendments thereto, in connection with such application or an investigation as described in K.S.A.

65-1505

, and amendments thereto;

(C) the board of pharmacy for fingerprint candidates as defined in K.S.A.

65-1626

, and amendments thereto, in connection with such application or license as described in K.S.A.

65-1696

, and amendments thereto;

(D) the state board of healing arts for applicants or licensees as defined in K.S.A.

65-2802

, and amendments thereto, in connection with such application or an investigation as described in K.S.A.

65-28,129

, and amendments thereto;

(E) the state board of healing arts for applicants or licensees as defined in K.S.A.

65-2901

, and amendments thereto, in connection with such application or an investigation as described in K.S.A.

65-2924

, and amendments thereto;

(F) the board of nursing for applicants as defined in K.S.A.

74-1112

, and amendments thereto, in connection with such application as described in K.S.A.

74-1112

, and amendments thereto;

(G) the behavioral sciences regulatory board for licensees as defined in K.S.A.

74-7511

, and amendments thereto, in connection with such application or license as described in K.S.A.

74-7511

, and amendments thereto;

(H) the state lottery for a vendor to whom a major procurement contract is to be awarded in connection with an investigation as described in K.S.A.

74-8705

, and amendments thereto;

(I) the attorney general for appointees of the governor to positions subject to confirmation by the senate and judicial appointees as described in K.S.A.

75-712

, and amendments thereto;

(J) appointing authorities as defined in K.S.A.

75-4315d

, and amendments thereto, for nongubernatorial appointees as described in K.S.A.

75-4315d

, and amendments thereto;

(K) the Kansas real estate commission for applicants as defined in K.S.A.

58-3035

, and amendments thereto, or for licensees as defined in K.S.A.

58-3035

, and amendments thereto, in connection with an investigation as described in K.S.A.

58-3039

, and amendments thereto;

(L) the insurance commissioner for applicants for licensure as an insurance agent as defined in K.S.A.

40-4902

, and amendments thereto, in connection with such application as described in K.S.A.

40-4905

, and amendments thereto;

(M) the insurance commissioner for applicants as defined in K.S.A.

40-5501

, and amendments thereto, in connection with such application as described in K.S.A.

40-5505

, and amendments thereto; and

(N) the state bank commissioner for applicants in control of a licensee, licensees or key individuals as defined in K.S.A. 2025 Supp.

9-555

, and amendments thereto, in connection with such application as described in K.S.A. 2025 Supp.

9-565

, and amendments thereto.

(8) The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

(A) The department of agriculture for hemp employees as defined in K.S.A.

2-3901

, and amendments thereto, in connection with such employment as described in K.S.A.

2-3902

, and amendments thereto;

(B) the department of agriculture for applicants for licensure as a hemp producer as defined in K.S.A.

2-3901

, and amendments thereto, in connection with such application as described in K.S.A.

2-3906

, and amendments thereto;

(C) the office of state fire marshal for applicants for registration as a hemp processor as defined in K.S.A.

2-3901

, and amendments thereto, in connection with such application as described in K.S.A.

2-3907

, and amendments thereto;

(D) the department of agriculture for hemp destruction employees as defined in K.S.A.

2-3901

, and amendments thereto, in connection with such employment as described in K.S.A.

2-3911

, and amendments thereto;

(E) the bank commissioner for any applicant as defined in K.S.A.

9-508

, and amendments thereto, in connection with such application as described in K.S.A.

9-509

, and amendments thereto;

(F) the bank commissioner for an applicant for employment as a new executive officer or director with a money transmitter company as described in K.S.A.

9-513e

, and amendments thereto;

(G) the bank commissioner for any applicant as defined in K.S.A.

9-1719

, and amendments thereto, in connection with such application as described in K.S.A.

9-1722

, and amendments thereto;

(H) the bank commissioner for an applicant, registrant or licensee as defined in K.S.A.

9-2201

, and amendments thereto, in connection with such application, registration or license as described in K.S.A.

9-2209

, and amendments thereto;

(I) the state banking board for any officer, director or organizer of a proposed fiduciary financial institution as defined in K.S.A.

9-2301

, and amendments thereto, in connection with such role as described in K.S.A.

9-2302

, and amendments thereto;

(J) municipalities for applicants for merchant or security police as described in K.S.A.

12-1679

, and amendments thereto;

(K) the bank commissioner for applicants as defined in K.S.A.

16a-6-104

, and amendments thereto, in connection with such application as described in K.S.A.

16a-6-104

, and amendments thereto;

(L) the state department of credit unions for every candidate as defined in K.S.A.

17-2234

, and amendments thereto, in connection with such employment as described in K.S.A.

17-2234

, and amendments thereto;

(M) the division of alcoholic beverage control within the department of revenue for applicants as defined in K.S.A.

41-102

, and amendments thereto, in connection with such application as described in K.S.A.

41-311b

, and amendments thereto;

KSA 22-4715 — Name-based criminal history record check by governmental agency other than criminal justice agency; use and disclosure of criminal history record information by the agency for employment, licensure, registration or permit; fees; confidentiality

Name-based criminal history record check by governmental agency other than criminal justice agency; use and disclosure of criminal history record information by the agency for employment, licensure, registration or permit; fees; confidentiality.

(a) A governmental agency other than a criminal justice agency as defined in K.S.A.

22-4701

, and amendments thereto, identified in subsection (b) may require a name-based criminal history record check of a person from the Kansas bureau of investigation from the state database. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of determining whether the person has a record of criminal history in this state that would prohibit such person from employment, licensure, registration or obtaining a permit.

(b) (1) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and adult non-convictions to:

(A) The state board of healing arts for determining qualifications for an original application or reinstatement of a license, permit registration or certification as described in K.S.A.

65-2839a

, and amendments thereto; and

(B) the state lottery for the purpose of awarding major contracts as described in K.S.A.

74-8705

, and amendments thereto.

(2) The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

(A) The department for aging and disability services for applicants for an adult care home operator license as described in K.S.A.

39-969

, and amendments thereto;

KSA 22-4807a — Forfeiture of property used in theft of livestock

Forfeiture of property used in theft of livestock.

(a) The following property is subject to forfeiture pursuant to this act:

(1) Contraband property used or intended to be used in the commission of theft of livestock;

(2) the proceeds gained from the commission of theft of livestock;

(3) personal property acquired with proceeds gained from the commission of theft of livestock;

(4) all conveyances, including aircraft, vehicles, vessels, horses or dogs which are used or intended for the use to transport or in any manner to facilitate the transportation for the purpose of the commission of theft of livestock. No conveyance used by any person as a common carrier in the transportation of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owners thereof to have been committed or omitted without the owners knowledge or consent. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party or parties;

(5) all books, records and research products and materials including microfilm, tapes and data which are used or intended for the use in the theft of livestock;

(6) everything of value furnished, or intended to be furnished or traded or used as payment or invested for anything of value but shall not include real property. It may be presumed that this property was acquired with proceeds gained from the commission of theft of livestock and are subject to forfeiture.

(b) Property which is used in the commission of theft of livestock which has title of ownership with two parties on the title or a cosigner is subject to forfeiture, if one party on the title uses the property in the commission of theft of livestock or receives titled property as the proceeds of such felony even if the second party claims that such second party did not have knowledge or involvement in such felony.

(c) As used in this act:

(1) "Contraband property" means property of any nature including personal, tangible or intangible but shall not include real property.

(2) "Livestock" means cattle, swine, sheep, goats, horses, mules, domesticated deer and all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas, and any carcass, skin or part of such animal.

(3) "Theft of livestock" means theft which is classified as a felony violation, pursuant to K.S.A.

21-5801

, and amendments thereto, in which the property taken was livestock.

(4) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

KSA 22-4901 — Citation of act

Citation of act.

K.S.A. 22-4901 through

22-4911

and

22-4913

, and amendments thereto, shall be known and may be cited as the Kansas offender registration act.

KSA 22-4902 — Definitions

Definitions.

As used in the Kansas offender registration act, unless the context otherwise requires:

(a) "Offender" means:

(1) A sex offender;

(2) a violent offender;

(3) a drug offender;

(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;

(2) on or after July 1, 2002, is adjudicated as a juvenile offender for an act which, if committed by an adult, would constitute the commission of a sexually violent crime, 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;

(4) on or after July 1, 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 K.S.A.

21-3505

(a)(1), prior to its repeal, or K.S.A.

21-5504

(a)(1) or (a)(2), and amendments thereto;

(C) promoting prostitution, as defined in K.S.A.

21-3513

, prior to its repeal, or K.S.A.

21-6420

KSA 22-4903 — Violation of act; aggravated violation; penalties; new and separate offense; prosecution, venue

Violation of act; aggravated violation; penalties; new and separate offense; prosecution, venue.

(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 31

st

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 181

st

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) Except as provided in subsection (c)(3), violation of the Kansas offender registration act is:

(A) Upon a first conviction, a severity level 6 felony;

(B) upon a second conviction, a severity level 5 felony; and

(C) upon a third or subsequent conviction, a severity level 3 felony.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3 felony.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(3) Violation of the Kansas offender registration act or aggravated violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff's office as required in K.S.A.

22-4905

(l), and amendments thereto, is:

(A) Except as provided in subsection (c)(3)(B), a class A misdemeanor if, within 15 days of registration, full payment is not remitted to the sheriff's office;

(B) a severity level 9 felony if, within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office.

Such violation shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered under the Kansas offender registration act. If the offender is required to be registered under both a person and nonperson underlying crime, the violation shall be designated as a person crime.

(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 or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act.

KSA 22-4904 — Registration of offender; duties of court, correctional facility, treatment facility, registering law enforcement agency, Kansas bureau of investigation, attorney general; notification of schools and licensed child care facilities

Registration of offender; duties of court, correctional facility, treatment facility, registering law enforcement agency, Kansas bureau of investigation, attorney general; notification of schools and licensed child care facilities.

(a) (1) At the time of conviction or adjudication for an offense requiring registration as provided in K.S.A.

22-4902

, and amendments thereto, the court shall:

(A) Inform any offender, on the record, of the procedure to register and the requirements of K.S.A.

22-4905

, and amendments thereto; and

(B) if the offender is released:

(i) Complete a notice of duty to register, which shall include title and statute number of conviction or adjudication, date of conviction or adjudication, case number, county of conviction or adjudication, and the following offender information: Name, address, date of birth, social security number, race, ethnicity and gender;

(ii) require the offender to read and sign the notice of duty to register, which shall include a statement that the requirements provided in this subsection have been explained to the offender;

(iii) 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; and

(iv) provide one copy of the notice of duty to register to the offender and, within three business days, send a copy of the form to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation.

(2) 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 ensure the age of the victim is documented in the journal entry of conviction or adjudication.

(3) Upon commitment for control, care and treatment by the Kansas department for aging and disability services pursuant to K.S.A.

59-29a07

, and amendments thereto, the court shall notify the registering law enforcement agency of the county where the offender resides during commitment of such offender's commitment. Such notice shall be prepared by the office of the attorney general for transmittal by the court by electronic means, including by fax or e-mail.

(b) The staff of any correctional facility or the registering law enforcement agency's designee shall:

(1) At the time of initial custody, register any offender within three business days:

(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;

(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) provide one copy of the form to the offender and, within three business days, send a copy of the form to the Kansas bureau of investigation; and

(E) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A.

22-4907

, and amendments thereto, within three business days to the Kansas bureau of investigation;

(2) 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;

(3) prior to any offender being discharged, paroled, furloughed or released on work or school release that does not require the daily return to a correctional facility:

(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;

(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) photograph the offender's face and any identifying marks;

(E) obtain fingerprint and palm prints of the offender; and

(F) provide one copy of the form to the offender and, within three business 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; and

(4) 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.

(c) The staff of any treatment facility shall:

(1) Within three business 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) inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located within three business days of an offender's discharge or release; and

(3) provide information upon request to any registering law enforcement agency having jurisdiction relevant to determining the presence of an offender within the treatment facility.

(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 information and updated 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) forward a copy of any certified letter used for reporting pursuant to K.S.A.

22-4905

, and amendments thereto, when utilized, within three business days to the Kansas bureau of investigation;

(6) obtain registration information from every offender required to register regardless of whether or not the offender remits payment;

(7) 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;

(8) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A.

22-4907

, and amendments thereto, within three business days to the Kansas bureau of investigation;

(9) 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

(10) forward any initial registration and updated registration information within three business 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;

(C) transmit offender conviction or adjudication data, fingerprints and palm prints to the federal bureau of investigation; and

(D) ensure all offender information required by the national crime information center is transmitted into the national sex offender registry system within three business days of such information being electronically submitted to the Kansas

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.

KSA 22-4905 — Duties of offender required to register; reporting; updated photograph; fee; driver's license; identification card

Duties of offender required to register; reporting; updated photograph; fee; driver's license; identification card.

Any offender required to register as provided in the Kansas offender registration act shall:

(a) Except as otherwise provided in this subsection, register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Any such offender who cannot physically register in person with the registering law enforcement agency for such reasons including, but not limited to, incapacitation or hospitalization, as determined by a person licensed to practice medicine or surgery, or involuntarily committed pursuant to the Kansas sexually violent predator act, shall be subject to verification requirements other than in-person registration, as determined by the registering law enforcement agency having jurisdiction;

(b) except as provided further, for any: (1) Sex offender, including a violent offender or drug offender who is also a sex offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school; and (2) violent offender or drug offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that, at the discretion of the registering law enforcement agency, one of the four required reports may be conducted by certified letter. When utilized, the certified letter for reporting shall be sent by the registering law enforcement agency to the reported residence of the offender. The offender shall indicate any changes in information as required for reporting in person. The offender shall respond by returning the certified letter to the registering law enforcement agency within 10 business days by certified mail. The offender shall be required to report to the registering law enforcement agency once during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday. The registering law enforcement agency may determine the appropriate times and days for reporting by the offender, consistent with this subsection. Nothing contained in this subsection shall be construed to alleviate any offender from meeting the requirements prescribed in the Kansas offender registration act;

(c) provide the information required for registration as provided in K.S.A.

22-4907

, and amendments thereto, and verify all information previously provided is accurate;

(d) if in the custody of a correctional facility, register with the correctional facility within three business days of initial custody and shall not be required to update such registration until discharged, paroled, furloughed or released on work or school release from a correctional facility. A copy of the registration form and any updated registrations for an offender released on work or school release shall be sent, within three business days, to the registering law enforcement agency where the offender is incarcerated, maintains employment or attends school, and to the Kansas bureau of investigation;

(e) if involuntarily committed pursuant to the Kansas sexually violent predator act, register within three business days of arrival in the county where the offender resides during commitment. The offender shall not be required to update such registration until placed in a reintegration facility, on transitional release or on conditional release. Upon placement in a reintegration facility, on transitional release or on conditional release, the offender shall be personally responsible for complying with the provisions of the Kansas offender registration act;

(f) notwithstanding subsections (a) and (b), if the offender is transient, report in person to the registering law enforcement agency of such county or location of jurisdiction in which the offender is physically present within three business days of arrival in the county or location of jurisdiction. Such offender shall be required to register in person with the registering law enforcement agency every 30 days, or more often at the discretion of the registering law enforcement agency. Such offender shall comply with the provisions of the Kansas offender registration act and, in addition, shall:

(1) Provide a list of places where the offender has slept and otherwise frequented during the period of time since the last date of registration; and

(2) provide a list of places where the offender may be contacted and where the offender intends to sleep and otherwise frequent during the period of time prior to the next required date of registration;

(g) if required by out-of-state law, register in any out-of-state jurisdiction, where the offender resides, maintains employment or attends school;

(h) register in person upon any commencement, change or termination of residence location, employment status, school attendance or other information as provided in K.S.A.

22-4907

, and amendments thereto, within three business days of such commencement, change or termination, to the registering law enforcement agency or agencies where last registered and provide written notice to the Kansas bureau of investigation;

(i) report in person to the registering law enforcement agency or agencies within three business days of any change in name;

(j) if receiving inpatient treatment at any treatment facility, inform the treatment facility of the offender's status as an offender and 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;

(k) submit to the taking of an updated photograph by the registering law enforcement agency on each occasion when the offender registers with or reports to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or attends school. In addition, such offender shall submit to the taking of a photograph to document any changes in identifying characteristics, including, but not limited to, scars, marks and tattoos;

(l) remit payment to the sheriff's office in the amount of $20 as part of the reporting process required pursuant to subsection (b) in each county in which the offender resides, maintains employment or is attending school. Registration will be completed regardless of whether or not the offender remits payment. Failure of the offender to remit full payment within 15 days of registration is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A.

22-4903

, and amendments thereto. Notwithstanding other provisions herein, payment of this fee is not required:

(1) When an offender provides updates or changes in information or during an initial registration unless such updates, changes or initial registration is during the month of such offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday;

(2) when an offender is transient and is required to register every 30 days, or more frequently as ordered by the registering law enforcement agency, except during the month of the offender's birthday and every third, sixth and ninth

month occurring before and after the month of the offender's birthday; or

(3) if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court;

(m) annually renew any driver's license pursuant to K.S.A.

8-247

, and amendments thereto, and annually renew any identification card pursuant to K.S.A. 2025 Supp.

8-1325a

, and amendments thereto;

(n) if maintaining primary residence in this state, surrender all driver's licenses and identification cards from other states, territories and the District of Columbia, except if the offender is presently serving and maintaining active duty in any branch of the United States military or the offender is an immediate family member of a person presently serving and maintaining active duty in any branch of the United States military;

(o) read and sign the registration form noting whether the requirements provided in this section have been explained to the offender; and

(p) report in person to the registering law enforcement agency in the jurisdiction of the offender's residence and provide written notice to the Kansas bureau of investigation 21 days prior to any travel outside of the United States, and provide an itinerary including, but not limited to, destination, means of transport and duration of travel, or if under emergency circumstances, within three business days of making travel arrangements.

KSA 22-4906 — Duration and termination of registration requirement

Duration and termination of registration requirement.

(a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A.

21-3517

, prior to its repeal, or K.S.A.

21-5505

(a), and amendments thereto;

(B) adultery, as defined in K.S.A.

21-3507

, prior to its repeal, or K.S.A.

21-5511

, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in 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

KSA 22-4907 — Information required in registration

Information required in registration.

(a) Registration as required by the Kansas offender registration act shall consist of a form approved by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been reviewed

and explained to the offender, and shall be signed by the offender and, except when such reporting is conducted by certified letter as provided in subsection (b) of K.S.A.

22-4905

, and amendments thereto, witnessed by the person registering the offender. Such registration form shall include the following offender information:

(1) Name and all alias names;

(2) date and city, state and country of birth, and any alias dates or places of birth;

(3) title and statute number of each offense or offenses committed, date of each conviction or adjudication and court case numbers for each conviction or adjudication;

(4) city, county, state or country of conviction or adjudication;

(5) sex and date of birth or purported age of each victim of all offenses requiring registration;

(6) current residential address, any anticipated future residence and any temporary lodging information including, but not limited to, address, telephone number and dates of travel for any place in which the offender is staying for seven or more days; and, if transient, the locations where the offender has stayed and frequented since last reporting for registration;

(7) all telephone numbers at which the offender may be contacted including, but not limited to, all mobile telephone numbers;

(8) social security number, and all alias social security numbers;

(9) identifying characteristics such as race, ethnicity, skin tone, sex, age, height, weight, hair and eye color, scars, tattoos and blood type;

(10) occupation and name, address or addresses and telephone number of employer or employers, and name of any anticipated employer and place of employment;

(11) all current driver's licenses or identification cards, including a photocopy of all such driver's licenses or identification cards and their numbers, states of issuance and expiration dates;

(12) all vehicle information, including the license plate number, registration number and any other identifier and description of any vehicle owned or operated by the offender, or any vehicle the offender regularly drives, either for personal use or in the course of employment, and information concerning the location or locations such vehicle or vehicles are habitually parked or otherwise kept;

(13) license plate number, registration number or other identifier and description of any aircraft or watercraft owned or operated by the offender, and information concerning the location or locations such aircraft or watercraft are habitually parked, docked or otherwise kept;

(14) all professional licenses, designations and certifications;

(15) documentation of any treatment received for a mental abnormality or personality disorder of the offender; for purposes of documenting the treatment received, registering law enforcement agencies, correctional facility officials, treatment facility officials and courts may rely on information that is readily available to them from existing records and the offender;

(16) a photograph or photographs;

(17) fingerprints and palm prints;

(18) any and all schools and satellite schools attended or expected to be attended and the locations of attendance and telephone number;

(19) any and all: E-mail addresses; online identities used by the offender on the internet; information relating to membership in any and all personal web pages or online social networks; and internet screen names;

(20) all travel and immigration documents; and

(21) name and telephone number of the offender's probation, parole or community corrections officer.

(b) The offender shall provide biological samples for DNA analysis to the registering law enforcement agency as required by K.S.A.

21-2511

, and amendments thereto. The biological samples shall be in the form using a DNA databank kit authorized by the Kansas bureau of investigation. The registering law enforcement agency shall forward such biological samples to the Kansas bureau of investigation. Prior to taking such sample, the registering law enforcement agency shall search the Kansas criminal justice information system to determine if such person's DNA profile is currently on file. If such person's DNA profile is on file with the Kansas bureau of investigation, the registering law enforcement agency is not required to take biological samples.

KSA 22-4908 — Petition for relief from registration; procedure; elements of proof; expungement

Petition for relief from registration; procedure; elements of proof; expungement.

(a) Except as provided in subsection (b), a drug offender who is required to register under the Kansas offender registration act may file a verified petition for relief from registration requirements if the offender has registered for a period of at least five years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, five years from the date of conviction or adjudication.

(b) An offender who is required to register pursuant to K.S.A.

22-4906

(k), and amendments thereto, because of an out-of-state conviction or adjudication may not petition for relief from registration requirements in this state if the offender would be required to register under the law of the state or jurisdiction where the conviction or adjudication occurred. If the offender would no longer be required to register under the law of the state or jurisdiction where the conviction or adjudication occurred, the offender may file a verified petition pursuant to subsection (a).

(c) Any period of time during which an offender is incarcerated in any jail or correctional facility or during which the offender does not substantially comply with the requirements of the Kansas offender registration act shall not count toward the duration of registration required in subsection (a).

(d) (1) A verified petition for relief from registration requirements shall be filed in the district court in the county where the offender was convicted or adjudicated of the offense requiring registration. If the offender was not convicted or adjudicated in this state of the offense requiring registration, such petition shall be filed in the district court of any county where the offender is currently required to register. The docket fee shall be as provided in K.S.A.

60-2001

, and amendments thereto.

(2) The petition shall include:

(A) The offender's full name;

(B) the offender's full name at the time of conviction or adjudication for the offense or offenses requiring registration, if different than the offender's current name;

(C) the offender's sex, race and date of birth;

(D) the offense or offenses requiring registration;

(E) the date of conviction or adjudication for the offense or offenses requiring registration;

(F) the court in which the offender was convicted or adjudicated of the offense or offenses requiring registration;

(G) whether the offender has been arrested, convicted, adjudicated or entered into a diversion agreement for any crime during the period the offender is required to register; and

(H) the names of all treatment providers and agencies that have treated the offender for mental health, substance abuse and offense-related behavior since the date of the offense or offenses requiring registration.

(3) The judicial council shall develop a petition form for use under this section.

(4) When a petition is filed, the court shall set a date for a hearing on such petition and cause notice of the hearing to be given to the county or district attorney in the county where the petition is filed. Any person who may have relevant information about the offender may testify at the hearing.

(5) The county or district attorney shall notify any victim of the offense requiring registration who is alive and whose address is known or, if the victim is deceased, the victim's family if the family's address is known. The victim or victim's family shall not be compelled to testify or provide any discovery to the offender.

(6) The county or district attorney shall have access to all applicable records, including records that are otherwise confidential or privileged.

(e) (1) The court may require a drug offender who is petitioning for relief under this section to undergo a risk assessment.

(2) Any risk assessment ordered under this subsection shall be performed by a professional agreed upon by the parties or a professional approved by the court. Such risk assessment shall be performed at the offender's expense.

(f) The court shall order relief from registration requirements if the offender shows by clear and convincing evidence that:

(1) The offender has not been convicted or adjudicated of a felony, other than a felony violation or aggravated felony violation of K.S.A.

22-4903

, and amendments thereto, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;

(2) the offender's circumstances, behavior and treatment history demonstrate that the offender is sufficiently rehabilitated to warrant relief; and

(3) registration of the offender is no longer necessary to promote public safety.

(g) If the court denies an offender's petition for relief, the offender shall not file another petition for relief until three years have elapsed, unless a shorter time period is ordered by the court.

(h) If the court grants relief from registration requirements, the court shall order that the offender be removed from the offender registry and that the offender is no longer required to comply with registration requirements. Within 14 days of any order, the court shall notify the Kansas bureau of investigation and any local law enforcement agency that registers the offender that the offender has been granted relief from registration requirements. The Kansas bureau of investigation shall remove such offender from any internet website maintained pursuant to K.S.A.

22-4909

, and amendments thereto.

(i) An offender may combine a petition for relief under this section with a petition for expungement under K.S.A.

21-6614

, and amendments thereto, if the offense requiring registration is otherwise eligible for expungement.

KSA 22-4909 — Information subject to open records act; website posting; exceptions; nondisclosure of certain information

Information subject to open records act; website posting; exceptions; nondisclosure of certain information.

(a) Except as prohibited by subsections (c), (d), (e) and (f) of this section and subsections (f) and (g) of K.S.A.

22-4906

, and amendments thereto, the statements or any other information required by the Kansas offender registration act shall be open to inspection by the public at the registering law enforcement agency, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A.

45-215

et seq., and amendments thereto.

(b) Any information posted on an internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation shall identify, in a prominent manner, whether an offender is a sex offender, a violent offender or a drug offender. Such internet websites shall include the following information for each offender:

(1) Name of the offender, including any aliases;

(2) address of each residence at which the offender resides or will reside and, if the offender does not have any present or expected residence address, other information about where the offender has their home or habitually lives. If current information of this type is not available because the offender is in violation of the requirement to register or cannot be located, the website must so note;

(3) temporary lodging information;

(4) address of any place where the offender is a student or will be a student;

(5) license plate number and a description of any vehicle owned or operated by the offender, including any aircraft or watercraft;

(6) physical description of the offender;

(7) the offense or offenses for which the offender is registered and any other offense for which the offender has been convicted or adjudicated;

(8) a current photograph of the offender; and

(9) all professional licenses, designations and certifications.

(c) Notwithstanding subsection (a), information posted on an internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation shall not contain the address of any place where the offender is an employee or any other information about where the offender works. Such internet website shall contain a statement that employment information is publicly available and may be obtained by contacting the appropriate registering law enforcement agency or by signing up for community notification through the official website of the Kansas bureau of investigation.

(d) Notwithstanding subsection (a), pursuant to a court finding petitioned by the prosecutor, any offender who is required to register pursuant to the Kansas offender registration act, but has been provided a new identity and relocated under the federal witness security program or who has worked as a confidential informant, or is otherwise a protected witness, shall be required to register pursuant to the Kansas offender registration act, but shall not be subject to public registration.

(e) Notwithstanding subsection (a), when a court orders expungement of a conviction or adjudication that requires an offender to register pursuant to the Kansas offender registration act, the registration requirement for such conviction or adjudication does not terminate. Such offender shall be required to continue registering pursuant to the Kansas offender registration act, but shall not be subject to public registration. If a court orders expungement of a conviction or adjudication that requires an offender to register pursuant to the Kansas offender registration act, and the offender has any other conviction or adjudication that requires registration, such offender shall be required to register pursuant to the Kansas offender registration act, and the registration for such other conviction or adjudication shall be open to inspection by the public and shall be subject to the provisions of subsection (a), unless such registration has been ordered restricted pursuant to subsection (f) or (g) of K.S.A.

22-4906

, and amendments thereto.

(f) Notwithstanding subsection (a), the following information shall not be disclosed other than to law enforcement agencies:

(1) The name, address, telephone number or any other information which specifically and individually identifies the identity of any victim of a registerable offense;

(2) the social security number of the offender;

(3) the offender's criminal history arrests that did not result in convictions or adjudications;

(4) travel and immigration document numbers of the offender; and

(5) internet identifiers of the offender.

KSA 22-4910 — Effective date of act

Effective date of act.

K.S.A.

22-4901

through 22-4910 shall be effective on and after July 1, 1993.

KSA 22-4911 — No cause of action created against employee related to registration requirements

No cause of action created against employee related to registration requirements.

Nothing in the Kansas offender registration act shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of requiring an offender to register or an offender's failure to register. This includes, but is not limited to, the person or persons assigned to a registering law enforcement agency to register offenders, and the person or persons assigned to enter all offender information required by the national crime information center into the national sex offender registry system.

KSA 22-4913 — Offender residency restrictions; prohibition from adopting or enforcing; exceptions; definitions

Offender residency restrictions; prohibition from adopting or enforcing; exceptions; definitions.

(a) Except as provided in subsection (b), on and after June 1, 2006, cities and counties shall be prohibited from adopting or enforcing any ordinance, resolution or regulation establishing residential restrictions for offenders as defined by K.S.A.

22-4902

, and amendments thereto.

(b) The prohibition in subsection (a), shall not apply to any city or county residential licensing or zoning program for correctional placement residences that includes regulations for the housing of such offenders.

(c) As used in this section, "correctional placement residence" means a facility that provides residential services for individuals or offenders who reside or have been placed in such facility due to any one of the following situations:

(1) Prior to, or instead of, being sentenced to prison;

(2) as a conditional release prior to a hearing;

(3) as a part of a sentence of confinement of not more than one year;

(4) in a privately operated facility housing parolees;

(5) as a deferred sentence when placed in a facility operated by community corrections;

(6) as a requirement of court-ordered treatment services for alcohol or drug abuse; or

(7) as part of voluntary treatment services for alcohol or drug abuse.

Correctional placement residence shall not include a single or multi-family dwelling or commercial residential building that provides a residence to staff and persons other than those described in paragraphs (1) through (7).

KSA 22-5001 — National crime prevention and privacy compact; contents

National crime prevention and privacy compact; contents.

The National Crime Prevention and Privacy Compact is hereby ratified, enacted into law and entered into with all jurisdictions legally joining in the Compact, in substantially the form set forth in this section.

Article I. Definitions

As used in this Compact, the following definitions apply:

(1) "Attorney General" means the Attorney General of the United States.

(2) "Compact officer" means:

(a) With respect to the Federal Government, an official so designated by the Director of the FBI; and

(b) With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) "Council" means the Compact Council established under Article VI.

(4) "Criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized recordkeeping functions for criminal history records and services in the state.

(5) (a) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.

(b) The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.

(6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) (a) "Criminal justice agency" means:

(i) Courts; and

(ii) A governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice.

(b) The term includes federal and state inspector general offices.

(8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(11) "FBI" means the Federal Bureau of Investigation.

(12) (a) "III System" means the Interstate Identification Index System, which is the cooperative federal-state system for the exchange of criminal history records.

(b) The term includes the national identification index, the national fingerprint file, and to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.

(13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(15) "National indices" means the national identification index and the national fingerprint file.

(16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(17) "Nonparty state" means a state that has not ratified this Compact.

(18) "Party state" means a state that has ratified this Compact.

(19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.

(20) "Sealed record information" means:

(a) With respect to adults, that portion of a record that is:

(i) Not available for criminal justice uses;

(ii) Not supported by fingerprints or other accepted means of positive identification; or

(iii) Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(b) With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article II. Purposes

The purposes of this Compact are to:

(1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) Provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) Require the FBI and each party state to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III. Responsibilities of Compact Parties

(1) The Director of the FBI shall:

(a) Appoint an FBI Compact officer who shall:

(i) Administer this Compact within the Department of Justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(3);

(ii) Ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the federal agencies and other agencies and organizations referred to in subsection (1)(a)(i) of this Article III; and

(iii) Regulate the use of records received by means of the III System from party states when such records are supplied by the FBI directly to other federal agencies;

(b) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:

(i) Information from nonparty states; and

(ii) Information from party states that is available from the FBI through the III System, but is not available from the party state through the III System;

(c) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of the records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(d) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(2) Each party state shall:

(a) Appoint a Compact officer who shall:

(i) Administer this Compact within that state;

(ii) Ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the state; and

(iii) Regulate the in-state use of records received by means of the III System from the FBI or from other party states;

(b) Establish and maintain a criminal history record repository, which shall provide:

(i) Information and records for the national identification index and the national fingerprint file; and

(ii) The state's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(c) Participate in the national fingerprint file; and

(d) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this Compact.

(3) In carrying out their responsibilities under this Compact, the FBI and each party state shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(4) (a) Use of the III System for noncriminal justice purposes authorized in this Compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(b) Administration of Compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

Article IV. Authorized Record Disclosures

(1) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute which has been approved by the Attorney General and which authorizes national indices checks.

(2) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General, that explicitly authorizes national indices checks.

(3) Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

(a) Ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(b) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(c) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

Article V. Record Request Procedures

(1) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(2) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(3) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories may not be permitted for noncriminal justice purposes.

(4) A state criminal history record repository or the FBI:

(a) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(b) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(5) (a) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.

(b) If, with respect to a request forwarded by a state criminal history record repository under subsection (5)(a), the FBI positively identifies the subject as having a III System-indexed record or records:

(i) The FBI shall so advise the state criminal history record repository; and

(ii) The state criminal history record repository is entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

Article VI. Establishment of Compact Council

(1) (a) There is established a Council to be known as the Compact Council, which has the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(b) The Council shall:

(i) Continue in existence as long as this Compact remains in effect;

(ii) Be located, for administrative purposes, within the FBI; and

(iii) Be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(2) The Council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

(a) Nine members, each of whom shall serve a 2-year term, who must be selected from among the Compact officers of party states based on the recommendation of the Compact officers of all party states, except that in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;

(b) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom:

(i) One must be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(ii) One must be a representative of the noncriminal justice agencies of the Federal Government;

(c) Two at-large members, nominated by the Chairman of the Council once the Chairman is elected pursuant to subsection (3) of this Article VI, each of whom shall serve a 3-year term, of whom:

(i) One must be a representative of state or local criminal justice agencies; and

(ii) One must be a representative of state or local noncriminal justice agencies;

(d) One member who shall serve a 3-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and

(e) One member, nominated by the Director of the FBI, who shall serve a 3-year term and who must be an employee of the FBI.

(3) (a) From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council. Both the Chairman and Vice Chairman of the Council:

(i) Must be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(ii) Shall serve 2-year terms and may be reelected to only one additional 2-year term.

(b) The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(4) (a) The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council must be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at the meeting.

(b) A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(5) The Council shall make available for public inspection and copying at the Council office within the FBI and shall publish in the Federal Register any rules, procedures, or standards established by the Council.

(6) The Council may request from the FBI reports, studies, statistics, or other information or materials that the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent

authorized by law, may provide assistance or information upon a request.

(7) The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

Article VII. Ratification of Compact

This Compact takes effect upon being entered into by two or more states as between those states and the Federal Government. When additional states subsequently enter into this Compact, it becomes effective among those states and the Federal Government and each party state that has previously ratified it. When ratified, this Compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.

Article VIII. Miscellaneous Provisions

(1) Administration of this Compact may not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(2) Nothing in this Compact requires the FBI to obligate or expend funds beyond those appropriated to the FBI.

(3) Nothing in this Compact diminishes or lessens the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(1), regarding the use and dissemination of criminal history records and information.

Article IX. Renunciation

(1) This Compact shall bind each party state until renounced by the party state.

(2) Any renunciation of this Compact by a party state must:

(a) Be effected in the same manner by which the party state ratified this Compact; and

(b) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the Federal Government.

Article X. Severability

The provisions of this Compact are severable. If any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this Compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability of the remainder of the Compact to any government, agency, person, or circumstance is not affected by the severability. If a portion of this Compact is held contrary to the constitution of any party state, all other portions of this Compact remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI. Adjudication of Disputes

(1) The Council:

(a) Has initial authority to make determinations with respect to any dispute regarding:

(i) Interpretation of this Compact;

(ii) Any rule or standard established by the Council pursuant to Article VI; and

(iii) Any dispute or controversy between any parties to this Compact; and

(b) Shall hold a hearing concerning any dispute described in subsection (1)(a) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. The decision must be published pursuant to the requirements of Article VI(5).

(2) The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the Council holds a hearing on the matters.

(3) The FBI or a party state may appeal any decision of the Council to the Attorney General and after that appeal may file suit in the appropriate District Court of the United States that has original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a state court must be removed to the appropriate District Court of the United States in the manner provided by section 1446 of Title 28, United States Code, or other statutory authority.

Chapter 41 — Intoxicating Liquors and Beverages

KSA 41-101 — Citation of act

Citation of act.

This act may be cited as the "Kansas liquor control act."

KSA 41-102 — Definitions

Definitions.

As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic candy" means:

(1) For purposes of manufacturing, any candy or other confectionery product with an alcohol content greater than 0.5% alcohol by volume; and

(2) for purposes of sale at retail, any candy or other confectionery product with an alcohol content greater than 1% alcohol by volume.

(c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic candy and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, but shall not include any cereal malt beverage.

(d) "Applicant" means a person who has submitted an application for licensure under this act.

(e) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(f) "Caterer" means the same as defined by K.S.A.

41-2601

, and amendments thereto.

(g) "Cereal malt beverage" means the same as defined by K.S.A.

41-2701

, and amendments thereto.

(h) "Club" means the same as defined by K.S.A.

41-2601

, and amendments thereto.

(i) "Director" means the director of alcoholic beverage control of the department of revenue.

(j) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A.

41-2702

, and amendments thereto.

(k) "Domestic beer" means beer which contains not more than 15% alcohol by weight and which is manufactured in this state.

(l) "Domestic fortified wine" means wine which contains more than 16%, but not more than 20% alcohol by volume and which is manufactured in this state.

(m) "Domestic table wine" means wine which contains not more than 16% alcohol by volume and which is manufactured without rectification or fortification in this state.

(n) "Drinking establishment" means the same as defined by K.S.A.

41-2601

, and amendments thereto.

(o) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(p) "Fulfillment house" means any location or facility for any in-state or out-of-state entity that handles logistics, including warehousing, packaging, order fulfillment or shipping services on behalf of the holder of a special order shipping license issued pursuant to K.S.A.

41-350

, and amendments thereto.

(q) "Hard cider" means any alcoholic beverage that:

(1) Contains less than 8.5% alcohol by volume;

(2) has a carbonation level that does not exceed 6.4 grams per liter; and

(3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

(r) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(s) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) "Manufacturer" does not include a microbrewery, microdistillery or a farm winery.

(t) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

(u) "Microdistillery" means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(v) "Minor" means any person under 21 years of age.

(w) "Nonbeverage user" means any manufacturer of any of the products set forth and described in K.S.A.

41-501

, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(x) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(y) "Person" means any natural person, corporation, partnership, trust or association.

(z) "Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

(aa) "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

(bb) (1) "Retailer" means a person who is licensed under the Kansas liquor control act and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.

(2) "Retailer" does not include a microbrewery, microdistillery or a farm winery.

(cc) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(dd) "Salesperson" means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

(ee) "Sample" means a serving of alcoholic liquor that contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A "sample" of a mixed alcoholic beverage shall contain not more than Â½ ounce of distilled spirits.

(ff) "Secretary" means the secretary of revenue.

(gg) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

(hh) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(ii) "Sleeve" means a package of two or more 50-milliliter or 3.2-fluid-ounce containers of spirits.

(jj) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(kk) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(ll) "Temporary permit" means the same as defined by K.S.A.

41-2601

, and amendments thereto.

(mm) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. "Wine" includes hard cider and any other product that is commonly known as a subset of wine.

KSA 41-104 — Acts with regard to alcoholic liquor prohibited unless allowed by statute; exceptions

Acts with regard to alcoholic liquor prohibited unless allowed by statute; exceptions.

(a) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in such acts shall prevent:

(1) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A.

41-407

, and amendments thereto, shall be applicable to all persons;

(2) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, the maker's family, guests and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

(3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(4) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(5) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(6) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

(7) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following:

(A) The consumer must be at least 21 years of age;

(B) the consumer must purchase the wine while physically present on the premises of the wine manufacturer;

(C) the wine must be for the consumer's personal consumption and not for resale; and

(D) the consumer shall comply with the provisions of K.S.A.

41-407

, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary;

(8) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A.

17-1760

, and amendments thereto, and as qualified pursuant to 26 U.S.C. Â§ 501(c) and by committees formed pursuant to K.S.A.

25-4142

et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto;

(9) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance; or

(10) the provision of alcoholic liquor or cereal malt beverage as a prize for a charitable raffle conducted in accordance with K.S.A.

75-5171

et seq., and amendments thereto, except that no such prize shall be provided to any person under 21 years of age.

(b) For purposes of subsection (a)(2), the term "guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" does not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.

KSA 41-105 — Act inapplicable in certain cases

Act inapplicable in certain cases.

None of the provisions of this act shall apply: (1) To the manufacture of denatured alcohol produced in accordance with acts of congress and regulations promulgated thereunder; (2) to flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary or toilet preparations, or food products unfit for beverage purposes, but the provisions of this act shall not be construed to exclude or not apply to alcoholic liquor used in the manufacture, preparation or compounding of such preparations and products; or (3) to wine intended for use and used by any church or religious organization for sacramental purposes.

KSA 41-106 — Violations of law; copy of citation; notice of reported violation

Violations of law; copy of citation; notice of reported violation.

(a) Any citation issued by an agent of the division of alcoholic beverage control for a violation of the liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act shall be delivered to the licensee or a person

in charge of the licensed premises at the time of the alleged violation. A copy of such citation also shall be delivered by United States mail to the licensee within 30 days of the alleged violation.

(b) Any duly authorized law enforcement officer who observes a violation of the liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act may, after serving notice to the licensee or a person in charge of the licensed premises, submit a report of such violation to the division of alcoholic beverage control for review. Upon receipt of such report, the director shall review the report and determine if administrative action will be taken against the licensee. If the director determines that administrative action will be taken, an administrative citation and notice of administrative action shall be delivered by United States mail to the licensee within 30 days of the date of the alleged violation.

(c) The notice required to be served to the licensee or a person in charge of the licensed premises at the time of the alleged violation pursuant to subsection (b) shall be in writing and shall contain the following:

(1) The name of the licensee;

(2) the date and time of the alleged violation;

(3) a description of the alleged violation; and

(4) a statement that a report of the alleged violation will be submitted to the division of alcoholic beverage control for review.

(d) Any citations not issued in accordance with the provisions of this section shall be void and unenforceable.

(e) For purposes of this section, the term "person in charge" means any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present is the person in charge.

KSA 41-107 — Compliance checks or sting operations; notice of compliance

Compliance checks or sting operations; notice of compliance.

Any licensee who has been the subject of an operation conducted by the division of alcoholic beverage control or any local law enforcement agency to determine compliance with the provisions of laws relating to the sale of alcoholic liquor and cereal malt beverages to persons under 21 years of age or the legal age for consumption of cereal malt beverage shall be issued a written notice of compliance with such laws within 30 days of the date of such operation.

KSA 41-108 — Construction of act in case of invalidity of any provision

Construction of act in case of invalidity of any provision.

If any provision of the Kansas liquor control act, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than to expand commerce in alcoholic liquor and to enhance strict regulatory control over taxation, distribution and sale of alcoholic liquor through the three-tier regulatory system imposed by the Kansas liquor control act upon all alcoholic liquor and cereal malt beverages.

KSA 41-201 — Law enforcement powers of director, agents and employees; attorney, appointment and compensation

Law enforcement powers of director, agents and employees; attorney, appointment and compensation.

(a) The director of alcoholic beverage control and agents and employees of the director designated by the director, with the approval of the secretary of revenue, are hereby vested with the power and authority of peace and police officers, in the execution of the duties imposed upon the director of alcoholic beverage control by this act and in enforcing the provisions of this act.

(b) The director and each agent and employee designated by the director under subsection (a), with the approval of the secretary of revenue, shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during the routine conduct of their duties as determined by the director or designee. In addition to the above, the director and such agents and employees shall have the authority to make arrests, conduct searches and seizures and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such employees or agents during the routine performance of their duties. In addition to or in lieu of the above, the director and the director's agents and employees shall have the authority to issue notices to appear pursuant

to K.S.A.

22-2408

, and amendments thereto. No agent or employee of the director shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearm training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A.

74-5604a

, and amendments thereto. The director may adopt rules and regulations prescribing other training required for such agents or employees.

(c) The attorney general shall appoint, with the approval of the secretary of revenue, an assistant attorney general who shall be the attorney for the director of alcoholic beverage control and the division of alcoholic beverage control, and who shall receive an annual salary fixed by the attorney general with the approval of the director of alcoholic beverage control and the state finance council.

KSA 41-202 — Office of director; branch offices

Office of director; branch offices.

The office of the director of alcoholic beverage control shall be in Topeka, but the director may, with the approval of the secretary of revenue, establish and maintain branch offices at places other than the seat of government.

KSA 41-203 — Alcoholic beverage control board of review; abolished; transfer of authority, property, proceedings

Alcoholic beverage control board of review; abolished; transfer of authority, property, proceedings.

(a) The state alcoholic beverage control board of review is hereby abolished.

(b) Whenever the state alcoholic beverage control board of review is referred to or designated by statute, contract or other document, the reference or designation shall be deemed to apply to the director.

(c) All books, records and other property of the state alcoholic beverage control board of review are hereby transferred to the director.

(d) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the state alcoholic beverage control board of review shall abate by reason of the abolition of such board, and the court may allow any such suit, action or other proceeding to be maintained by or against the director.

KSA 41-204 — Director and employees; qualifications

Director and employees; qualifications.

(a) Any person appointed as director and all employees of the division shall be citizens of the United States and residents of the state of Kansas.

(b) No person shall be appointed director or deputy director if such person has been convicted of a felony or of any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor or cereal malt beverages, has paid a fine or penalty in settlement in any prosecution against such person in any violation of such laws or has forfeited bond to appear in court to answer charges for any such violation.

(c) No person appointed director or any employee of the division may have, directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, any interest whatsoever in the manufacture, sale or distribution of alcoholic liquor, nor receive any compensation or profit therefrom, nor have any interest whatsoever in the purchases or sales made by the persons authorized by this act, or to purchase or to sell alcoholic liquor. Nothing in this subsection shall prevent a person subject to this subsection from purchasing and keeping in the person's possession for the use of the person or the person's family or guests any alcoholic liquor which may be purchased or kept by any person by virtue of this act.

KSA 41-205 — Same; oath of office

Same; oath of office.

The director, deputy director and each person appointed by the director shall take and subscribe an oath to support and enforce the provisions of this act and the constitution of the state of Kansas.

KSA 41-206 — Same; conflict of interest

Same; conflict of interest.

(a) Except as permitted pursuant to subsection (b), neither the director nor any employee in the office of the director shall solicit or accept, directly or indirectly, any gift, gratuity, emolument or employment from any manufacturer, distributor, wholesaler or retailer of alcoholic liquor or from any person who is an applicant for any license or is a licensee under the provisions of this act, or from any officer, agent or employee thereof; or solicit requests from or recommend, directly or indirectly, to any such person, or to any officer, agent or employee thereof, the appointment of any person to any place or position. Any such person, officer, agent or employee thereof, is hereby forbidden to offer to the director, or any employee in the office of the director, any gift, gratuity, emolument or employment, except as permitted pursuant to subsection (b).

(b) The secretary may adopt rules and regulations allowing the acceptance of official hospitality by the director and employees in the office of the director, subject to such limits as prescribed by the secretary.

(c) If any person who is the director or an employee in the office of the director violates any provision of this section, such person shall be removed from such person's office or employment.

(d) Violation of any provision of this section is a misdemeanor punishable by a fine of not more than $500 or imprisonment of not less than 60 days nor more than six months, or both such fine and imprisonment.

(e) Nothing contained in this section shall be construed as preventing the prosecution and punishment of any person for bribery as defined in the Kansas criminal code.

KSA 41-207 — Director; seal; records, certification and admission in evidence

Director; seal; records, certification and admission in evidence.

The director may, for authentication of the records, process and proceedings of the director, adopt and keep and use a common seal of which judicial notice shall be taken in all of the courts of the state. Any process, notice or other paper which the director may be authorized by law to issue shall be deemed sufficient if signed by the director or deputy director and authenticated by the seal of the director.

All acts, orders, proceedings, rules and regulations, entries, minutes and other records of the director and all reports and documents filed with the director may be proved in any court of this state by copy thereof certified to by the director or the deputy director with the seal of the director attached. A written certificate stating that after diligent search no record or entry of a specified tenor is found to exist in the records of the office of state director of alcoholic beverage control, when signed and certified to by the director or the deputy director and authenticated by the seal of the director, shall be admissible as evidence in any court of this state to prove that the records of the office contain no such record or entry.

KSA 41-208 — Power to regulate alcoholic liquor

Power to regulate alcoholic liquor.

(a) Except as specifically provided in the Kansas liquor control act, the power to regulate all phases of the manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer regardless of its alcoholic content, is vested exclusively in the state and shall be exercised as provided in the Kansas liquor control act. No city or county shall enact any ordinance or resolution which is in conflict with the provisions of the Kansas liquor control act and any such ordinance or resolution shall be null and void.

(b) Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not be less than the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed by this act for the same violation.

(c) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

KSA 41-209 — Director; powers and duties

Director; powers and duties.

The director shall have the following powers, functions and duties:

(a) To receive applications for, and to issue and revoke licenses to manufacturers, distributors, nonbeverage users and retailers in accordance with the provisions of this act;

(b) to call upon other administrative departments of the state, county and city governments, sheriffs, city police departments, city marshals, law enforcement officers and upon prosecuting officers for such information and assistance as the director deems necessary in the performance of the duties imposed upon the director by this act;

(c) to inspect or cause to be inspected, any premises where alcoholic liquors are manufactured, distributed or sold;

(d) in the conduct of any hearing authorized to be held by the director to examine, or cause to be examined, under oath, any person, and to examine or cause to be examined books and records of any licensee; to hear testimony and take proof material for the information of the director in the discharge of such duties hereunder; to administer or cause to be administered oaths; and for any such purposes to issue subpoenas to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and any district court or any judge of the district court, may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the director, and the court or judge may compel obedience to the order by proceedings for contempt;

(e) to collect, receive, account for and turn over to the secretary of revenue all registration and license fees and taxes provided for in this act and all other moneys received by the director by virtue of the director's office; and

(f) such other powers, functions and duties as are or may be imposed or conferred upon the director by law.

KSA 41-210 — Rules and regulations; procedure for adoption; powers of director

Rules and regulations; procedure for adoption; powers of director.

(a) The director shall propose such rules and regulations as necessary to carry out the intent and purposes of this act. After the hearing on a proposed rule and regulation has been held as required by law, the director shall submit the proposed rule and regulation to the secretary of revenue who, if the secretary approves it, shall adopt the rule and regulation.

(b) It is intended by this act that the director of alcoholic beverage control shall have broad discretionary powers to govern the traffic in alcoholic liquors and to enforce strictly all the provisions of this act in the interest of sanitation, purity of products, truthful representation and honest dealings in such manner as generally will promote the public health and welfare. All valid rules and regulations adopted under the provisions of this act shall be absolutely binding upon all licensees and enforceable by the director of alcoholic beverage control through the power of suspension or revocation of licenses.

KSA 41-211 — Same; scope

Same; scope.

(a) The rules and regulations adopted by the secretary of revenue pursuant to K.S.A.

41-210

, and amendments thereto, shall include rules and regulations:

(1) Prescribing the nature, form and capacity of all containers used for alcoholic liquors;

(2) prescribing the nature of and the representations to be shown upon the labels attached to the containers and requiring that the labels attached to all original containers or packages of alcoholic liquors sold or offered for sale in this state shall set forth in plain and legible print in the English language the quantity of such liquors, exclusive of the package or cask containing them, in either metric or English measurement;

(3) prescribing administrative procedures for the issuance of licenses and the investigation of license applications and providing for advisory recommendations from governing bodies of cities as to retailers' licenses and for hearings on applications;

(4) prescribing conditions for the issuance of duplicate licenses in lieu of those lost or destroyed;

(5) prescribing those violations of the rules and regulations for which licenses shall be suspended or revoked;

(6) establishing standards of purity, sanitation and honest advertising and representations;

(7) requiring the destruction of stamps upon containers which have been opened;

(8) in the case of manufacturers and distributors of alcoholic liquors, requiring the labels attached to all containers of such liquors which are intended for sale in this state to set forth, in plain legible print in the English language, the name and kind of alcoholic liquors contained therein, together with their alcoholic content, and if a blended product (except wine) to so state, except that, if the director deems it unnecessary to show the alcoholic content of beer on labels of containers of beer, the alcoholic content shall not be required to be shown thereon;

(9) establishing procedures and conditions under which minors may be engaged in programs or systems encouraging compliance with the provisions of laws relating to the sale of alcoholic liquor and cereal malt beverages to a person under 21 years of age or under the legal age for consumption of cereal malt beverages as authorized by K.S.A.

41-727a

,

41-2652

and

41-2727

, and amendments thereto. Such regulations shall include provisions which require that such person used in any such program or system to be (A) at least 18 years of age and not more than 19Â½ years of age; (B) exhibit a youthful appearance; (C) carry only one piece of identification, which shall be a valid form of identification; (D) truthful in interactions with licensees; except if asked, such person may deny working with law enforcement officials.

It shall be an absolute defense in any civil proceeding or criminal prosecution if any such program or system does not comply with the procedures and conditions required by such rules and regulations;

(10) providing for such other details as are necessary or convenient to the administration and enforcement of this act.

(b) The secretary of revenue may adopt rules and regulations pursuant to K.S.A.

41-210

, and amendments thereto establishing:

(1) Standards of manufacture of alcoholic liquors and beer, regardless of its alcoholic content, not inconsistent with federal laws, in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof; and

(2) standards, not inconsistent with federal law, for the proper labeling of containers or barrels, casks or other bulk containers or bottles of alcoholic liquor and beer, regardless of its alcoholic content, manufactured or sold in this state.

KSA 41-212 — Director; beer sales by cereal malt beverage licensee study; oversight of sales; rules and regulations

Director; beer sales by cereal malt beverage licensee study; oversight of sales; rules and regulations.

(a) Following the 10th anniversary of the effective date of this act, the director shall conduct, based on information available to the director, a market impact study of the sale of beer containing not more than 6% alcohol by volume by persons licensed as cereal malt beverage retailers pursuant to K.S.A.

41-2702

, and amendments thereto. Such study shall include, but not be limited to, the changes subsequent to the effective date of this act, if any, in the number of retailers and the reasons for any changes; the changes subsequent to the effective date of this act, if any, in the number of persons licensed to sell cereal malt beverage in the original package for use or consumption off of and away from the licensed premises, and the reasons for any changes; the effect of this act on state and local tax revenues; the impact of this act on employment; and such other factors as the director deems pertinent. A report on the director's findings from such study shall be submitted to the legislature prior to adjournment of the 2029 session of the legislature.

(b) The director shall have oversight over the sale of beer containing not more than 6% alcohol by volume by persons licensed as cereal malt beverage retailers pursuant to K.S.A.

41-2702

, and amendments thereto, to ensure that such sales promote an orderly market. For such purpose, the director may adopt such rules and regulations as the director deems necessary and appropriate, including rules and regulations making applicable to cereal malt beverage retailers selling beer containing not more than 6% alcohol by volume such

provisions of the existing rules and regulations concerning industry trade practices as are necessary and appropriate. The rules and regulations authorized by this section shall be promulgated by the director on or before July 1, 2018.

KSA 41-213 — Alcoholic beverage control modernization fee; assessment and disposition; alcoholic beverage control modernization fund created

Alcoholic beverage control modernization fee; assessment and disposition; alcoholic beverage control modernization fund created.

(a) In addition to any initial application or renewal application fee prescribed pursuant to K.S.A.

41-317

and

41-2606

, and amendments thereto, each applicant for an initial application or a renewal application of a license shall pay at the time of application or renewal a non-refundable alcoholic beverage control modernization fee in the amount of $20. All revenue from the alcoholic beverage control modernization fee collected and remitted to the director of alcoholic beverage control shall be remitted 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 into the state treasury to the credit of the alcoholic beverage control modernization fund.

(b) There is hereby created in the state treasury the alcoholic beverage control modernization fund. All moneys credited to the alcoholic beverage control modernization fund shall be used by the department of revenue only for the purpose of funding the replacement of the work processes, computer hardware and software and related equipment associated with the division of alcoholic beverage control's functions related to licensing, permitting and case management and supporting administrative processes, including maintenance, operation, repair and upgrade of such computer hardware, software and related equipment. All expenditures from the alcoholic beverage control modernization fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of alcoholic beverage control or the director's designee.

KSA 41-301 — Retailer's license, premises within city

Retailer's license, premises within city.

(a) Except as provided by subsection (b), the director shall issue to qualified applicants, who have filed the bond and paid the registration and license fees required by this act, licenses to sell at retail alcoholic liquor in the original package on premises within the corporate limits of cities and outside the corporate limits of any city.

(b) No retailer's license shall be issued for premises within a city if the governing body of such city, on or before February 15, 2006, adopts an ordinance prohibiting the licensing of the sale at retail of alcoholic liquor in the original package within such city. Upon adoption of such ordinance, the city clerk promptly shall transmit a copy of such ordinance to the director and the director shall refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city. If the governing body adopts such an ordinance, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the effective date of the ordinance or until the expiration of such license, whichever period of time is shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the license fee for the unexpired portion of the license period which remains, in accordance with rules and regulations adopted by the secretary.

(c) No retailer's license shall be issued for premises within a city if, after November 15, 2005, a majority of the qualified voters of such city voting at an election held as provided by K.S.A.

41-302

, and amendments thereto, votes against the licensing of the sale at retail of alcoholic liquor in the original package within such city unless, at a subsequent election, a majority of the qualified voters of such city voting at such election votes in favor of the licensing of the sale at retail of alcoholic liquor in the original package within such city.

KSA 41-302 — Same; election; licensees' rights

Same; election; licensees' rights.

(a) The question of licensing the sale at retail of alcoholic liquor in the original package shall be submitted by the governing body of a city at any regular general city election occurring in such city whenever a petition requesting such submission has been filed with the city clerk of any such city as provided in this section. Such petition shall be signed by qualified voters of such city equal in number to not less than 30% of the total vote cast in such city at the last general election for the office of secretary of state. Each sheet of each petition shall comply with the provisions of K.S.A.

25-3601

through

25-3607

, and amendments thereto. No signature on such petition shall be valid unless appended to the petition within the last 90 days prior to the date of filing the petition with the city clerk. Such petition shall be filed not less than 40 nor more than 60 days prior to the date of the election. After any such petition has been filed no signature shall be withdrawn and no signature shall be added. The governing body of the city shall have the power to determine the sufficiency of any such petition.

Any person who signs a petition authorized by this section and who knowingly is not a qualified voter of the city where submission of the question is sought, or who aids or abets any other in so doing, or any person who bribes, gives or pays any money or thing of value to any person directly or indirectly to induce such person to sign such petition shall be guilty of a misdemeanor. Upon conviction thereof such person shall be punished by a fine of not more than $300 or by imprisonment of not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

(b) Upon the filing of a sufficient petition, the governing body shall call an election required by this section. Such election shall be called and held in the manner provided by law for question-submitted elections.

(c) The governing body of the city shall transmit to the director a copy of the results of any election held pursuant to this section. The director shall issue or refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city in accordance with the results of such election.

(d) If a majority of the voters voting at any election pursuant to this section votes against licensing the sale at retail of alcoholic liquor in the original package, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the result of such election is canvassed or until the expiration of such license, whichever period of time is shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the licensee fee for the unexpired portion of the license period which remains, in accordance with rules and regulations adopted by the secretary of revenue.

KSA 41-303 — Retailer's license, premises outside city

Retailer's license, premises outside city.

(a) The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city.

No such license shall be issued to any applicant under this section unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this section.

(b) If a license has been issued under the provisions of this section in the unincorporated area of a county and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall continue to be valid and may be renewed at the appropriate time even though the licensee does not reside in the city to which the area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been annexed.

(c) Any retail license issued prior to the effective date of this act for premises not located in an incorporated city shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this subsection.

KSA 41-304 — Classes of licenses

Classes of licenses.

Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) microbrewery license; (g) microdistillery license; (h) farm winery license; (i) producer's license; and (j) nonbeverage user's license.

KSA 41-305 — Manufacturer's license; rights of licensee; samples; other

Manufacturer's license; rights of licensee; samples; other.

(a) A manufacturer's license shall allow the manufacture and storage of alcoholic liquor and cereal malt beverage and the sale of alcoholic liquor and cereal malt beverage to distributors and nonbeverage users licensed in this state and to such persons outside this state as permitted by law.

(b) A manufacturer's license also shall allow the serving free of charge on the licensed premises of samples of alcoholic liquor manufactured by the licensee, provided the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Samples shall be served by the licensee, or an employee or agent thereof. No sample shall be served to an individual who is a minor. No individual shall remove all or any portion of a sample from the licensed premises. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises.

(c) A person holding a farm winery license issued pursuant to K.S.A.

41-308a

, and amendments thereto, may also be issued a manufacturer's license; provided, that no alcoholic liquor or cereal malt beverage manufactured by such licensee shall be sold by such licensee at its licensed premises or at any of such licensee's winery outlets.

KSA 41-306 — Spirits distributor's license; rights of licensee; withdrawal of spirits from inventory for use as samples

Spirits distributor's license; rights of licensee; withdrawal of spirits from inventory for use as samples.

A spirits distributor's license, shall allow:

(a) The wholesale purchase, importation and storage of spirits, but all such spirits so purchased or imported which are manufactured in the United States shall be purchased from the primary American source of supply or from another licensed spirits distributor, except that a licensed spirits distributor may purchase confiscated spirits at a sheriff's sale.

(b) The sale of spirits to:

(1) Spirits distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of spirits only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A.

41-410

, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The purchase of spirits in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such spirits shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of spirits by manufacturers and with all federal rules, regulations and laws.

(d) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A.

41-2702

, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(e) The storage and delivery to a public venue licensed under the club and drinking establishment act of alcoholic liquor purchased by the public venue licensee from a retailer authorized by law to sell such alcoholic liquor to such public venue licensee.

(f) The withdrawal of spirits from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees or to persons licensed under the club and drinking establishment act and such persons' employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, except that no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment act licensee within the previous 12 months may be provided for sampling pursuant to this subsection. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of spirits shall be subject to the tax imposed by K.S.A.

79-4101

et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of this subsection, "sample" means not more than three liters of distilled spirits.

KSA 41-306a — Wine distributor's license; rights of licensee; withdrawal of wine from inventory for use as samples

Wine distributor's license; rights of licensee; withdrawal of wine from inventory for use as samples.

A wine distributor's license shall allow:

(a) The wholesale purchase, importation and storage of wine, but all wine so purchased or imported which is manufactured in the United States shall be purchased from the primary American source of supply or from another licensed wine distributor, except that a licensed wine distributor may purchase confiscated wine at a sheriff's sale.

(b) The sale of wine to:

(1) Wine distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of wine only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A.

41-410

, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of wine, but only in barrels, casks and other bulk containers, to:

(1) Licensed caterers; and

(2) public venues, clubs and drinking establishments licensed in this state, except that such distributor shall sell a brand of wine only to such public venues, clubs and drinking establishments the licensed premises of which are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A.

41-410

, and amendments thereto.

(d) The purchase of wine in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such wine shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of wine by manufacturers and with all federal rules, regulations and laws.

(e) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A.

41-2702

, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance

with an agreement entered into with such other distributor and approved by the director.

(f) The withdrawal of wine from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment licensee within the previous 12 months may be provided for sampling pursuant to this subsection. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of wine shall be subject to the tax imposed by K.S.A.

79-4101

et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of this subsection, "sample" means not more than three liters of any brand of wine.

(g) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-307 — Beer distributor's license; rights of licensee; withdrawal of beer from inventory for use as samples

Beer distributor's license; rights of licensee; withdrawal of beer from inventory for use as samples.

A beer distributor's license shall allow:

(a) The wholesale purchase, importation and storage of beer.

(b) The sale of beer to:

(1) Licensed caterers;

(2) beer distributors licensed in this state;

(3) retailers, public venues, clubs and drinking establishments, licensed in this state, except that such distributor shall sell a brand of beer only to those retailers, public venues, clubs and drinking establishments of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A.

41-410

, and amendments thereto; and

(4) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of cereal malt beverage to:

(1) Beer distributors licensed in this state;

(2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A.

41-2702

, and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A.

41-410

, and amendments thereto;

(3) retailers; and

(4) such persons located outside such territory or outside this state as permitted by law.

(d) The sale of beer containing not more than 6% alcohol by volume to cereal malt beverage retailers licensed pursuant to K.S.A.

41-2702

, and amendments thereto.

(e) The purchase of cereal malt beverage in kegs or other bulk containers and the bottling or canning thereof in accordance with law.

(f) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A.

41-2702

, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(g) The storage and delivery, with proper invoicing in accordance with rules and regulations adopted by the secretary, on the premises of a public venue licensee, of beer sold to or available for purchase by the public venue during an event.

(h) The withdrawal of beer or cereal malt beverage from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment act licensee within the previous 12 months may be provided for sampling pursuant to this subsection. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of beer or cereal malt beverage shall be subject to the tax imposed by K.S.A.

79-4101

et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of this subsection, "sample" means not more than three gallons of any brand of beer or cereal malt beverage.

KSA 41-308 — Retailer's license; rights of licensee

Retailer's license; rights of licensee.

(a) Except as provided in K.S.A.

41-308d

, and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor and cereal malt beverage for use or consumption off and away from the premises specified in such license.

(b) A retailer's license shall permit sale and delivery of alcoholic liquor and cereal malt beverage only on the licensed premises and shall not permit sale of alcoholic liquor and cereal malt beverage for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor and cereal malt beverage to a temporary permit holder for resale by such permit holder;

(2) sell and deliver alcoholic liquor and cereal malt beverage to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county or a county with a corner located within two miles measured along the adjacent county boundary, for resale by such public venue, club, establishment or caterer; and

(3) sell and deliver cereal malt beverage and beer containing not more than 6% alcohol by volume to the licensed premises of a cereal malt beverage retailer, as defined in K.S.A.

41-2701

, and amendments thereto, who is licensed for on-premises consumption, if such cereal malt beverage premises are located in the same county, or an adjacent county to the county where the retailer's premises are located, for resale by

such cereal malt beverage retailer.

(c) A retailer may:

(1) Charge a delivery fee for delivery of alcoholic liquor and cereal malt beverage to a public venue, club, drinking establishment or caterer pursuant to subsection (b)(2);

(2) charge a delivery fee for delivery of cereal malt beverage and beer containing not more than 6% alcohol by volume to a cereal malt beverage retailer pursuant to subsection (b)(3);

(3) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(4) include in the sale of alcoholic liquor and cereal malt beverage any goods included by the manufacturer in packaging with the alcoholic liquor or cereal malt beverage, subject to the approval of the director;

(5) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor or cereal malt beverage;

(6) store alcoholic liquor and cereal malt beverage in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor and cereal malt beverage to consumers in a chilled condition;

(7) sell any other good or service on the licensed premises, except that the gross sales of other goods and services, excluding fees derived from the sale of lottery tickets and revenues from sales of cigarettes and tobacco products, shall not exceed 20% of the retailer's total gross sales; and

(8) sell containers of beer, domestic beer and cereal malt beverage that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers:

(A) Contain between 32 and 64 fluid ounces; and

(B) have a label affixed that clearly indicates the licensee's name and the type of alcoholic beverage contained in such container.

(d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt beverage sold by a holder of a retail license shall be subject to the liquor enforcement tax imposed by K.S.A.

79-4101

, and amendments thereto.

KSA 41-308a — Farm winery license; winery outlet license; rights of licensee; percentage of Kansas products

Farm winery license; winery outlet license; rights of licensee; percentage of Kansas products.

(a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, public venues, clubs, drinking establishments, holders of temporary permits as authorized by K.S.A.

41-1201

, and amendments thereto, and caterers;

(3) the manufacture for and sale of wine to holders of producer licenses as authorized by K.S.A.

41-355

, and amendments thereto. Wine manufactured for a producer licensee shall be included in the farm winery licensee's annual production for purposes of subsection (c). The label for any such wine manufactured by the farm winery licensee, as filed with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, may be owned by either the farm winery or the producer licensee for whom the wine was manufactured;

(4) the sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(5) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(6) the sale of wine manufactured by the licensee for consumption on the licensed premises, provided, the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Wine sold pursuant to this paragraph shall not be subject to the provisions of the club and drinking establishment act, K.S.A.

41-2601

et seq., and amendments thereto, and no drinking establishment license shall be required to make such sales;

(7) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(8) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(9) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped;

(10) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A.

41-350

, and amendments thereto;

(11) the transfer or receipt of wine in a bulk container or packaged wine in bond to any bonded premises pursuant to 26 U.S.C. Â§ 5362(b)(1) and 27 C.F.R. Â§ 24.280 through 24.284, as in effect on July 1, 2021;

(12) the transfer or receipt of wine in a bulk container in bond to a distilled spirits plant for use in the manufacture of distilled spirits pursuant to 26 U.S.C. Â§ 5362(b)(2), (b)(3) and (c)(6) and 27 C.F.R. Â§ 24.280 through 24.290, as in effect on July 1, 2021;

(13) the receipt of distilled spirits in a bulk container pursuant to 26 U.S.C. Â§ 5214(a)(5) and 27 C.F.R. Â§ 19.402 through 19.407, as in effect on on* July 1, 2021; and

(14) the production of fortified wine with the addition of wine spirits to domestic wine if the spirits added are produced from the same kind of fruit that was used to produce the wine pursuant to 26 U.S.C. Â§ 5382(b)(2), as in effect on July 1, 2021.

(b) Upon application and payment of the fee prescribed by K.S.A.

41-310

, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.

(c) (1) Not less than 30% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic table wine and domestic fortified wine by the farm winery.

(2) On and after July 1, 2021, the percentage of products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery required to be grown in Kansas shall be not less than 15%.

(3) The provisions of this subsection shall expire on January 1, 2023.

(d) A farm winery licensee may import wine from outside Kansas for use in the production of its domestic table wine and domestic fortified wine and shall report such imports on forms prescribed by the director.

(e) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day. If authorized by subsection (a), a farm winery may serve samples of wine manufactured by the licensee and wine imported under subsection (f) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (f) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(f) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A.

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, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(g) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(h) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor;

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony; or

(5) transfer wine in a bulk container to the premises of a brewery pursuant to 26 U.S.C. Â§ 5411 and 27 C.F.R. Â§ 25.23, as in effect on July 1, 2021.

(i) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(j) For purposes of this section, the terms in subsections (a)(11) through (a)(14) and (h)(5), if not otherwise defined in K.S.A.

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, and amendments thereto, mean the same as such terms are defined in title 27, chapter I, subchapter A of the code of federal regulations, as in effect on July 1, 2021.

(k) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-308b — Microbrewery license; microbrewery packaging and warehousing facility license; rights of licensee; contract brewing agreements; permit to conduct tasting programs; percentage of Kansas products

Microbrewery license; microbrewery packaging and warehousing facility license; rights of licensee; contract brewing agreements; permit to conduct tasting programs; percentage of Kansas products.

(a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 30,000 barrels of domestic beer during the calendar year and the storage thereof, if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the 30,000 barrel limit;

(2) the manufacture in the aggregate of not more than 100,000 gallons of hard cider during the calendar year and the storage thereof;

(3) (A) the sale to licensed beer distributors of beer manufactured by the licensee;

(B) the sale to licensed wine distributors of hard cider manufactured by the licensee; and

(C) the sale to retailers, public venues, clubs, drinking establishments, caterers and temporary permit holders of beer and hard cider manufactured by the licensee. The aggregate annual sales of such beer made pursuant to this subparagraph shall not exceed 1,000 barrels. The aggregate annual sales of such hard cider made pursuant to this subparagraph shall not exceed 3,000 gallons;

(4) the sale, both on the licensed premises and off the licensed premises at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of beer and hard cider manufactured by the licensee;

(5) the sale, on the licensed premises in refillable and sealable containers to consumers for consumption off the licensed premises, of beer manufactured by the licensee, subject to the following conditions:

(A) Containers described in this paragraph shall contain not less than 32 fluid ounces and not more than 64 fluid ounces of beer; and

(B) the licensee shall affix a label to all containers sold pursuant to this paragraph clearly indicating the licensee's name and the name and type of beer contained in such container;

(6) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer and hard cider manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(7) if the premises is also licensed as a club or drinking establishment, the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(8) if the premises is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act;

(9) if the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, the domestic beer may be manufactured and transferred for sale or storage among such microbrewery licensees with such common ownership; and

(10) the transfer of beer and hard cider manufactured by the licensee pursuant to a contract entered into in accordance with subsection (b) to the contracting microbrewery.

(b) (1) A microbrewery may contract with one or more microbreweries for the purpose of manufacturing beer or hard cider for such other microbreweries. A microbrewery located in this state may manufacture and package beer and hard cider for a microbrewery located within or outside of Kansas.

(2) A microbrewery manufacturing beer or hard cider for another microbrewery shall be responsible for complying with all federal and state laws dealing with the manufacturing of beer and hard cider, including labeling laws, and shall be responsible for the payment of all federal and state taxes on the beer and hard cider.

(3) Each party engaged in a contract brewing agreement must count the total amount of barrels and gallons manufactured as part of the agreement and include that total amount as part of their allowed aggregate total as provided in subsection (a).

(c) The limit on aggregate annual sales of beer and hard cider as specified in subsection (a)(3)(C) shall not apply to the distribution of beer or hard cider by the microbrewery licensee to:

(1) A drinking establishment or caterer licensed under the club and drinking establishment act if such microbrewery licensee holds a 25% or greater ownership interest in such drinking establishment or caterer; or

(2) another microbrewery licensee or a licensed microbrewery packaging and warehousing facility if such microbrewery licensee holds a 25% or greater ownership interest in such microbrewery licensee or microbrewery packaging and warehousing facility.

(d) Upon application and payment of the fee prescribed by K.S.A.

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, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer and hard cider manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of any microbrewery of such licensee, of beer manufactured by the licensee;

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler; and

(4) the removal from the licensed premises of the microbrewery packaging and warehousing facility of hard cider manufactured by the licensee for the purpose of delivery to a licensed wine distributor.

(e) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(f) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A.

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, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(g) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(h) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(i) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

KSA 41-308d — Retailer's license; wine, beer and spirits tastings; rules and regulations

Retailer's license; wine, beer and spirits tastings; rules and regulations.

(a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or Kansas farm winery license or such permit holder's or licensee's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier, farm winery licensee or the supplier's or licensee's agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-309 — Nonbeverage user's license; rights of licensee

Nonbeverage user's license; rights of licensee.

A nonbeverage user's license shall allow the licensee to purchase alcohol or wine from a licensed manufacturer or distributor, without the imposition of any tax upon the business of such licensed manufacturer or distributor as to such alcohol or wine, to be used by such nonbeverage user licensee solely for the nonbeverage purposes set forth in subsection (5) of K.S.A.

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: Provided, That if any such licensee is engaged in the business of manufacturing, compounding or preparing pharmaceutical products or similar preparations or products containing alcohol or wine to be sold in both intrastate and interstate commerce, such license shall allow the licensee to purchase at wholesale or otherwise from manufacturers or distributors not licensed in the state and to import alcohol or wine either in barrels, drums, casks or other containers. All such licenses shall be divided and classified and shall permit the purchase during the term for which such licenses shall be issued of limited and stated quantities of alcohol or wine as follows:

Class 1, not to exceed

100 gallons

Class 2, not to exceed

1,000 gallons

Class 3, not to exceed

5,000 gallons

Class 4, not to exceed

10,000 gallons

Class 5, in excess of

10,000 gallons

KSA 41-310 — License fees; term; city or township taxes

License fees; term; city or township taxes.

(a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The fee for a manufacturer's license to manufacture alcohol and spirits shall be $5,000.

(c) The fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:

(1) For 1 to 100 barrel daily capacity or any part thereof, $400.

(2) For 100 to 150 barrel daily capacity, $800.

(3) For 150 to 200 barrel daily capacity, $1,400.

(4) For 200 to 300 barrel daily capacity, $2,000.

(5) For 300 to 400 barrel daily capacity, $2,600.

(6) For 400 to 500 barrel daily capacity, $2,800.

(7) For 500 or more barrel daily capacity, $3,200.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for operation during the first term of the license a fee of $2,000.

(d) The fee for a manufacturer's license to manufacture wine shall be $1,000.

(e) (1) The fee for a microbrewery license, a microdistillery license or a farm winery license shall be $500.

(2) The fee for a winery outlet license shall be $100.

(3) The fee for a microbrewery packaging and warehousing facility license shall be $200.

(4) The fee for a microdistillery packaging and warehousing facility license shall be $200.

(f) The fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be $2,000.

(g) The fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be $2,000.

(h) The fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be $2,000.

(i) The fee for a nonbeverage user's license shall be:

(1) For class 1, $20.

(2) For class 2, $100.

(3) For class 3, $200.

(4) For class 4, $400.

(5) For class 5, $1,000.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the

license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) The fee for a retailer's license shall be $500.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than $200 nor more than $600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than $200 nor more than $600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The fee for a producer's license shall be $200.

(n) The license term for a license shall commence on the effective date as specified on the license and shall end two years after that date. The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.

KSA 41-311 — Persons and entities ineligible for licensure

Persons and entities ineligible for licensure.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who is not a citizen of the United States;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except such person may be issued a farm winery license pursuant to K.S.A.

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, and amendments thereto, or a producer license pursuant to K.S.A.

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, and amendments thereto, and a retailer licensed pursuant to K.S.A.

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, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship requirements or age, except that this paragraph shall not apply in determining eligibility for a renewal license or to a person whose spouse is a law enforcement officer;

(13) whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act;

(14) who does not provide any data or information required by K.S.A.

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, and amendments thereto; or

(15) who, after a hearing before the director, has been found to have held an undisclosed beneficial interest in any license issued pursuant to the liquor control act that was obtained by means of fraud or any false statement made on the application for such license.

(b) No retailer's license shall be issued to:

(1) A person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(2) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(3) a copartnership, unless all of the copartners are qualified to obtain a license;

(4) a corporation; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship requirements;

(2) a copartnership, unless all of the copartners would be individually eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A.

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, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or

devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A.

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, and amendments thereto;

(2) person, copartnership or association that has a beneficial interest in any retailer licensed under this act or under K.S.A.

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, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(3) copartnership, unless all of the copartners are qualified to obtain a license;

(4) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) If the applicant is not a Kansas resident, no license shall be issued until the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

KSA 41-311b — Licensure of nonresidents criminal history record check; fingerprinting; costs

Licensure of nonresidents criminal history record check; fingerprinting; costs.

(a) If an applicant for licensure is not a resident of the state of Kansas on the date of submission of such application, the director may require the individual applicant, or if the applicant is a corporation, partnership or trust, each individual officer, director, stockholder, copartner or trustee to:

(1) Submit to a national criminal history record check and provide the director with a legible set of fingerprints in accordance with K.S.A. 2025 Supp.

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, and amendments thereto;

(2) disclose to the director any substantial financial interest the applicant owns in any entity that receives proceeds from the sale of alcoholic beverages; and

(3) submit a release allowing the director to have access to and review of the applicant's financial records to verify ownership and to ensure applicant is not an agent of another person. This release shall remain in effect after the license has been issued until the license is canceled or revoked.

(b) All costs incurred pursuant to this section to ensure that the applicant is qualified for licensure shall be paid by the applicant.

KSA 41-311c — Licensure qualifications for limited liability company

Licensure qualifications for limited liability company.

(a) Notwithstanding any other provision of law, any limited liability company applying for a retailer's license under the Kansas liquor control act shall be required to meet the qualifications for licensure of a copartnership under K.S.A.

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, and amendments thereto. Any limited liability company applying for a license other than a retailer's license shall be required to meet the qualifications for licensure of a corporation under K.S.A.

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and K.S.A.

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, and amendments thereto.

(b) Any limited liability company applying for a license under the Kansas liquor control act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-313 — Licensing of corporations; conditions; appointment of agent to receive service of process; consent to jurisdiction and forum of Kansas courts

Licensing of corporations; conditions; appointment of agent to receive service of process; consent to jurisdiction and forum of Kansas courts.

(a) No corporation, either organized under the laws of this state, any other state or a foreign country, shall be issued a manufacturer's, distributor's, microbrewery, microdistillery or farm winery license unless the corporation has first procured a certificate of authority from the secretary of state to do business in this state as provided by law, appointed a citizen of the United States, and resident of Kansas, as its agent and filed with the director a duly authenticated copy of a duly

executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority of the corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director with respect to the agent's character. The agent shall at all times be maintained by the corporation.

In addition, any corporation organized under the laws of any other state or foreign country, as a condition precedent to the issuance to it of any license, shall file with the secretary of state of the state of Kansas, a duly authorized and executed power of attorney, authorizing the secretary of state to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the corporation.

(b) Every nonresident applicant on applying for a license or permit under this act, and as a condition precedent to obtaining such license or permit, shall file with the secretary of state of this state its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such applicant in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the resident agent specified in subsection (a), and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant. The written consent shall state that the courts of this state have jurisdiction over the person of such applicant and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by the applicant shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the applicant and if a corporation, by the president and secretary of the corporate applicant, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

KSA 41-315 — Retail license; applies only to premises described; removal; procedure

Retail license; applies only to premises described; removal; procedure.

Retail licenses issued hereunder shall apply only to the premises described in the application and in the license issued thereon, and only one location shall be so described in each license. After such retail license has been granted for particular premises in any city, the director, upon proper showing, may endorse upon the license permission to abandon the premises, but in order to obtain such permission the retail licensee shall file with the director a request in writing, and a statement under oath which shall show that the premises to which removal is to be made comply in all respects with the requirements of this act. No such removal shall be made by any licensee until his said license has been endorsed to that effect in writing by the director.

KSA 41-316 — Issuance of licenses

Issuance of licenses.

Licenses to manufacturers, distributors, microbreweries, microdistilleries, farm wineries, producers and nonbeverage users of alcoholic liquors shall be issued and renewed by the director to qualified applicants upon written application, receipt of bond properly executed and payment in advance of the state registration fee and the license fee.

KSA 41-317 — License applications; forms; fees; bonds

License applications; forms; fees; bonds.

(a) Applications for all licenses under this act shall be completed and submitted to the director in a manner prescribed by the director. Each applicant shall submit an application fee of $30 for each initial application and $10 for each renewal application to defray the cost of processing the application.

(b) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(c) If the applicant elects to pay only one-half of the license fee pursuant to subsection (b)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this subsection on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at

the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this subsection for not more than 30 days beyond the date such payment is originally due.

(d) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(e) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(f) All fees received by the director pursuant to this section shall be remitted by the director 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 state general fund.

(g) Every applicant for a manufacturer's, distributor's, nonbeverage user's, microbrewery, microdistillery, farm winery, retailer's, producer's or special order shipping license shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

(1) For a manufacturer, $25,000;

(2) for a spirits distributor, $15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(3) for a beer or wine distributor, $5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(4) for a retailer, $2,000;

(5) for nonbeverage users, $200 for class 1, $500 for class 2, $1,000 for class 3, $5,000 for class 4 and $10,000 for class 5;

(6) for a microbrewery, microdistillery or a farm winery, $2,000;

(7) for a producer, $500; and

(8) for a winery holding a special order shipping license, $750, unless the winery has already complied with subsection (g)(6).

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(h) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fees, fines and forfeitures that may be assessed against the licensee.

KSA 41-318 — Procedure upon application for original retailer's license; notice and hearing; recommendations of city or township

Procedure upon application for original retailer's license; notice and hearing; recommendations of city or township.

When application for a retailer's license to sell alcoholic liquor in the original package in any city or township as authorized by K.S.A.

41-303

, and amendments thereto, is filed with the director, the director shall notify the city clerk of the city or the township clerk of the township where such license is sought. Such notice shall state the date and place where a hearing will be held on such application. No such license shall be issued by the director until the expiration of at least 10 days from the time of filing such application with the director, during which period the governing body of such city or the township board of such township may make advisory recommendations relative to the granting or refusal to grant a license. The hearing on the application shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

KSA 41-319 — Time limit on grant or denial of license

Time limit on grant or denial of license.

(a) Except as provided by subsection (b), within 30 days after an application is filed for a retailer's, microbrewery, microdistillery, farm winery license or producer license and within 20 days after an application is filed for a manufacturer's, distributor's or nonbeverage user's license, the director shall enter an order either denying or granting the license. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been denied. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

(b) In order to complete any national criminal history record check of an applicant who submitted any application after January 31, 2001, and if the applicant is not a resident of the state of Kansas on the date of submission of such application or has not been a resident for at least one year immediately preceding the date of submission of such application the director shall enter an order either denying or granting the license within 90 days after such application is filed. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been denied. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

KSA 41-320 — Application of Kansas administrative procedure act to proceedings; hearings; director as presiding officer

Application of Kansas administrative procedure act to proceedings; hearings; director as presiding officer.

(a) The provisions of the Kansas administrative procedure act shall apply to all proceedings involving the following:

(1) Denial of an application for any license to be issued pursuant to the Kansas liquor control act;

(2) suspension of any license issued pursuant to the Kansas liquor control act;

(3) involuntary cancellation of any license issued pursuant to the Kansas liquor control act;

(4) revocation of any license issued pursuant to the Kansas liquor control act; and

(5) assessment of any civil fine pursuant to K.S.A.

41-328

, and amendments thereto.

(b) Except as provided in subsection (c), no license shall be suspended, involuntarily canceled or revoked unless there is an opportunity for a hearing before the director.

(c) When proceedings for the suspension, involuntary cancellation or revocation of a distributor's license are filed and the distributor has been issued more than one license for distributing places of business in this state, any order of the director suspending or revoking the license at any one place of business shall suspend or revoke all licenses issued to the distributor. When one person is the holder of stock or an ownership interest in two or more corporations licensed as distributors under the provisions of this act, any order of the director suspending or revoking the license of any such corporation shall operate as a suspension or revocation of the license of all corporations licensed as distributors in which the person is a stockholder.

(d) Notwithstanding any provision of the law to the contrary, the secretary may designate the director to be the presiding officer in any proceeding conducted pursuant to this section.

KSA 41-320a — Suspension, involuntary cancellation or revocation of license; grounds

Suspension, involuntary cancellation or revocation of license; grounds.

(a) The director may suspend, involuntarily cancel or revoke any license issued pursuant to the Kansas liquor control act if, after notice and an opportunity for a hearing, the director determines that the licensee has:

(1) Fraudulently obtained the license by providing false information on the application therefor, or at any hearing thereon;

(2) violated any of the provisions of the Kansas liquor control act, any rules or regulations adopted pursuant to such act or any lawful order issued by the director; or

(3) become ineligible to obtain a license or permit under K.S.A.

41-311

or

41-311b

, and amendments thereto.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-321 — Refusal, suspension, involuntary cancellation or revocation of license; appeal to secretary

Refusal, suspension, involuntary cancellation or revocation of license; appeal to secretary.

(a) Whenever the director denies an application for any license or suspends, involuntarily cancels or revokes any license, the director shall prepare an order so providing which shall be signed by the director, or a person designated by the director, and the seal of the director shall be affixed thereto. The order shall state the reason or reasons for the denial, suspension, involuntary cancellation or revocation. The order shall be served in accordance with the provisions of K.S.A.

77-531

, and amendments thereto.

(b) Any applicant or licensee aggrieved by any order of the director may appeal from such order to the secretary by filing a notice of appeal with the secretary. Such notice of appeal must either be mailed to the secretary by certified mail or filed with the secretary within 15 days after service of the order appealed from or, if such appeal is taken because the director has failed to enter the order on an application for a license, within 15 days after the date an application for a license is considered to have been denied as provided in K.S.A.

41-319

, and amendments thereto. The notice of appeal shall be on a form which shall be prescribed and furnished by the secretary. Whenever any such notice of appeal is filed, the secretary shall notify, in writing, the director of such appeal. Review of a director's order by the secretary shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

KSA 41-322 — Same; powers of secretary; subpoenas

Same; powers of secretary; subpoenas.

For the purpose of hearing or conducting any appeal authorized to be heard by the secretary, the secretary shall have power to examine, or cause to be examined, under oath, any licensee, the director, or other person, and to examine or cause to be examined books and records of any such licensee; to hear testimony and take proof material for its information in hearing such appeal; to administer or cause to be administered oaths; and for any such purposes to issue subpoenas to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and any district court or any judge thereof either in term time or vacation, may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the secretary and the district court or judge may compel obedience to the order by proceedings for contempt.

KSA 41-323 — Same; judicial review of secretary's decision

Same; judicial review of secretary's decision.

Any action of the secretary pursuant to K.S.A.

41-321

, and amendments thereto, is subject to review in accordance with the Kansas judicial review act. At the time of the filing of the petition for review, the petitioner shall give a bond for costs conditioned on the petitioner's prosecuting the appeal without delay and paying all costs assessed against the petitioner. If review of the decision of the district court is sought pursuant to K.S.A.

77-623

, and amendments thereto, the director shall not be required to give a bond on such review.

KSA 41-324 — Same; duty of county or district attorney

Same; duty of county or district attorney.

Upon the request of the director, the county or district attorney of any county where a review is pending in the district court under this act shall appear and defend or assist in defending against such review on behalf of the state of Kansas and shall be entitled to receive compensation of $25 per day for each day actually spent in court by such county or district attorney in defending or assisting in defending against such review. Such compensation shall be paid by the director from the liquor control administration fund.

KSA 41-325 — Display of licenses

Display of licenses.

Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

KSA 41-326 — Licenses; term; assignability; refund of fees, when

Licenses; term; assignability; refund of fees, when.

(a) A license shall be purely a personal privilege, valid for not to exceed two years after issuance, except as otherwise provided by law, unless sooner suspended, involuntarily canceled or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

(b) When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary of revenue may adopt rules and regulations pursuant to K.S.A.

41-210

, and amendments thereto, which provide for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

KSA 41-327 — Renewal of license

Renewal of license.

Any licensee may renew his license at the expiration thereof if he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

KSA 41-328 — Violations of act; civil penalties

Violations of act; civil penalties.

(a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee under the Kansas liquor control act has violated any provision thereof, may impose on such licensee a civil fine not exceeding $1,000 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the director to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in accordance with the provisions of the Kansas administrative procedure act and K.S.A.

41-321

, and amendments thereto.

(c) Any fine imposed pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) This section shall be part of and supplemental to the Kansas liquor control act.

KSA 41-328b — Administrative orders; civil fines; time limit on orders

Administrative orders; civil fines; time limit on orders.

(a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the Kansas liquor control act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the Kansas liquor control act, K.S.A.

41-101

et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A.

41-101

et seq., and amendments thereto.

KSA 41-329 — Sale in federal area by manufacturer or supplier; revocation of authorization to do business in state

Sale in federal area by manufacturer or supplier; revocation of authorization to do business in state.

(a) If a manufacturer or supplier authorized to do business in this state sells any alcoholic liquor in a federal area, the director shall revoke the manufacturer's or supplier's authorization to do business in accordance with the Kansas liquor control act.

(b) As used in this section, "federal area" has the meaning provided by K.S.A.

41-501

, and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas liquor control act.

(d) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision of this act, the Kansas liquor control act or K.S.A.

79-41a01

et seq., and amendments thereto, and, to this end, the provisions of this section are severable.

KSA 41-330 — Denial or revocation of license for alcohol-related convictions; notice and hearing

Denial or revocation of license for alcohol-related convictions; notice and hearing.

After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke any license provided for by the Kansas liquor control act if:

(a) The licensee or the licensee's spouse has been convicted of a violation of intoxicating liquor laws of any state or the alcoholic beverage control laws of the United States or has forfeited of bond to appear in court to answer charges for any such violation, within the 10 years immediately preceding the date of application for issuance or renewal of the license or the date of revocation; or

(b) the licensee or the licensee's spouse has been convicted of a violation of any of the laws of any state relating to cereal malt beverages, within 10 years immediately preceding the date of application for issuance or renewal of the license or the date of revocation.

KSA 41-331 — Suppliers; annual permit; brand registration

Suppliers; annual permit; brand registration.

(a) Every supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in this state shall be required to obtain an annual permit from the director, unless such supplier is licensed in this state as a manufacturer or distributor. Application for such permit shall be on a form prescribed by rules and regulations of the secretary of revenue and shall be accompanied by an annual permit fee of $25. As a condition of the issuance of such permit, the supplier shall be deemed to have appointed the secretary of state as the resident agent and representative of the supplier to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the supplier.

(b) Every supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in this state shall be required to register each brand of such alcoholic liquor or cereal malt beverage with the director prior to making shipments to distributors in this state. Registration shall be in a form prescribed by rules and regulations of the secretary and shall be accompanied by an annual fee of $25 for each label proposed for sale in this state.

(c) The director, in accordance with the Kansas administrative procedure act, may revoke, suspend or refuse to issue a permit to any supplier found to have violated any provision of the Kansas liquor control act or K.S.A.

41-2701

et seq., and amendments thereto, or any rules and regulations adopted thereunder.

KSA 41-332 — Same; temporary permit to import certain liquor

Same; temporary permit to import certain liquor.

The director may issue to a supplier a temporary permit allowing such supplier to import into this state to a distributor licensed under the Kansas liquor control act or under K.S.A.

41-2713

, and amendments thereto, alcoholic liquor or cereal malt beverage for which such distributor does not have a franchise to sell. The permit shall specifically identify the brand and type of alcoholic liquor or cereal malt beverage for which the permit is issued and the quantity permitted to be imported into the state. Such alcoholic liquor or cereal malt beverage shall not be resold by the distributor and shall not be subject to the tax imposed by K.S.A.

41-501

or

79-3818

, and amendments thereto.

KSA 41-342 — Nonalcoholic malt beverages; title of act

Nonalcoholic malt beverages; title of act.

K.S.A. 41-342 through

41-345

shall be known and may be cited as the nonalcoholic malt beverages act.

KSA 41-343 — Same; definitions

Same; definitions.

As used in K.S.A.

41-342

through

41-345

, "nonalcoholic malt beverage" means a beverage containing less than .5% alcohol by volume obtained by alcohol fermentation of an infusion or coction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

KSA 41-344 — Same; sales by certain licensees

Same; sales by certain licensees.

Nonalcoholic malt beverages may be sold by retailers licensed pursuant to the liquor control act, by clubs and drinking establishments licensed pursuant to the club and drinking establishment act by retailers licensed pursuant to article 27 of chapter 41 of the Kansas Statutes Annotated, as an additional privilege of the license issued in accordance therewith.

KSA 41-345 — Same; distribution; sales and taxation

Same; distribution; sales and taxation.

(a) Nonalcoholic malt beverages shall be distributed by distributors, as defined by K.S.A.

41-102

, and amendments thereto, pursuant to all terms and conditions of the liquor control act. The provisions of K.S.A.

79-3817

et seq., and amendments thereto, shall apply to sales and distribution of nonalcoholic malt beverages by such distributors.

(b) The provisions of the liquor control act, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by retailers licensed thereunder. The provisions of K.S.A.

79-4101

et seq., and amendments thereto, shall apply to the sale of nonalcoholic malt beverages at retail by such retailers.

(c) The provisions of the club and drinking establishment act, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by clubs and drinking establishments licensed thereunder. The provisions of K.S.A.

79-41a01

et seq., and amendments thereto, shall apply to the sale of nonalcoholic malt beverages by a club or drinking establishment.

(d) The provisions of K.S.A.

41-2701

et seq., and amendments thereto, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by retailers licensed thereunder.

KSA 41-346 — Administrative action for offenses involving minors; defense

Administrative action for offenses involving minors; defense.

In any administrative proceeding pursuant to the Kansas liquor control act to suspend or revoke a license, or to impose a civil fine, for a violation of subsection (a) of K.S.A.

21-5607

, and amendments thereto, and K.S.A.

41-2615

, and amendments thereto, it shall be a defense if evidence is presented which indicates that: (a) 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 (b) 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.

KSA 41-350 — Direct shipment to consumers by winery; special order shipping license; collection of gallonage taxes; rules and regulations

Direct shipment to consumers by winery; special order shipping license; collection of gallonage taxes; rules and regulations.

(a) For the purposes of this act, the term "winery" means any maker or producer of wine whether in this state or in any other state, who holds a valid federal basic wine manufacturing permit. The terms "director" and "secretary" mean the

same as defined in K.S.A.

41-102

, and amendments thereto.

(b) Any winery may be authorized to make direct shipments of wine to consumers in this state upon obtaining a special order shipping license from the secretary pursuant to this act.

(1) A special order shipping license shall only be issued to a winery upon compliance with all applicable provisions of this act and the regulations promulgated pursuant to this act, and upon payment of a license fee in the amount of $100. The license term for a special order shipping license shall commence on the date specified on the license and shall end two years after that date.

(2) A special order shipping license shall entitle the winery to ship wine upon order directly to consumers for personal or household use in this state. The purchaser shall pay the purchase price and all shipping costs directly to the permit holder. Enforcement taxes collected herein shall be paid solely on the purchase price and not on the shipping costs.

(c) No holder of a special order shipping license shall be permitted to ship in excess of 12 standard cases of wine of one brand or a combination of brands into this state to any one consumer or address per calendar year.

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that such person is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service approved by the director of alcoholic beverage control or the director's designee.

(2) Every shipment of wine by the holder of a special order shipping license shall be clearly marked 'Alcoholic Beverages, Adult Signature Required' and the carrier delivering such shipment shall be responsible for obtaining the signature of an adult who is at least 21 years of age as a condition of delivery.

(e) A special order shipping license shall not authorize the shipment of any wine to any premises licensed to sell alcoholic beverages pursuant to this act or the club and drinking establishment act.

(f) The failure to comply strictly with the requirements of this act and rules and regulations promulgated pursuant to this act shall be grounds for the revocation of a special order shipping license or other disciplinary action by the director. After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A.

41-501

et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A.

41-501

et seq., and amendments thereto, shall on a monthly basis electronically remit such taxes in a manner prescribed by the secretary and shall accompany such remittance with any reports, documentation or other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A.

79-4101

et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, documentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A.

41-501

et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

(i) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-351 — Farm winery; bona fide farmers' market sales permit; rules and regulations

Farm winery; bona fide farmers' market sales permit; rules and regulations.

(a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A.

41-308a

, and amendments thereto, may apply to the director for an annual farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at farmers' markets.

(b) An application submitted pursuant to this section shall be accompanied by an application fee of $25. Permits issued under this section shall be valid for one year from the date of issuance.

(c) The locations of the farmers' markets at which wine shall be sold shall be specified in the application submitted to the director. If the licensee elects to sell wine at a farmers' market, the location of which was not reported to the director in the application, such licensee shall notify the director of the location before any wine may be sold at that location. The director shall notify the city, county and applicable law enforcement agency where farmers' markets are to be held and of the issuance of a permit under this section for the sale of wine at such farmers' markets.

(d) For the purposes of this section, "farmers' market" means any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats and other farm products directly to consumers.

(e) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(f) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-352 — Packaging and warehousing facility permit; rights of permit holder

Packaging and warehousing facility permit; rights of permit holder.

(a) Any manufacturer or supplier of alcoholic liquor or cereal malt beverage, whether licensed in this state or any other state, or a holder of a distilled spirits plant permit issued by the alcohol and tobacco tax and trade bureau of the United States department of treasury may apply for an annual packaging and warehousing facility permit. The application shall be on a form prescribed by the director and shall include all information the director deems necessary.

(b) A packaging and warehousing facility permit shall allow the:

(1) Transfer of alcoholic liquor or cereal malt beverage to the licensed premises of a packaging and warehousing facility for the purpose of packaging or storage, or both;

(2) sale and transfer from the licensed premises of a packaging and warehousing facility to the licensed premises of a spirits, wine or beer distributor licensed in Kansas or to a Kansas supplier;

(3) transfer from the licensed premises of a packaging and warehousing facility to another state; and

(4) receipt and transfer of alcoholic liquor in a bulk container from any manufacturer, supplier, farm winery, microbrewery or microdistillery of alcoholic liquor or cereal malt beverage, whether licensed in this state or any other state, for purposes of packaging in cans or bottles.

(c) The annual fee for a packaging and warehousing facility permit shall be $2,500.

(d) Each brand and label of alcoholic liquor or cereal malt beverage that is intended for sale to distributors in Kansas and is transported, packaged or stored at a licensed packaging and warehousing facility must be registered in accordance with the provisions of K.S.A.

41-331

, and amendments thereto.

(e) The tax imposed pursuant to K.S.A.

41-501

, and amendments thereto, shall be paid on alcoholic liquor or cereal malt beverage imported into this state under a packaging and warehousing facility permit only if the alcoholic liquor or cereal malt beverage is sold to a distributor for sale at wholesale in this state and shall be paid by the distributor who purchases the alcoholic liquor or cereal malt beverage for sale at wholesale.

(f) For purposes of this section, the terms in subsections (a) and (b)(4), if not otherwise defined in K.S.A.

41-102

, and amendments thereto, mean the same as such terms are defined in title 27, chapter I, subchapter A of the code of federal regulations, as in effect on July 1, 2021.

(g) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-353 — Fulfillment house license; rights of licensee; fee; records requirements, penalty for violations

Fulfillment house license; rights of licensee; fee; records requirements, penalty for violations.

(a) Before making or causing any shipment of alcoholic liquor to Kansas residents, a fulfillment house shall pay a $50 license fee and obtain such license that will be applicable for each location that is involved in the shipping process to Kansas residents. A fulfillment house license shall commence on the date specified on the license and expire two years after such date. The holder of a fulfillment house license may only provide services for the warehousing, packaging and shipping of alcoholic liquors produced by, and belonging to, a special order shipping licensee in accordance with K.S.A.

41-350

, and amendments thereto. A fulfillment house licensee shall make reasonable efforts to confirm that any winery that they ship alcoholic liquor for holds a special order shipping license and may rely on the representations of each such winery for such assurance.

(b) As part of a fulfillment house license application, the applicant shall provide any information as required by rules and regulations adopted by the director and contained in the fulfillment house license application form established by the director.

(c) If the holder of the license is an out-of-state entity, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A.

41-501

et seq., and amendments thereto, and any rules and regulations adopted thereunder and to accept service of any notice or order provided for in the liquor control act.

(d) (1) A fulfillment house licensee shall ensure all containers of alcoholic liquors shipped directly to an individual in this state are labeled with the name, address and license number of the fulfillment house licensee. All such containers shall contain a conspicuously printed statement of "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(2) All containers of alcoholic liquors shipped directly to a resident of this state shall be shipped using a common carrier pursuant to K.S.A.

41-725

, and amendments thereto.

(e) (1) A fulfillment house licensee shall:

(A) Maintain records of all shipments for a minimum of three years after the shipment date, that shall include the:

(i) Name, address and license number of the special order shipping licensee;

(ii) name and license number of the express company or common carrier;

(iii) date of each shipment;

(iv) carrier tracking number;

(v) name and address of the consignee of such alcoholic liquors; and

(vi) weight of the package and product type of alcoholic liquors shipped.

(B) Submit these records as an electronic report to the director monthly in the form and format prescribed by the director.

(2) Reports submitted pursuant to this subsection shall be open records available for public inspection in accordance with the open records act. Any information relating to the name or address of a consignee of any alcoholic liquors shall be redacted from the reports that are made available for public inspection. The provisions of this paragraph providing for the confidentiality of certain public records shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions in accordance with K.S.A.

45-229

, and amendments thereto, prior to July 1, 2026.

(f) A fulfillment house that willfully fails, neglects or refuses to file any report pursuant to subsection (e) shall be subject to a civil penalty of not more than $100. After notice and an opportunity for hearing in accordance with the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a fulfillment house license upon a finding that the licensee has failed to comply with any provision of this section.

(g) The secretary of revenue shall adopt rules and regulations to implement, administer and enforce the provisions of this section.

(h) The provisions of this section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-354 — Microdistillery license; rights of licensee, microdistillery packaging and warehousing facility license; employment restrictions; rules and regulations

Microdistillery license; rights of licensee, microdistillery packaging and warehousing facility license; employment restrictions; rules and regulations.

(a) A microdistillery license shall allow:

(1) The manufacture of not more than 50,000 gallons of spirits per year and the storage thereof;

(2) the sale to spirit distributors of spirits, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of spirits manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of spirits manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of spirits and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of spirits and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A.

41-310

, and amendments thereto, by a microdistillery licensee, the director may issue not to exceed one microdistillery packaging and warehousing facility license to the microdistillery licensee. A microdistillery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microdistillery to the licensed premises of the microdistillery packaging and warehousing facility, of spirits manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microdistillery packaging and warehousing facility to the licensed premises of the microdistillery, of spirits manufactured by the licensee; or

(3) the removal from the licensed premises of the microdistillery packaging and warehousing facility of spirits manufactured by the licensee for the purpose of delivery to a licensed spirits wholesaler.

(c) A microdistillery may sell spirits in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day. If authorized by subsection (a), a microdistillery may

serve samples of spirits and serve and sell spirits and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of distillers a permit to import into this state small quantities of spirits. Such spirits shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such spirits shall not be subject to the tax imposed by K.S.A.

41-501

, and amendments thereto. The permit shall identify specifically the brand and type of spirit to be imported, the quantity to be imported, the tasting programs for which the spirit is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of spirits pursuant to this subsection and the conduct of tasting programs for which such spirits are imported.

(e) A microdistillery license or microdistillery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microdistillery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microdistillery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

(h) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(i) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(j) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-355 — Producer's license; rights of licensee; maintenance of records

Producer's license; rights of licensee; maintenance of records.

(a) Any person engaged in business as a vineyard with not less than 100 vines of sound, ripe grapes or other type of agricultural producer with an annual harvest of 1,000 pounds of other sound, ripe fruits or berries or 100 pounds of honey may apply to the director for and be issued up to two producer licenses.

(b) A producer license shall apply only to the premises described in the application and in the issued license.

(c) A producer license shall authorize the sale in the original, unopened container and the serving by the drink of wine on the premises specified in the license. A producer license also shall authorize the license holder to conduct wine tastings in accordance with K.S.A.

41-308d

, and amendments thereto, on the premises specified in the license. All wine sold or served by the license holder shall be produced, in whole or in part, using sound, ripe grapes, fruits, berries or honey grown or produced by the license holder, shall be manufactured by a farm winery and shall be purchased by the license holder from such farm winery.

(d) Any wine not consumed on the premises shall be disposed of by the license holder or, prior to its removal from the property, securely re-sealed and placed in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently opened.

(e) If the producer licensee is also licensed as a club or drinking establishment, the producer's license shall allow the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act. If the producer licensee is also licensed as a cereal malt beverage

licensee, the producer's license shall allow the sale of cereal malt beverage and beer not exceeding 6% alcohol by volume for consumption on the licensed premises as authorized by the Kansas cereal malt beverage act.

(f) The officers, directors, shareholders or managers of a producer licensee shall meet the qualifications of K.S.A.

41-311

(a), and amendments thereto.

(g) (1) Each producer licensee shall maintain records of all sales made under the license, including sales of agricultural products to a farm winery and sales to consumers, and maintain records of all purchases of wine manufactured by such farm winery, for at least three years after the date of the sale or purchase.

(2) The records required by this subsection shall be available for inspection by the director, any agent or employee of the director, the secretary or any law enforcement officer.

(3) Each record of a sale or purchase required by this subsection shall be maintained on the premises specified in the license for at least 90 days after such sale or purchase.

(4) Any record of a sale or purchase required by this subsection may be stored electronically and maintained off the premises specified in the license after 90 days have passed since such sale or purchase.

(h) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(i) (1) Nothing in this section shall be construed to prohibit a person from possessing alcoholic liquor or cereal malt beverage not purchased from the licensee on the premises licensed pursuant to this section.

(2) Nothing in this section shall prevent a licensee from adopting a policy prohibiting the possession of alcoholic liquor or cereal malt beverage not purchased from the licensee on the licensee's premises licensed pursuant to this section.

(j) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-401 — Bonded warehouse required, spirits or wine manufacturer or distributor

Bonded warehouse required, spirits or wine manufacturer or distributor.

Every licensed manufacturer of spirits or wine and every spirits or wine distributor shall provide at such manufacturer's or distributor's own expense a warehouse to be situated on and to constitute a part of such manufacturer's or distributor's distillery, winery or premises used for the purpose of distributing, furnishing or selling spirits or wine for purposes of resale, to be kept separate and distinct from such distillery, winery or premises, and to be used only for the storage of spirits or wine manufactured or distributed by such manufacturer or distributor for purposes of resale until the tax levied thereon, as hereinafter provided, has been paid. No dwelling house shall be used for such purpose. Such warehouse, when approved by the director, shall be a bonded warehouse of the state of Kansas and shall be under the control of the director. The director may assign one or more of agents to be known as a storekeeper or inspector to enforce the provisions of this act with respect to such warehouse or warehouses.

KSA 41-402 — Spirits and wine kept in warehouse, exceptions; records; joint custody of director

Spirits and wine kept in warehouse, exceptions; records; joint custody of director.

The entire stock of spirits or wine of manufacturers or distributors, except in the case of a distillery or wine cellar where such spirits or wine is in the process of distillation or manufacture, shall be kept in such manufacturer's or distributor's warehouse approved under K.S.A.

41-401

, and amendments thereto. The director shall prescribe the records which the storekeeper or inspector shall keep, when assigned, as regards to such spirits or wine while in the process of manufacture or distillation and after such spirits or wine has been delivered to bonded warehouses. Every such warehouse shall be in the joint custody of the director through the director's storekeeper or inspector, when assigned, and the proprietor thereof, and shall be kept securely locked and at no time be unlocked or open, or remain open unless in the presence of such storekeeper, inspector or other person who may be designated to act for the director, as provided by rules and regulations or order of the director; and no such spirits or wine shall be received or delivered in or delivered from such warehouse, except on order or permit of the director or the director's duly authorized storekeeper, inspector or other agent.

KSA 41-403 — Withdrawal from warehouse

Withdrawal from warehouse.

Alcoholic liquor, on payment of the tax thereon, pursuant to rules and regulations of the secretary, may be withdrawn, on such triplicate forms as the director prescribes, from the warehouse, pursuant to application to the director or to the storekeeper or inspector in charge of such warehouse. One triplicate original of each entry of withdrawal shall be transmitted to the director. In case of receipt of such liquor by manufacturers or distributors, entry of such receipt to such warehouses shall be made in triplicate, and one triplicate original of such entry of receipt shall be transmitted forthwith by the proprietor of the warehouse to the director.

KSA 41-405 — Enforcement of warehouse provisions

Enforcement of warehouse provisions.

The director is hereby authorized to measure, gauge or check such alcoholic liquor in bond in any bonded warehouse, and if the amount of liquor on hand does not correspond with the reports of the manufacturer or distributor filed with the director, the proprietor of such warehouse shall have the proprietor's license revoked, and in addition thereto shall be deemed guilty of a felony, and upon conviction thereof shall be fined in any sum not exceeding $5,000 or be imprisoned in the custody of the secretary of corrections not exceeding 10 years. Any storekeeper, inspector or other person in the employ of the director having charge of such bonded liquor warehouse who removes or allows to be removed any cask or other package of such liquor, except on order or permit from the director, or which has not been marked or consigned as provided by law, or who removes or allows to be removed any part of the contents of any cask or package of liquor deposited therein, shall be immediately dismissed from office or employment, and in addition thereto shall be deemed guilty of a felony, and upon conviction thereof shall be fined for each offense not exceeding $1,000, and shall be imprisoned in the custody of the secretary of corrections not more than three years.

KSA 41-406 — Summary detention of liquor; power of director

Summary detention of liquor; power of director.

It shall be lawful for the director, or for any agent of the director, to detain any package containing or supposed to contain such alcoholic liquor when he has reason to believe that the tax imposed by law upon the same has not been paid in full, or that the same is being or has been removed from any bonded warehouse, or has been received and transported into the state of Kansas in violation of the law; and every such cask or package may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law.

KSA 41-407 — Evasion of liquor tax prohibited; penalties

Evasion of liquor tax prohibited; penalties.

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

(1) Evade, or attempt to evade, the payment of tax or duty on any alcoholic liquor, in any manner whatever. Upon conviction of violation of this subsection, in addition to the penalty prescribed for the violation of this act, the violator shall forfeit and pay, as a part of costs in the action, double the amount of the tax or duty so evaded or attempted to be evaded.

(2) Have in such person's possession any cask or package of alcoholic liquor, without having thereon each mark required therefor by law, and any such cask or package not having thereon each such mark shall be forfeited to the state of Kansas.

(b) Nothing contained in this section shall make unlawful the possession and transportation of wine imported solely for use by a church or religious organization for sacramental purposes and uses.

(c) Violation of any provision of this section is a misdemeanor punishable by a fine not exceeding $500 or imprisonment not exceeding six months, or both, and in proper cases the trial court may order and direct the confiscation of the liquor involved in the violation as part of the judgment of conviction.

KSA 41-408 — Common carriers authorized to carry liquor

Common carriers authorized to carry liquor.

Any common carrier of merchandise owning or operating any railroad, express company, bus, truck or other transportation lines or routes for the transportation of merchandise in the state of Kansas also may transport alcoholic liquor to a warehouse within the state of Kansas. The consignee shall be a manufacturer or distributor maintaining a

warehouse for such liquor within the state of Kansas. Any such liquor arriving at a point of entry in the state of Kansas may enter, in accordance with any rules and regulations which may be adopted pursuant to K.S.A.

41-210

, and amendments thereto, for transportation to any warehouse in the state of Kansas.

KSA 41-409 — Beer or cereal malt beverage manufacturer, distributor or importer; filing of notice; warehouse; brewing specifications

Beer or cereal malt beverage manufacturer, distributor or importer; filing of notice; warehouse; brewing specifications.

(a) Before commencing or continuing business, every manufacturer of beer or cereal malt beverage, every beer distributor and every importer of beer shall file with the director a notice in writing, which states: (1) The name of the person, company, corporation or firm, (2) the name of the members of any such company or firm, (3) the places of residence of such persons, and (4) a legal description of the premises on which the office of the manufacturer or distributor is situated and of the title thereto and the name of the owner thereof.

(b) The director may require under rules and regulations adopted as provided in this act that beer and cereal malt beverage be kept, received and withdrawn from bonded warehouses, as other alcoholic liquors are kept, received and withdrawn as provided under the Kansas liquor control act, whenever the director deems that the public interest demands.

(c) No beer or cereal malt beverage manufactured or distributed within this state shall be sold under the provisions of this act until the manufacturers or distributors of such beer or cereal malt beverage furnish satisfactory evidence to the director that such beer or cereal malt beverage is brewed from alcoholic fermentation of an infusion of pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and are free from all harmful substances, preservatives and adulterants.

KSA 41-410 — Exclusive territorial franchises, alcoholic liquor and cereal malt beverage; filing of notice; termination or modification of franchise

Exclusive territorial franchises, alcoholic liquor and cereal malt beverage; filing of notice; termination or modification of franchise.

(a) No distributor shall sell any alcoholic liquor or cereal malt beverage in this state unless such distributor has filed with the director a written notice stating each geographic territory, agreed upon in writing between the distributor and a supplier of the distributor, within which the distributor sells one or more brands of such supplier to retailers licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act. Such notice shall be accompanied by a map outlining each geographic territory stated in the notice. No manufacturer, importer or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory.

(b) Each supplier of alcoholic liquor or cereal malt beverage doing business within this state shall file with the director a written notice describing each geographic territory, agreed upon in writing between the supplier and a distributor, within which the distributor sells one or more brands of the supplier to retailers licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act.

(c) No supplier or distributor shall terminate or modify a franchise for the distribution of a brand of alcoholic liquor or cereal malt beverage or alter the geographic territory designated in a franchise agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. In the case of an alteration in a franchise territory, such notice shall be accompanied by a map outlining the altered territory. Upon receipt of such notice, the director shall notify immediately, by certified mail, all affected parties of the impending termination, modification or alteration.

(d) Any notice filed by a supplier pursuant to subsection (c) shall be accompanied by an affidavit stating that the termination, modification or alteration is not caused by the failure of the distributor to violate any provision of the Kansas liquor control act or any rules and regulations adopted pursuant thereto.

(e) Any supplier or distributor aggrieved by a termination, modification or alteration made under subsection (c) may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or alteration violates the franchise agreement between the supplier and distributor involved.

(f) No franchise agreement for the distribution of a brand of alcoholic liquor or cereal malt beverage shall be terminated or modified, nor shall the territory designated in such an agreement be altered, except for reasonable cause.

(g) No microbrewery shall sell beer or hard cider produced by such microbrewery to retailers licensed under the Kansas liquor control act or the Kansas cereal malt beverage act or to any licensee under the club and drinking establishment act unless such microbrewery has filed a written notice with the director stating the geographic territory within which such sales are made.

(h) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-410a — Exclusive territorial franchises; certain agreements; cereal malt beverage, beer

Exclusive territorial franchises; certain agreements; cereal malt beverage, beer.

(a) It is hereby declared to be the intent of the legislature that, for the purposes of any agreement entered into prior to April 1, 2019, pursuant to K.S.A.

41-410

, and amendments thereto, between a supplier and a distributor regarding the geographic territory within which the distributor may sell one or more brands of the supplier's cereal malt beverage or beer, or both, the term "cereal malt beverage" shall have the meaning ascribed to such term in K.S.A.

41-2701

, and amendments thereto, on the effective date of this act, and the term "beer" shall have the meaning ascribed to such term in K.S.A.

41-102

, and amendments thereto, on the effective date of this act.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

(c) The provisions of this section shall be effective on and after April 1, 2019.

KSA 41-412 — Severability

Severability.

If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

KSA 41-501 — Tax rate; exemptions; limitation on tax by city; collection and disposition of tax; permit to import for certain purposes

Tax rate; exemptions; limitation on tax by city; collection and disposition of tax; permit to import for certain purposes.

(a) As used in this section and K.S.A.

41-501a

, and amendments thereto:

(1) "Gallon" means wine gallon.

(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing of alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of $.18 per gallon on beer and cereal malt beverage; $.20 per gallon on all wort or liquid malt; $.10 per pound on all malt syrup or malt extract; $.30 per gallon on wine containing 16% or less alcohol by volume; $.75 per gallon on wine containing more than 16% alcohol

by volume; and $2.50 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery, microdistillery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, microdistilleries, farm wineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, microdistillery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A.

41-310

, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax 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 the state treasurer shall credit

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of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A.

41-1126

, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanitoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of $2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, microdistillery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, microdistillery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, microdistillery, farm winery, manufacturer or distributor.

KSA 41-501a — Tax on liquor being delivered to federal area

Tax on liquor being delivered to federal area.

If any alcoholic liquor which is taxable under the provisions of K.S.A.

41-501

, and amendments thereto, is transported in interstate commerce into this state or a federal area for delivery to a consignee or person located, residing or stationed on or at a federal area, such tax shall be paid by the consignee or person. For the purpose of collection and payment of such tax, any and all common, contract or private carriers transporting or delivering any such alcoholic liquor consigned to consignees or persons located, residing or stationed on or at any federal area shall not deliver such alcoholic liquor unless and until the consignee or person shall either (a) present to the carrier written evidence, signed by the director, that the tax imposed by K.S.A.

41-501

, and amendments thereto, on such alcoholic liquor has been paid, or (b) shall pay such tax to the carrier. All such carriers are authorized to collect from such consignee or person the tax imposed by K.S.A.

41-501

, and amendments thereto, at the time of delivery, and to account for and pay the same to the director.

The secretary of revenue shall adopt, pursuant to K.S.A.

41-210

, and amendments thereto, such rules and regulations as necessary to carry out the intent and purposes of this section. Such rules and regulations may include, but shall not be limited to, provisions for the inspection and sealing of cargoes of alcoholic liquor consigned, being transported or delivered to consignees or persons located, residing or stationed on or at federal areas.

KSA 41-502 — Collection and payment of tax

Collection and payment of tax.

The secretary of revenue shall prescribe, by rules and regulations adopted pursuant to K.S.A.

41-210

, and amendments thereto, and designed to protect the revenue of this state, a method of reporting, paying and collecting the tax imposed by K.S.A.

41-501

, and amendments thereto, other than the affixture to original packages of alcoholic liquor of stamps or other visible evidence of the payment of such tax. Such tax shall be paid on or before the 15

th

day of the calendar month next succeeding the month in which the distributor acquires possession of alcoholic liquors made taxable by the provisions of K.S.A.

41-501

, and amendments thereto. The reporting and payment thereof within the time prescribed by this section and in the manner prescribed by the rules and regulations shall constitute a compliance with the provisions of K.S.A.

41-501

, and amendments thereto.

KSA 41-507 — Alcoholic liquor tax refund fund; use

Alcoholic liquor tax refund fund; use.

A revolving fund designated the alcoholic liquor tax refund fund shall be set apart and maintained by the director from the license fees and excise tax collected under the provisions of this act and held by the state treasurer for the refund of license fees, and the refund of gallonage taxes. Such fund shall be in such amount as the director determines necessary for the purpose of making such refunds.

KSA 41-508 — Possession of untaxed liquor by retailer; penalty

Possession of untaxed liquor by retailer; penalty.

It shall be unlawful for the holder of any retailer's license to receive or possess any alcoholic liquor upon which the gallonage tax levied by this act has not been paid. Any such licensee who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction fined not more than $500, to which may be added not more than 12 months' imprisonment.

KSA 41-510 — Credit for spirits sold to federal military installation

Credit for spirits sold to federal military installation.

(a) Notwithstanding the provisions of K.S.A.

41-501

, and amendments thereto, any distributor may claim and receive from the director a credit for taxes imposed by K.S.A.

41-501

, and amendments thereto, on spirits sold to a federal military installation in a federal area.

(b) This section shall be part of and supplemental to the Kansas liquor control act.

KSA 41-511 — Reports of alcoholic liquor shipped into the state; contents; penalties for failure to file report; confidentiality of name or address of consignee

Reports of alcoholic liquor shipped into the state; contents; penalties for failure to file report; confidentiality of name or address of consignee.

(a) Every express company or other common carrier that delivers any alcoholic liquors from outside the state for delivery in the state to consumers shall prepare and file monthly with the director of alcoholic beverage control a report of known alcoholic liquors shipped by such carrier. The report shall contain: (1) The name of the express company or other common carrier that delivers the alcoholic liquors; (2) the period of time covered by the report; (3) the name and business address of the consignor of such alcoholic liquors; (4) the weight of the package delivered to each consignee; (5) a unique tracking number; and (6) the date of delivery. Except as provided for in subsection (d), all reports submitted pursuant to this subsection shall be open records available for public inspection in accordance with the open records act.

(b) Upon request by the director, any additional records supporting the report shall be made available to the director by any express company or other common carrier. Any records containing information relating to such reports shall be kept and preserved for a period of two years unless the destruction of such records is authorized in writing by the director.

(c) Any express company or other common carrier that willfully fails, neglects or refuses to file any report pursuant to subsection (a) shall be subject to a civil penalty of not more than $500.

(d) If any of the reports required by subsection (a) include any information relating to the name or address of a consignee of any alcoholic liquors, such information shall be redacted from the reports that are made available for public inspection.

(e) The provisions of this section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-601 — Manufacturers, distributors, microbreweries, microdistilleries and farm wineries; monthly reports

Manufacturers, distributors, microbreweries, microdistilleries and farm wineries; monthly reports.

Every manufacturer, distributor, microbrewery that sells any beer to a beer distributor at wholesale, microdistillery that sells any spirits to a spirits distributor at wholesale and farm winery that sells any wine to a distributor at wholesale shall between the 1

st

and 15

th

day of each calendar month, make return under oath to the director of all alcoholic liquor manufactured and sold by the manufacturer, distributor, microbrewery, microdistillery or farm winery in the course of business during the preceding calendar month. In the case of a distributor or microbrewery, the return shall also show: (a) The total amount of liquor purchased by the distributor or microbrewery during the preceding calendar month, the names of the distillers or distributors from whom purchased, the quantity of each brand and the price paid therefor; and (b) the names and locations of the retailers to whom alcoholic liquor was sold by the distributor or microbrewery during the preceding calendar month, the quantity of each brand and the price charged therefor. The return shall be made upon forms prescribed and furnished by the director and shall contain such other information as the director reasonably requires.

KSA 41-602 — Same; records of sales

Same; records of sales.

It is the duty of each manufacturer, distributor, microbrewery which sells any beer to a beer distributor, microdistillery which sells any spirits to a spirits distributor and farm winery which sells any wine to a distributor to keep complete and accurate records of all sales of liquor, wine or beer and complete and accurate records of all alcoholic liquors produced, manufactured, compounded or imported. The director, in the director's discretion, may prescribe reasonable and uniform methods for keeping records by manufacturers, distributors, microbreweries, microdistilleries and farm wineries as contemplated by K.S.A.

41-401

through

41-409

, and amendments thereto.

KSA 41-701 — Certain sales by distributors, microbreweries and manufacturers prohibited; criminal penalties

Certain sales by distributors, microbreweries and manufacturers prohibited; criminal penalties.

(a) Except as provided in subsection (e), no spirits distributor shall sell or attempt to sell any spirits within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed spirits distributor; or

(2) a licensed retailer, as authorized by K.S.A.

41-306

, and amendments thereto.

(b) Except as provided in subsection (e), no wine distributor shall sell or attempt to sell any wine within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed wine distributor;

(2) a licensed caterer; or

(3) a retailer, public venue, club or drinking establishment, licensed in this state, as authorized by K.S.A.

41-306a

, and amendments thereto.

(c) Except as provided by subsection (e), no beer distributor shall sell or attempt to sell any beer or cereal malt beverage within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed beer distributor;

(2) a licensed caterer; or

(3) a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, or a club or drinking establishment, licensed in this state, as authorized by K.S.A.

41-307

, and amendments thereto.

(d) Except as provided in K.S.A.

41-308b

, and amendments thereto, and subsection (e), no microbrewery shall sell or attempt to sell any beer or hard cider within this state except to:

(1) A retailer licensed under the Kansas liquor control act or the Kansas cereal malt beverage act; or

(2) a licensee under the club and drinking establishment act.

(e) (1) If any spirits distributor refuses to sell spirits that such distributor is authorized to sell or refuses to provide any service in connection therewith to any licensed retailer as authorized by K.S.A.

41-306

, and amendments thereto, it shall be lawful for any other licensed spirits distributor to sell such spirits to such retailer.

(2) If any wine distributor refuses to sell wine that such distributor is authorized to sell or refuses to furnish service in connection therewith to any licensed retailer, as authorized by K.S.A.

41-306a

, and amendments thereto, it shall be lawful for any other licensed wine distributor to sell such wine to such retailer.

(3) If any beer distributor refuses to sell beer or cereal malt beverage that such distributor is authorized to sell or provide service in connection therewith to any retailer licensed under this act or under K.S.A.

41-2702

, and amendments thereto, as authorized by K.S.A.

41-307

, and amendments thereto, it shall be lawful for any other licensed beer distributor or microbrewery to sell such beer or cereal malt beverage to such retailer.

(e) No manufacturer of alcoholic liquor or cereal malt beverage shall sell or attempt to sell any alcoholic liquor or cereal malt beverage within this state except to a licensed manufacturer, licensed distributor or licensed nonbeverage user.

(f) No supplier, wholesaler, distributor, microbrewery, manufacturer or importer shall by oral or written contract or agreement, expressly or impliedly fix, maintain, coerce or control the resale price of alcoholic liquor, beer or cereal malt beverage to be resold by such wholesaler, distributor, microbrewery, manufacturer or importer.

(g) Any supplier, wholesaler, distributor, microbrewery or manufacturer violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $500 and not more than $1,000, to which may be added not to exceed six months' imprisonment. In addition, any supplier, wholesaler, distributor,

microbrewery, manufacturer or importer violating the provisions of this section relating to fixing, maintaining or controlling the resale price of alcoholic liquor, beer or cereal malt beverage shall be liable in a civil action to treble the amount of any damages awarded plus reasonable attorney fees for the damaged party.

KSA 41-702 — Gifts and credit from manufacturer, distributor or microbrewery prohibited; revocation or suspension of license for violations

Gifts and credit from manufacturer, distributor or microbrewery prohibited; revocation or suspension of license for violations.

(a) Except to the extent permitted pursuant to K.S.A.

41-703

, and amendments thereto, no licensed retailer, club, drinking establishment or caterer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer, distributor or microbrewery; (2) any person connected with, in any way representing or a member of the family of a manufacturer, distributor or microbrewery; (3) any stockholders in a manufacturer, distributor or microbrewery; or (4) any officer, manager, agent or representative of a manufacturer, distributor or microbrewery.

(b) Except to the extent permitted pursuant to K.S.A.

41-703

, and amendments thereto, no manufacturer, distributor or microbrewery shall give or lend money or anything of value or otherwise loan or extend credit, directly or indirectly, to any retailer licensed under this act or under K.S.A.

41-2702

, and amendments thereto, or to any licensed club, drinking establishment or caterer, or to the manager, representative, agent, officer or director thereof.

(c) If any licensed retailer, distributor, manufacturer, microbrewery, club, drinking establishment or caterer violates any provision of this section, the license of such retailer, distributor, manufacturer, microbrewery, club, drinking establishment or caterer shall be suspended or revoked by the director in the manner provided by law for revocation or suspension for other violations of this act.

KSA 41-703 — Gifts, loans and interest in customer's business by manufacturer, distributor or microbrewery prohibited, exceptions; rules and regulations

Gifts, loans and interest in customer's business by manufacturer, distributor or microbrewery prohibited, exceptions; rules and regulations.

(a) Except as provided by subsection (d), no manufacturer, distributor or microbrewery shall directly or indirectly: (1) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee under the club and drinking establishment act or a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto; (2) pay for any such licensee's or retailer's license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of any such licensee or retailer or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any such licensee or retailer; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in the licensed premises of any such licensee or retailer.

(b) Except as provided by subsection (d), no manufacturer, distributor or microbrewery shall, directly or indirectly, or through a subsidiary or affiliate or by any officer, director or firm of such manufacturer, distributor or microbrewery, furnish, give, lend or rent any interior decorations or any signs, for inside or outside use, for use in or about or in connection with the licensed premises of a licensee under the club and drinking establishment act, or a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, products of the manufacturer, distributor or microbrewery are sold.

(c) No manufacturer, distributor or microbrewery shall directly or indirectly pay for or advance, furnish or lend money for the payment of any license of another under the club and drinking establishment act, the Kansas liquor control act or K.S.A.

41-2702

, and amendments thereto.

(d) (1) A manufacturer, distributor or microbrewery may furnish things of value to a licensee under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, to the extent permitted by rules and regulations adopted by the secretary pursuant to subsection (e).

(2) Notwithstanding any other provision of law to the contrary, an owner, officer, stockholder or director of a distributor may have an interest in the licensed premises of a club, a drinking establishment or a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, if such premises are located outside the geographic territory of the distributor's franchise.

(3) A microbrewery or owner, officer, stockholder or director thereof may have an interest in a licensed club, drinking establishment or caterer.

(e) The secretary shall adopt rules and regulations permitting manufacturers, distributors or microbreweries to furnish equipment, signs, supplies or similar things of value to licensees under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto. Such rules and regulations shall limit the furnishing of such things of value so that they are not conditioned on or an inducement to the purchase of any alcoholic liquor or cereal malt beverage. In adopting such rules and regulations, the secretary shall consider and, to the extent the secretary determines suitable, base such rules and regulations on the standards of the bureau of alcohol, tobacco and firearms of the United States treasury.

KSA 41-704 — Manufacturers; interest in business of distributor prohibited

Manufacturers; interest in business of distributor prohibited.

No manufacturer of alcoholic liquors holding a manufacturer's license under this act and no manufacturer of alcoholic liquors outside of this state manufacturing alcoholic liquors for distribution and sale within this state shall, directly or indirectly, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director or employee thereof, or by stock ownership, interlocking directors, trusteeship, loan, mortgage or lien on any personal or real property, as guarantor, endorser or surety, be interested in the ownership, conduct, operation or management of any alcoholic liquor distributor holding an alcoholic liquor distributor's license under this act; nor shall any manufacturer of alcoholic liquors holding a manufacturer's license under this act nor any manufacturer of alcoholic liquors outside of this state manufacturing alcoholic liquors for distribution and sale within this state, be interested directly or indirectly, as lessor or lessee, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director or employee thereof, or by stock ownership, interlocking directors or trusteeship in the premises upon which the place of business of an alcoholic liquor distributor holding an alcoholic liquor distributor's license under this act is located, established, conducted or operated in whole or in part.

KSA 41-705 — Violation of K.S.A. 41-703 or 41-704; effect

Violation of K.S.A. 41-703 or 41-704; effect.

Any licensee who shall permit or assent, or be a party in any way to any violation or infringement of the provisions of K.S.A.

41-703

or

41-704

shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this act shall not be recovered back, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

KSA 41-706 — Requirements relating to revenue stamps, labels, seals

Requirements relating to revenue stamps, labels, seals.

No manufacturer, distributor, microbrewery or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer, distributor, microbrewery or wholesaler, unless the package has affixed thereto all canceled revenue stamps that may be provided by federal law and shall also carry thereon a clear and legible label containing the name and kind of alcoholic liquor contained therein, and the alcoholic content thereof, except in the case of beer, and such other information as may be required by federal laws and rules and regulations and by rules and regulations adopted by the secretary of revenue. No package shall be delivered by any manufacturer, distributor, microbrewery or importing distributor unless the same shall be securely sealed so that the contents thereof cannot be removed without breaking the seal so placed thereon by such manufacturer, and no other licensee shall sell, have in the possession of the licensee or use any package or container that does not comply with this section or K.S.A.

41-707

, and amendments thereto, or does not bear evidence that such package, when delivered to the licensee, complied with this section.

KSA 41-707 — Labels; quality of liquor; requirements

Labels; quality of liquor; requirements.

No alcoholic liquor labeled as "whisky" or "gin" shall be sold at retail in this state, unless the entire alcoholic content thereof, except flavoring materials, is a distillate of fermented mash of grain or mixture of grains. Alcoholic liquor of the type of whisky or gin or wine not conforming to this requirement may be sold at retail if labeled "imitation whisky" or "imitation gin" or "imitation wine" as the case may be. No spirits shall contain any substance, compound or ingredient which is injurious to health or deleterious for human consumption.

KSA 41-708 — Retailer must obtain alcoholic liquor from licensed distributor, farm winery or microbrewery; exceptions; penalties

Retailer must obtain alcoholic liquor from licensed distributor, farm winery or microbrewery; exceptions; penalties.

No retailer licensed under this act shall purchase or receive alcoholic liquor from any source except from a distributor, farm winery or microbrewery licensed under this act and having a place of business in this state, except that a licensed retailer may purchase confiscated alcoholic liquor at a sheriff's sale. Any retail licensee who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $200, nor more than $1,000, to which may be added imprisonment for not more than six months, and the license of such licensee may be revoked as provided by law.

KSA 41-709 — Authorized sale or delivery by manufacturer, distributor or microbrewery; revocation of license for violations

Authorized sale or delivery by manufacturer, distributor or microbrewery; revocation of license for violations.

(a) No manufacturer, distributor or microbrewery shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer, distributor or microbrewery for resale, unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the provisions of this act.

(b) The director shall revoke the license of any manufacturer, distributor or microbrewery who violates the provisions of this section.

KSA 41-710 — Location of retail store, microbrewery, microdistillery or farm winery; restrictions; within core commercial district

Location of retail store, microbrewery, microdistillery or farm winery; restrictions; within core commercial district.

(a) No retailer's license shall be issued for premises unless such premises comply with all applicable zoning regulations.

(b) No microbrewery license, microdistillery license or farm winery license shall be issued for premises which are zoned for any purpose except agricultural, commercial or business purposes.

(c) No retailer's, microbrewery, microdistillery or farm winery license shall be issued for premises which:

(1) Are located within 200 feet of any public or parochial school or college or church, except that if any such school, college or church is established within 200 feet of any licensed premises after the premises have been licensed, the premises shall be an eligible location for retail licensing; or

(2) do not conform to all applicable building regulations.

(d) Any city, by ordinance, may allow a retailer, microbrewery, microdistillery or farm winery to be located within a core commercial district as defined by K.S.A.

12-17,122

, and amendments thereto, which does not meet the distance requirements established by subsection (c)(1).

KSA 41-711 — Sale at retail forbidden on certain premises

Sale at retail forbidden on certain premises.

No alcoholic liquor shall be sold at retail upon any premises which have an inside entrance or opening which connects with any other place of business.

KSA 41-712 — Days and hours of sale by retailers

Days and hours of sale by retailers.

(a) Within any city where the days of sale at retail of alcoholic liquor in the original package have not been expanded as provided by K.S.A.

41-2911

, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A.

41-2911

, and amendments thereto, no person shall sell at retail any alcoholic liquor in the original package: (1) On Sunday; (2) on Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted. The governing body of any city by ordinance may require the closing of premises prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

(b) Within any city where the days of sale at retail of alcoholic liquor in the original package have been expanded as provided by K.S.A.

41-2911

, and amendments thereto, and have not been subsequently restricted as provided by K.S.A.

41-2911

, and amendments thereto, and within any township where the days of sale at retail of alcoholic liquor in the original package have been expanded as provided by K.S.A.

41-2911

, and amendments thereto, and have not been subsequently restricted as provided by K.S.A.

41-2911

, and amendments thereto, no person shall sell at retail alcoholic liquor in the original package: (1) On Sunday not earlier than 9 a.m. and not later than 8 p.m.; (2) on Easter Sunday, Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted. The governing body of any city by ordinance may require the closing of premises prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

KSA 41-713 — Retailers; mixing drinks on premises and employment of certain persons prohibited; exceptions

Retailers; mixing drinks on premises and employment of certain persons prohibited; exceptions.

(a) It shall be unlawful for a retailer of alcoholic liquor:

(1) To permit any person to mix drinks in or on the licensed premises, except as provided in subsection (b);

(2) to employ any person under the age of 21 years in connection with the operation of such retail establishment; or

(3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

(b) The provisions of subsection (a)(1) shall not apply to the preparation or mixing of samples for the purposes of conducting wine, beer or distilled spirit tastings, or any combination thereof, as authorized by K.S.A.

41-308d

, and amendments thereto.

KSA 41-714 — Advertising; authority of director

Advertising; authority of director.

(a) Any advertising of a farm winery, microdistillery or microbrewery shall be subject to approval by the director prior to its dissemination.

(b) The secretary of revenue may adopt, in accordance with K.S.A.

41-210

, and amendments thereto, rules and regulations necessary to regulate and control the advertising, in any form, and display of alcoholic liquor.

KSA 41-715 — Sale of liquor to incapacitated or intoxicated person; penalties

Sale of liquor to incapacitated or intoxicated person; penalties.

(a) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor.

(b) Violation of this section is a misdemeanor punishable by a fine of not less than $100 and not exceeding $250 or imprisonment not exceeding 30 days, or both.

KSA 41-717 — Certain sales on credit, in trade or by check prohibited

Certain sales on credit, in trade or by check prohibited.

(a) (1) Except as provided by subsection (a)(2), no person shall sell or furnish at retail and no microbrewery, microdistillery or farm winery shall sell to any consumer any alcoholic liquor on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit in violation of this subsection, the debt attempted to be created shall not be recoverable at law.

(2) A licensed retailer may sell alcoholic liquor and nonalcoholic malt beverage to a consumer, a licensed microbrewery may sell domestic beer to a consumer, a licensed microdistillery may sell domestic spirits to a consumer and a licensed farm winery may sell domestic wine to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.

(b) No microbrewery, microdistillery, farm winery or retailer of alcoholic liquor shall accept a check for payment for alcoholic liquors sold by the winery or retailer to a consumer, other than the personal check of the person making the purchase.

KSA 41-718 — Sale only in original package; refilling prohibited; application of law to certain sales

Sale only in original package; refilling prohibited; application of law to certain sales.

(a) No person except a manufacturer, distributor, microbrewery, microdistillery, farm winery or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor.

(b) No person shall have in the person's possession for sale at retail any bottles, casks or other containers containing alcoholic liquor, except in original packages.

(c) This section shall not apply to the sale of beer, domestic beer or cereal malt beverage by a retailer in accordance with K.S.A.

41-308

(c)(8), and amendments thereto.

KSA 41-719 — Consumption of alcoholic liquor prohibited in certain places; exemptions

Consumption of alcoholic liquor prohibited in certain places; exemptions.

(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 on public streets, alleys, roads, sidewalks or highways when:

(A) A temporary permit has been issued pursuant to K.S.A.

41-1201

or

41-2703

, and amendments thereto, for such an event;

(B) a caterer's licensee has provided the required notification for a catered event pursuant to K.S.A.

41-2643

, and amendments thereto; or

(C) a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment licensee has been authorized to extend its licensed premises pursuant to K.S.A.

41-2608

, and amendments thereto.

(3) Consumption of alcoholic liquor on public streets, alleys, roads, sidewalks or highways must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such consumption will occur. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any time.

(4) No person shall remove any alcoholic liquor from inside the boundaries of an event as designated by the governing body of any city, county or township, from the boundaries of a catered event or from the extended licensed premises of a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment. Such boundaries 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.

(b) Alcoholic liquor may be consumed within common consumption areas designated by a city or county on public streets, alleys, roads, sidewalks or highways pursuant to K.S.A.

41-2659

, and amendments thereto, except that no alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways within a common consumption area. Further, no person shall remove any alcoholic liquor from inside the boundaries of the common consumption area which shall be clearly designated by a physical barrier.

(c) 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;

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A.

41-305

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41-308a

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41-308b

or

41-354

, and amendments thereto;

(6) on the premises of an unlicensed business as authorized pursuant to subsection (j); or

(7) within a common consumption area established pursuant to K.S.A.

41-2659

, and amendments thereto.

(d) 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, within boundaries that have been marked with a three-dimensional barrier, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under K.S.A.

41-308a

(e), and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer that is sold during the days of the Kansas state fair, or as authorized by the Kansas state fair board, by the holder of a temporary permit in accordance with the provisions of K.S.A.

41-1201

(g), and amendments thereto; 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) 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.

(10) On the premises of any land or waters owned or managed by the department of wildlife and parks, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A.

32-805

, and amendments thereto.

(11) On property exempted from this subsection pursuant to subsection (e), (f), (g), (h) or (i).

KSA 41-720 — Nonbeverage licensee forbidden to give or sell alcoholic liquors; violation; penalty

Nonbeverage licensee forbidden to give or sell alcoholic liquors; violation; penalty.

No nonbeverage user shall sell, give away or otherwise dispose of any alcohol or wine, purchased under his license as such nonbeverage user, in any form fit for beverage purposes. Any nonbeverage user who shall violate the provisions of this section shall pay to the director, for the use of the liquor control administration fund, the sum of two dollars and ten cents ($2.10) for each gallon of alcohol or wine so diverted, and in addition thereto shall be subject to the penalties provided in K.S.A.

41-901

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KSA 41-721 — No retail licenses to issue in cities where electors voted contrary

No retail licenses to issue in cities where electors voted contrary.

It shall not be lawful to sell alcoholic liquor at retail nor shall the director grant or issue, or cause to be granted or issued, any license to sell alcoholic liquor at retail within the limits of any city of this state, while the prohibition against such sales, arising under K.S.A.

41-301

and

41-302

, or otherwise as provided in this act, is in effect; and if any such license be granted or issued in violation hereof the same shall be void: Provided, That this section shall not prohibit the issuance of a manufacturer's or distributor's license in accordance with law by the director in such prohibited territory.

KSA 41-722 — Giving or selling liquor to evade law declared unlawful

Giving or selling liquor to evade law declared unlawful.

The giving away or delivery of any alcoholic liquor for the purpose of evading any provision of K.S.A.

41-721

or taking of orders or the making of agreements, at or within any governmental subdivision, while such sales are prohibited, for the sale or delivery of any alcoholic liquor, or other shift or device to evade any provision of this act, shall be held to be an unlawful selling.

KSA 41-723 — Violating K.S.A. 41-721 and 41-722; places declared common nuisances

Violating K.S.A. 41-721 and 41-722; places declared common nuisances.

All places where alcoholic liquor is sold in violation of any provision of K.S.A.

41-721

and

41-722

shall be and are declared to be common nuisances, and may be abated as such in the manner hereinafter provided.

KSA 41-724 — Transportation of liquor into state forbidden; exceptions

Transportation of liquor into state forbidden; exceptions.

No person or common carrier shall haul or transport alcoholic liquor in or into this state, for sale, or for storage and sale in this state, upon which the required labeling or gauging fee, tax, duty or license has not been paid, except for delivery to distributors, distillers, manufacturers, importers, blenders, rectifiers, wholesalers or jobbers maintaining a bonded warehouse within this state.

KSA 41-725 — Common carriers; must deliver only to consignee

Common carriers; must deliver only to consignee.

It shall be unlawful for any officer, agent or employee of any railroad company, express company or other common carrier to deliver any alcoholic liquors to any person other than to the person to whom such shipment is consigned, or to his authorized agent, and without a written receipt in each instance by such consignee in person therefor, or by his authorized agent; or to deliver any such shipments to any person whomsoever where such shipments have been consigned to a fictitious person or persons under a fictitious name.

KSA 41-726 — False statements to common carriers unlawful

False statements to common carriers unlawful.

It shall be unlawful for any person to make a false statement, for the purpose of obtaining alcoholic liquors, to any railroad, express or transportation company, or any person engaged in the business of transporting goods, wares or merchandise for the purpose of obtaining the shipment, transportation or delivery of same.

KSA 41-727 — Purchase or consumption of alcoholic beverage by minor; penalty; exceptions; immunity from criminal prosecution; tests; detainment

Purchase or consumption of alcoholic beverage by minor; penalty; exceptions; immunity from criminal prosecution; tests; detainment.

(a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A.

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41-308b

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41-727a

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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) (1) A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this section, and any city ordinance or county resolution prohibiting the acts prohibited by this section, if such person:

(A) (i) Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and

(ii) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance;

(B) (i) initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;

(ii) provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;

(iii) remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and

(iv) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or

(C) (i) was the person who reasonably appeared to be in need of medical assistance as described in subsection (f)(1)(B), but did not initiate contact with law enforcement or emergency medical services; and

(ii) cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.

(2) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection.

(g) 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.

(h) 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.

(i) (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.

(j) This section shall be part of and supplemental to the Kansas liquor control act.

KSA 41-727a — Use of minors to determine compliance with law, limitations

Use of minors to determine compliance with law, limitations.

(a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under 21 years of age to violate the provisions of the Kansas liquor control act in order to develop a program or system which determines and encourages compliance with the provisions of such act prohibiting the furnishing or sale of alcoholic liquor to a person under 21 years of age or the consumption of alcoholic liquor by such persons.

(b) No person shall engage or direct a person under 21 years of age to violate any provision of the Kansas liquor control act for purposes of determining compliance with the provisions of such act unless such person is:

(1) An officer having authority to enforce the provisions of the Kansas liquor control act;

(2) an authorized representative of the attorney general, a county attorney or a district attorney; or

(3) a licensee under the Kansas liquor control act or such licensee's designee pursuant to a self-compliance program designed to increase compliance with the provisions of the Kansas liquor control act if such program has been approved by the director.

KSA 41-728 — Sales of alcoholic liquor by distributors and microbreweries; prohibited acts

Sales of alcoholic liquor by distributors and microbreweries; prohibited acts.

(a) No distributor or microbrewery shall, directly or indirectly, sell on credit any alcoholic liquor or cereal malt beverage to a club, drinking establishment or caterer, and no club, drinking establishment or caterer shall, directly or indirectly, buy on credit any alcoholic liquor or cereal malt beverage from a distributor or microbrewery.

(b) Any sales of alcoholic liquor or cereal malt beverage by a distributor or microbrewery to a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, shall be separate transactions from sales by such distributor or microbrewery to any other such club, drinking establishment, caterer or retailer even if the licensee is the same person or entity as the holder of the license for such other club, drinking establishment, caterer or retailer.

(c) Except as otherwise provided by this section or K.S.A.

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and

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, and amendments thereto, any financial instrument, other than a second-party check, may be used by a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, to purchase alcoholic liquor or cereal malt beverage from a distributor or microbrewery and a distributor or microbrewery may accept any such financial instrument as payment. In addition, a prepayment plan may be used for the purpose of making such purchases if the amount prepaid does not exceed the usual purchases made for the period of time for which prepayment is made.

(d) Sales of alcoholic liquor by a distributor or microbrewery to clubs, drinking establishments, caterers or retailers licensed under the Kansas liquor control act or under K.S.A.

41-2702

, and amendments thereto, shall be final except that a distributor or microbrewery may:

(1) Buy back any item of alcoholic liquor or cereal malt beverage that such club, drinking establishment, caterer or retailer has obtained the approval of the director to close out;

(2) buy back any item of alcoholic liquor or cereal malt beverage when required by the supplier;

(3) buy back or exchange, within 24 hours after delivery, any item of alcoholic liquor or cereal malt beverage that is damaged or deteriorated in quality; and

(4) buy back or exchange, at the original sales price, any item of beer or cereal malt beverage that is within 30 days of its expiration date.

KSA 41-729 — Retail sales at less than cost; permit required

Retail sales at less than cost; permit required.

(a) No retailer shall sell, directly or indirectly, any alcoholic liquor at less than the acquisition cost of such liquor without first having obtained from the director a permit to do so.

(b) The director may issue to a licensed retailer a permit authorizing the retailer to sell alcoholic liquor at less than the acquisition act of such liquor if:

(1) The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item of alcoholic liquor for a period of not less than 12 months;

(2) the item of alcoholic liquor is damaged or deteriorated in quality and notice is given to the public thereof; or

(3) the sale of the item of alcoholic liquor is by an officer acting under the order of a court.

KSA 41-730 — Sale of powdered alcohol prohibited

Sale of powdered alcohol prohibited.

(a) No form of powdered alcohol shall be sold or offered for sale by any person licensed under the Kansas liquor control act.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

KSA 41-803 — Open saloon; definition; prohibition

Open saloon; definition; prohibition.

(a) It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon.

(b) As used in this section, "open saloon" means any place, public or private, where alcoholic liquor is sold or offered or kept for sale by the drink or in any quantity of less than 100 milliliters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the club and drinking establishment act or, on and after January 1, 1988, any manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A.

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41-308b

or K.S.A.

41-354

, and amendments thereto.

(c) Any violation of the provisions of this section is a misdemeanor punishable by a fine of not more than $500 and by imprisonment for not more than 90 days.

KSA 41-805 — Nuisances; places and properties operated or used in violation of act; lien for fines and costs; leases void; procedure for seizure and sale of vehicles and airplanes; appeals; stay of proceedings

Nuisances; places and properties operated or used in violation of act; lien for fines and costs; leases void; procedure for seizure and sale of vehicles and airplanes; appeals; stay of proceedings.

(1) Any room, house, building, boat, vehicle, airplane, structure or place of any kind where alcoholic liquors are sold, manufactured, bartered or given away, in violation of this act, or any building, structure or boat where persons are permitted to resort for the purpose of drinking alcoholic liquors, in violation of this act, or any place where such liquors are kept for sale, barter or gift, in violation of this act, and all such liquors, and all property kept in and used in maintaining such a place, are each and all of them hereby declared to be a common nuisance. Any person who maintains or assists in maintaining such common nuisance is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine not exceeding $25,000, or by both. If the court finds that the owner of real property knew or should have known under the circumstances of the maintenance of a common nuisance on such property, contrary to the liquor laws of this state, and did not make a bona fide attempt to abate such nuisance under the circumstances, such property shall be subject to a lien for, and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of this act; and such lien shall be immediately enforced by civil action, in any court having jurisdiction, by the county or district attorney of the county wherein such building or premises may be located, or by the attorney for the director, when ordered by the director. For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining a common nuisance as set forth in K.S.A.

22-3901

, and amendments thereto, contrary to the liquor laws of this state. If a tenant of any building or premises uses the building or premises, or any part thereof, in maintaining a common nuisance as hereinbefore defined, or knowingly permits such use by another, such use shall render void the lease under which the tenant holds, and shall cause the right of possession to revert to the owner or lessor, who may make immediate entry upon the premises, or may invoke the remedy provided for the forcible detention thereof.

(2) Upon the filing of a complaint or information charging that a vehicle or airplane is a common nuisance as above declared, a warrant shall be issued authorizing and directing the officer to whom it is directed to arrest the person or persons described in the complaint or information or the person or persons using the vehicle or airplane in violation of this act and to seize and take into the officer's custody all such vehicles and airplanes so used which the officer finds, and safely keep them subject to the order of the court. In the complaint or information it shall not be necessary to accurately

describe the vehicle or airplane so used, but only such description shall be necessary as will enable the officer executing the warrant to identify it properly.

Whenever any vehicles or airplanes shall be seized under any such warrant, whether an arrest has been made or not, a notice shall issue within 48 hours after the return of the warrant in the same manner as a summons, directed to the defendant in such action and to all persons claiming any interest in such vehicles or airplanes, fixing a time, to be not less than 60 days, and place at which all persons claiming any interest therein may appear and answer the complaint made against such vehicles or airplanes and show cause why they should not be adjudged forfeited and sold as hereinafter provided. Such notice shall be served upon the defendant in the action in the same manner as a summons if the defendant be found within the jurisdiction of the court, and a copy thereof shall also be posted in one or more public places in the county in which the cause is pending. If at the time for filing answer the notice has not been duly served or sufficient cause appear, the time for answering shall be extended by the court and such other notice issued as will supply any defect in the previous notice and give reasonable time and opportunity for all persons interested to appear and answer. At or before the time fixed by notice, any person claiming an interest in the vehicles or airplanes seized, may file an answer in writing, setting up a claim thereto, and shall thereupon be admitted as a party defendant to the proceedings against such vehicles or airplanes. The complaint or information and answer or answers that may be filed shall be the only pleadings required. At the time fixed for answer, or at any other time to be fixed by the court, a trial shall be held in a summary manner before the court on the allegation of the complaint or information against the property seized. Whether any answer shall be filed or not, it shall be the duty of the county or district attorney to appear and adduce evidence in support of such allegation.

(3) If the court finds that such vehicles or airplanes were at the time a common nuisance, as defined in this section, the court shall adjudge forfeited so much thereof as the court finds to be a common nuisance, and shall order the officer in whose custody they are to sell them publicly. The officer shall cause notice to be given by publication for at least one week in the official county paper of the time and place of the sale of the property and shall file in the court a return showing the sale of the property and the amount received therefor and shall pay the same into court to await the order of the court. The court, if it approves such sale, shall declare forfeited the proceeds of the sale and, after paying out of the proceeds of the sale the costs of the action, including costs of sale and the keeping and maintenance of the property, shall out of the balance of the money received from the property at the sale, pay all liens, according to their priorities, which are established by intervention or otherwise at the hearing or another proceeding brought for that purpose as being bona fide and for value and as having been created without the lienor having any notice that the vehicle or airplane was being used in so violating the provisions of this act and without the lienor having any notice at any time subsequent to the creation of the lien and prior to the seizure in time to have protected the lien that the vehicle was so being used. The balance remaining shall be paid to the state treasurer pursuant to K.S.A.

20-2801

, and amendments thereto, except that, if upon proper proof, a lien as herein provided is established in excess of the value of the vehicle as found by the court, the court may order, without sale, the surrender of such vehicle to such lienor upon the payment of all costs as is herein provided.

(4) Either the state or any defendant or other person claiming the vehicle or airplane seized, or an interest therein, may appeal from the judgment of the court in any such proceedings against the property seized in the manner provided for taking appeals in criminal cases. Any claimant of such property who appeals, in order to stay proceedings, must enter into an undertaking with a sufficient surety to the state of Kansas, to be approved by the judge of the district court, in the sum of not less than $100 nor less than double the amount of the value of the property as fixed by the court and the costs adjudged against the property, conditioned that the claimant will prosecute the appeal without unnecessary delay, and if judgment is entered against the claimant on appeal, the claimant will satisfy the judgment and costs, and no bond shall be required for an appeal by the state, and such appeal shall stay the execution of the judgment.

KSA 41-806 — Action by injunction to abate nuisance; procedure; fees of prosecuting attorneys; closing and padlocking; bond of owner, lessee or occupant

Action by injunction to abate nuisance; procedure; fees of prosecuting attorneys; closing and padlocking; bond of owner, lessee or occupant.

The attorney for the director when ordered by the director, or county attorney in the county in which such nuisance exists, or is kept or maintained, may maintain an action by injunction, in the name of the state of Kansas, to abate and

temporarily or permanently to enjoin such nuisance. The court shall have the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action.

Upon final judgment against the defendant, such court shall allow the attorneys for the state of Kansas a reasonable fee for prosecuting the action which shall be taxed as costs and shall also order that such room, house, building, structure, boat or place of any kind shall be closed and padlocked for a period of not less than three (3) months nor more than two (2) years, and until the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be approved by the court making the order, in the penal sum of not less than one thousand dollars ($1,000), payable to the state of Kansas, and conditioned that no alcoholic liquor will for a period of two years thereafter be manufactured, possessed, sold, bartered or given away or furnished or otherwise disposed of thereon or therein, or kept thereon or therein with intent to sell, barter, give away, or otherwise dispose of the same, contrary to this act, and that he and his surety will pay all fines and costs assessed against him for any violation of this act.

If any condition of such bond be violated, the whole amount may be recovered as a penalty for the use of the state of Kansas; and, in such suit on the bond, both principal and surety may be joined as party defendants, and satisfaction may be had from either of them. In such action a notice to nonresident defendants may be given by publication as authorized by law under the code of civil procedure, or upon their agents for service in this state, if any.

KSA 41-901 — Violations of act by persons required to be licensed; penalties; revocation of license; forfeiture and sale of liquor

Violations of act by persons required to be licensed; penalties; revocation of license; forfeiture and sale of liquor.

(a) No person shall manufacture, import for distribution as a distributor at wholesale or distribute or sell alcoholic liquor or cereal malt beverage at any place within the state without having first obtained a valid license therefor under the provisions of this act or under K.S.A.

41-2702

, and amendments thereto. No person shall obtain a license to carry on the business authorized by the license as agent for another, obtain a license by fraud or make any false statement or otherwise violate any of the provisions of this act in obtaining any license hereunder. No person having obtained a license hereunder shall violate any of the provisions of this act with respect to the manufacture, possession, distribution or sale of alcoholic liquor or cereal malt beverage; or with respect to the maintenance of the licensed premises.

(b) Violation of subsection (a) shall be punishable as follows, except where other penalties are specifically provided by law:

(1) For a first offense, by a fine of not more than $500; and

(2) for a second or subsequent offense, by a fine of not more than $1,000 or by imprisonment for not more than six months, or both.

(c) Each day any person engages in business as a manufacturer, distributor, microbrewery, microdistillery, farm winery or retailer in violation of the provisions of this act shall constitute a separate offense.

(d) Any license obtained to carry on the business as agent for another or any license obtained by fraud or by false statements shall be revoked by the director. When a license has been revoked for obtaining a license to carry on the business authorized by the license as agent for another, or obtained a license by fraud or by any false statement, all alcoholic liquor in the possession of the person who procured the license shall be forfeited and sold and the proceeds of the sale shall be paid to the county treasurer of the county where the alcoholic liquor was located. During the pendency of any appeal from any order revoking a license, the director may obtain an order from the district court of the county where the alcoholic liquor is located, restraining the sale or disposal of the alcoholic liquor. When an order revoking any license is issued by the director, the director shall forthwith forward by registered mail a certified copy of the order revoking the license under the seal of the director to the county attorney of the county where the alcoholic liquor is located.

Within 15 days after the order of revocation becomes final, the county attorney shall institute, against the person who procured the license, a civil action under the code of civil procedure in the district court of the county in the name of the state of Kansas on the relation of the county attorney to forfeit all alcoholic liquor. Summons shall be served as provided by the code of civil procedure upon the person who procured the license. Upon the return day of the summons issued or as soon after as convenient to the court, an order shall be entered by the court forfeiting the alcoholic liquor to the state of Kansas and ordering it to be sold by the sheriff of the county in which the forfeiture occurred. The order shall fix the time

and place of sale and the method and manner in which the sale shall be held, together with notice of the sale as the court directs. After payment of all costs of the action, including a reasonable fee for the county attorney, the balance remaining shall be paid to the state treasurer pursuant to K.S.A.

20-2801

, and amendments thereto.

KSA 41-902 — General penalty

General penalty.

Any person who shall violate any provision of this act for which a penalty is not otherwise specifically provided shall upon conviction of any such violation be fined not to exceed five hundred dollars ($500) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment.

KSA 41-903 — Knowingly permitting licensee to unlawfully use premises deemed violation of act

Knowingly permitting licensee to unlawfully use premises deemed violation of act.

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, shall knowingly permit the licensee to use such licensed premises in violation of the terms of this act, such owner, agent or other person shall be deemed guilty of a violation of this act to the same extent as such licensee and be subject to the same punishment.

KSA 41-904 — Violation by agent or employee of licensee; deemed act of licensee, when

Violation by agent or employee of licensee; deemed act of licensee, when.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this act, by any officer, director, manager or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge or approval of the licensee, shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him personally.

KSA 41-905 — False branding; forfeiture; penalty

False branding; forfeiture; penalty.

Any person who shall knowingly possess, sell, ship, transport or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of such alcoholic liquor or who shall cause any such act to be done, shall forfeit to the state such alcoholic liquor and such packages and containers, and shall be subject to the punishment and penalties provided for violation of this act.

KSA 41-1001 — Violations; sufficiency of complaint, indictment or information; sufficiency of proof

Violations; sufficiency of complaint, indictment or information; sufficiency of proof.

In any indictment, information or complaint, charging the violation of any of the provisions of this act, it shall be sufficient to charge that the accused unlawfully manufactured, sold, offered for sale, kept for sale, delivered or otherwise unlawfully disposed of alcoholic liquor without any further or more specific description of such liquor; and proof of any kind of alcoholic liquor unlawfully manufactured, sold, offered for sale, kept for sale, delivered, or otherwise unlawfully disposed of, as the case may be, shall be sufficient proof as to the character or kind of alcoholic liquor.

KSA 41-1002 — Complaint, indictment or information; allegations as to quantity and kind; second offense; proof

Complaint, indictment or information; allegations as to quantity and kind; second offense; proof.

In any indictment, information, or complaint charging the violation of any of the provisions of this act, it shall not be necessary to allege the quantity of such alcoholic liquor or the kind thereof further than to allege that the same was alcoholic liquor and, in case of sale, keeping for sale or delivery, it shall not be necessary to set out the name of the person to whom sale or delivery has been made; and, in any prosecution for a second offense, it shall not be necessary to state in the indictment, complaint or information the record of the former conviction, but it shall be sufficient briefly to allege such conviction. Proof of sale, delivery or unlawful disposition of alcoholic liquors to any person, not authorized by

this act to purchase or receive the same, shall be sufficient to sustain the allegation of unlawful sale, delivery or disposition, as the case may be.

KSA 41-1003 — Same; separate offenses may be joined; allegation as to place and time; exceptions need not be negatived

Same; separate offenses may be joined; allegation as to place and time; exceptions need not be negatived.

In any indictment, information, or complaint, against any one or more individuals charging the violation of any of the provisions of this act, separate offenses hereunder may be joined in the same indictment, information, or complaint; and the accused may be prosecuted and convicted upon all or any of such counts so joined the same as upon separate indictments, informations or complaints; and judgment may be rendered on each count upon which there is a conviction. In any indictment, information or complaint for any violation of this act, it shall not be necessary to describe the place where the offense was committed, except to allege that it was committed in the county wherein the prosecution was had, unless the particular place where the violation occurred constitutes one of the specific ingredients of the offense; nor shall it be necessary to negative any of the exceptions contained in this act, nor shall it be necessary to state the day or the hour when the offense was committed unless the day or hour constitutes a special element or ingredient of the offense.

KSA 41-1004 — Possession of special tax stamp of federal government, effect; evidence

Possession of special tax stamp of federal government, effect; evidence.

The possession of a special tax stamp from the government of the United States authorizing the sale or manufacture of alcoholic liquor as defined in this act by a person not licensed under this act, shall be prima facie evidence that the person so holding said special tax stamp is manufacturing or selling in violation of this act. A certified copy of such special tax stamp verified by the proper authority shall be admitted in evidence in all respects as the original special tax stamp might be received.

KSA 41-1101 — Discrimination in sales, services or prices unlawful; filing of statement; exceptions; multiple case discounts prohibited

Discrimination in sales, services or prices unlawful; filing of statement; exceptions; multiple case discounts prohibited.

(a) No distributor licensed under this act shall purchase any alcoholic liquor from any manufacturer, owner of alcoholic liquor at the time it becomes a marketable product, exclusive agent of such manufacturer or owner, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country either within or without this state, unless the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor files with the director a written statement sworn to by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor or, in case of a corporation, one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor manufactured or distributed by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor to any distributor licensed in this state and having a franchise to distribute the alcoholic liquor pursuant to K.S.A.

41-410

, and amendments thereto, and to make such sales to all such licensed distributors in this state at the same current price and without discrimination. Each manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery shall provide to each distributor written notice not less than 45 days before any change in the current price of any spirits or wine that such manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery sells to such distributor. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor making the agreement violates the agreement by refusing to sell such alcoholic liquor to any such franchised licensed distributor in this state or discriminates in current prices among such franchised licensed distributors making or attempting to make purchases of alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, the director shall notify, by registered mail, each such franchised licensed distributor in this state of the violation. Thereupon, it shall be unlawful for a franchised licensed distributor in this state to purchase any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor. If thereafter such a franchised licensed distributor purchases any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, such franchised distributor's license shall be revoked by the director. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country, making any agreement hereunder, does not have a sufficient supply of alcoholic liquor

of any of the brands or kinds that the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor manufactures or distributes to supply the demands of all licensed distributors having a franchise to distribute such alcoholic liquor, the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor may ration such alcoholic liquor and apportion the available supply among such franchised licensed distributors purchasing or attempting to purchase it, in accordance with a plan that shall be subject to the approval of the director.

(b) No retailer licensed under this act shall purchase any alcoholic liquor from any distributor or microbrewery licensed under this act unless the distributor or microbrewery files with the director a written statement sworn to by the distributor or microbrewery, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor distributed by the distributor or microbrewery and to provide service in connection therewith to any licensed retailer whose licensed premises are located within the geographic territory of the distributor's franchise for the alcoholic liquor or the microbrewery's geographic territory, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current bottle, sleeve and case price and without discrimination. For purposes of this subsection the "same current bottle, sleeve and case price" for spirits and wine means a price effective for a specified period as designated by the distributor or microbrewery on or before the first day of each month. If any distributor or microbrewery making the agreement violates the agreement by refusing to sell or provide service to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of alcoholic liquor from the distributor or microbrewery, the director may revoke the license of the distributor or microbrewery. If any licensed distributor or microbrewery making any agreement hereunder does not have a sufficient supply of alcoholic liquor of any of the brands or kinds that the distributor or microbrewery distributes to supply the demands of all such licensed retailers, the distributor or microbrewery may ration such alcoholic liquor and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan that shall be subject to the approval of the director.

(c) No club or drinking establishment licensed in this state shall purchase any wine or beer from any distributor or microbrewery licensed under this act unless the distributor or microbrewery files with the director a written statement sworn to by the distributor or microbrewery, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of wine or beer distributed by the distributor or microbrewery to those clubs and drinking establishments to which the distributor or microbrewery is authorized to sell such wine or beer and to which the distributor or microbrewery desires to sell such wine or beer, unless written approval to do otherwise is obtained from the director and to make such sales to all such licensed clubs or drinking establishments at the same current bottle and case price and without discrimination. If any distributor or microbrewery making the agreement violates the agreement by refusing to sell to any such licensed club or drinking establishment in this state without written approval of the director or discriminates in current prices among such licensed clubs or drinking establishments making or attempting to make purchases of wine or beer from the distributor or microbrewery, the director may revoke the license of the distributor or microbrewery. If any licensed distributor or microbrewery making any agreement hereunder does not have a sufficient supply of wine or beer of any of the brands or kinds that the distributor or microbrewery distributes to supply the demands of all such licensed clubs or drinking establishments, the distributor or microbrewery may ration such wine or beer and apportion the available supply among such licensed clubs or drinking establishments purchasing or attempting to purchase the same, in accordance with a plan that shall be subject to the approval of the director.

For the purposes of this subsection, a delivery charge shall not be considered a part of the price of wine or beer sold by a distributor or microbrewery.

(d) No retailer licensed under K.S.A.

41-2701

et seq., and amendments thereto, shall purchase any cereal malt beverage from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of cereal malt beverage distributed by the distributor to those retailers to which the distributor is authorized to sell such cereal malt beverage, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current price and without discrimination. If any distributor making the agreement violates the agreement by refusing to sell to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of cereal malt beverage from the distributor, the director

may revoke the license of the distributor. If any licensed distributor making any agreement hereunder does not have a sufficient supply of cereal malt beverage of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such cereal malt beverage and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(e) No distributor or microbrewery shall sell alcoholic liquor or cereal malt beverage to a retailer licensed under the Kansas liquor control act, to a club, drinking establishment or caterer licensed under the club and drinking establishment act or to a retailer licensed under K.S.A.

41-2702

, and amendments thereto, at a discount for multiple case lots.

KSA 41-1101a — Discrimination in sales; minimum orders; cereal malt beverage and beer license, same rules as retailers

Discrimination in sales; minimum orders; cereal malt beverage and beer license, same rules as retailers.

(a) Notwithstanding the provisions of K.S.A.

41-1101

, and amendments thereto, or the provisions of the Kansas cereal malt beverage act, a distributor may establish reasonable minimum order quantities or minimum dollar value of an order, or both, for beer and cereal malt beverages distributed by the distributor to a retailer.

(b) The provisions of K.S.A.

41-1101

(b), and amendments thereto, shall apply to a person licensed pursuant to K.S.A.

41-2702

, and amendments thereto, to sell cereal malt beverage and beer containing not more than 6% alcohol by volume to the same extent it applies to a retailer licensed pursuant to the Kansas liquor control act, and the provisions of K.S.A.

41-1101

(d), and amendments thereto, shall apply to a retailer licensed pursuant to the Kansas liquor control act to the same extent it applies to a retailer licensed pursuant to K.S.A.

41-2702

, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas liquor control act.

(d) The provisions of this section shall be effective on and after April 1, 2019.

KSA 41-1102 — Disposal or sale of liquor of licensee terminating business

Disposal or sale of liquor of licensee terminating business.

Any licensee who shall quit business or shall have the license suspended or revoked may sell and dispose of any alcoholic liquor which the licensee has possession of at the time of quitting business or of the suspension or revocation of the license in accordance with rules and regulations adopted by the secretary of revenue.

KSA 41-1105 — Invalidity of part

Invalidity of part.

If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

KSA 41-1107 — Duty of county attorney; penalty for neglect; duty of attorney general

Duty of county attorney; penalty for neglect; duty of attorney general.

It shall be the duty of the county attorneys of the several counties to diligently prosecute any and all persons violating any of the provisions of this act in their respective counties, and to bring suit upon all bonds or recognizances forfeited immediately after the happening of such forfeiture, to recover the penalty, and to pay all money so collected to the county treasurer of his county. If any county attorney shall fail, neglect, or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be imprisoned in the county jail not less than ten (10) days nor more than ninety (90) days; and such conviction shall operate as a forfeiture of his office, and the court before whom such conviction may be had shall order and adjudge such forfeiture of office in addition to the fine or imprisonment imposed as herein provided.

Whenever the county attorney shall be unable or shall neglect or refuse to enforce the provisions of this act in his county, or for any reason whatever the provisions of this act shall not be enforced in any county, it shall be the duty of the attorney general to enforce the same in such county, and for that purpose he may appoint as many assistants as he shall see fit, and he and his assistants shall be authorized to sign, verify and file all such complaints, informations, petitions and papers as the county attorney is authorized to sign, verify or file, and to do and perform any act that the county attorney might lawfully do or perform.

KSA 41-1111 — Regulation of retail mark-ups; legislative findings

Regulation of retail mark-ups; legislative findings.

In the public interest and in order to promote the orderly sale and distribution of alcoholic liquor, to foster temperance and to promote the public welfare, the legislature finds: (a) That sales prices of alcoholic liquor sold by manufacturers and others to distributors licensed in this state should be no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States; and (b) that minimum mark-ups on alcoholic liquor sold by retailers licensed in this state should be determined and regulated by law.

KSA 41-1112 — Same; prices filed by manufacturers and others to be as low as in any other state; determination

Same; prices filed by manufacturers and others to be as low as in any other state; determination.

The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of K.S.A.

41-1101

, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: Provided, That in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor.

KSA 41-1114 — Same; minimum retail mark-ups

Same; minimum retail mark-ups.

The board shall establish minimum mark-ups which shall be charged by retailers on sales of alcoholic liquor to consumers.

KSA 41-1115 — Same; minimum mark-ups on cases, bottles, mixed cases

Same; minimum mark-ups on cases, bottles, mixed cases.

The board, in exercising its powers and duties under the provisions of this act, shall establish the minimum mark-up by retailers on sales of cases, bottles and mixed cases to consumers.

KSA 41-1116 — Same; establishment of minimum mark-ups; guidelines; samplings, studies

Same; establishment of minimum mark-ups; guidelines; samplings, studies.

The minimum mark-ups established by the board shall be fair and reasonable to licensed retailers and the ultimate consumer. Such mark-ups must be in the public interest and such that they do not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of alcoholic liquor. The board in

establishing minimum mark-ups shall take into consideration and be guided by the following: (a) The mean of acquisition costs of licensed retailers; (b) federal, state and local taxes and license fees which are paid by retailers and are levied or imposed in connection with their business of selling alcoholic liquor in this state; (c) the mean of selling costs of licensed retailers; (d) the mean of any legitimate, reasonable expense not hereinbefore specified, incurred in the legal conduct of licensed retailers' businesses; and (e) a reasonable profit for licensed retailers. The board may base its determination of the mean of retailers' acquisition costs, selling costs and operating expenses on a sampling of retailers generally representative of all retailers in the state. To insure that retailers in this state receive only a reasonable mark-up and profit, the alcoholic beverage control board of review, within six (6) months after the effective date of this act, shall conduct and complete studies to determine whether the present minimum mark-ups prescribed for licensed retailers should be maintained as currently established, increased or decreased. Until such studies are completed, the minimum mark-ups in effect immediately prior to the effective date of this act shall remain in effect.

KSA 41-1117 — Same; filing, publication and distribution of minimum mark-ups; effective date; less than minimum mark-up, when permitted

Same; filing, publication and distribution of minimum mark-ups; effective date; less than minimum mark-up, when permitted.

(1) Whenever the board shall establish minimum retailer mark-ups, it shall immediately file a copy thereof with the director. The director, at least once in each quarter of each year, shall publish such minimum mark-ups and shall promptly mail a copy to each licensed distributor and retailer authorized to do business in this state. Minimum mark-ups shall become effective at twelve (12) o'clock midnight on the last day of the first calendar month commencing after the seventh (7

th

) day following the day such mark-ups are mailed to licensed retailers.

(2) No retailer shall sell, directly or indirectly, any alcoholic liquor at less than its current posted bottle cost plus minimum mark-up without first having obtained from the director a permit so to do; and the director is authorized to issue such a permit in the following cases:

(a) where the retailer is actually closing out his or her stock for the purpose of completely discontinuing sale of such item of alcoholic liquor for a period of not less than twelve (12) months;

(b) where the item of alcoholic liquor is damaged or deteriorated in quality and notice is given to the public thereof; or

(c) where the sale of the item of alcoholic liquor is by an officer acting under the order of any court.

KSA 41-1118 — Regulation of retail mark-ups; rules and regulations; information required of licensees

Regulation of retail mark-ups; rules and regulations; information required of licensees.

The secretary of revenue may adopt, in accordance with K.S.A.

41-210

, and amendments thereto, such rules and regulations as may be necessary to carry out the intent and purposes of this act and may require manufacturers, distributors and retailers to furnish any necessary information for use in determining fair and reasonable sales prices of alcoholic liquors in carrying out the intent, purposes and provisions of this act.

KSA 41-1119 — Same; rules and regulations

Same; rules and regulations.

The secretary of revenue may adopt, in accordance with K.S.A.

41-210

, and amendments thereto, such rules and regulations as necessary for the administration and enforcement of the sales prices determined and fixed under the provisions of this act.

KSA 41-1120 — Same; act supplemental to liquor control act

Same; act supplemental to liquor control act.

This act is and shall be construed as supplementary to and part of the Kansas liquor control act, and shall not be construed as repealing any law not specifically repealed by this act.

KSA 41-1121 — Same; penalties for violations

Same; penalties for violations.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

KSA 41-1122 — Sale of certain liquor by director authorized

Sale of certain liquor by director authorized.

The director of alcoholic beverage control is authorized to sell at public or private sale alcoholic liquor in his custody heretofore or hereafter purchased or confiscated by his agents or other peace officers of the state for use as evidence in any investigation, proceeding or trial when such liquor is no longer required for such investigation, trial or proceeding.

KSA 41-1123 — Same; sales or destruction of certain liquors by director

Same; sales or destruction of certain liquors by director.

All alcoholic liquor in the custody of the director through seizure by agents of alcoholic beverage control or other peace officers of the state under authority of a duly executed search warrant shall be held until final determination of any prosecution arising under such search and seizure. Upon the final determination of such prosecution and if such alcoholic liquor is fit for human consumption the director may make application to the court in which such alcoholic liquor was offered as evidence for an order to sell such liquor. The court, if satisfied that such liquor so seized was being manufactured, distributed, stored, sold or used in violation of law, shall make an order that such property be sold by the director at public or private sale.

All alcoholic liquor which is unfit for human consumption may be summarily destroyed by the director.

KSA 41-1124 — Same; disposition of proceeds of sales

Same; disposition of proceeds of sales.

The proceeds of all such sales by the director shall be deposited in the state general fund.

KSA 41-1125 — Alcoholic liquors subject to levy of execution; sale by sheriff, when; disposition of proceeds

Alcoholic liquors subject to levy of execution; sale by sheriff, when; disposition of proceeds.

(a) The sheriff of any county who has in his possession alcoholic liquors on which he has levied execution for a judgment creditor may sell such alcoholic liquors when an order of the court is entered directing such sale. Such order shall be directed to the sheriff of the county in which execution is levied and shall fix the time and place of sale, method and manner in which the sale shall be held, together with such notice as the court shall direct. After payment of all costs of such action, the balance shall be paid to the judgment creditor, except, if the amount exceeds the amount of the judgment, then any excess of the judgment amount shall be returned to defendant debtor.

(b) If a creditor has become lawfully entitled to alcoholic liquors that were pledged as collateral for a loan, notwithstanding provisions of the Kansas liquor control act to the contrary, the creditor may request permission from the director to take possession of such alcoholic liquors and conduct a sale to a licensee possessing a valid license issued pursuant to the Kansas liquor control act or to a licensee possessing a valid license issued pursuant to the club and drinking establishment act, to satisfy any debt owed to the creditor. No such possession or sale shall occur without prior written authorization from the director. The director may require a detailed inventory or other information deemed necessary to ensure the safe storage, handling and transfer of such alcoholic liquor. The proceeds from any sale executed pursuant to this section shall go to the creditor in satisfaction of any debt owed, with any remaining proceeds to be returned to the debtor.

(c) This act shall not apply in any case in which the court has ordered and directed confiscation of liquors as part of a judgment or conviction.

KSA 41-1126 — Other state fees fund; use and expenditure of moneys in fund; community alcoholism and intoxication programs fund

Other state fees fund; use and expenditure of moneys in fund; community alcoholism and intoxication programs fund.

(a) In addition to other purposes for which expenditures may be made from the other state fees fund of the Kansas department for aging and disability services, moneys in the other state fees fund of the Kansas department for aging and disability services shall be used by the secretary for aging and disability services to provide financial assistance to community-based alcoholism and intoxication treatment programs for the following purposes:

(1) Matching money under title XX of the federal social security act to purchase treatment services from approved treatment facilities;

(2) providing start-up or expansion grants for halfway houses or rehabilitation centers for alcoholics;

(3) purchasing services from approved treatment facilities for persons who are needy but who are not eligible for assistance under either title XIX or title XX of the federal social security act, and administrative costs of the alcohol and drug abuse section which shall not exceed 10% of the total moneys in the community alcoholism and intoxication programs fund; and

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

(b) No state alcohol treatment program at Osawatomie state hospital, Larned state hospital or south central regional mental health hospital shall receive any moneys under the provisions of subsection (a) of this section.

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

(d) On or before the 10

th

day of each month, the director of accounts and reports shall transfer from the state general fund to the community alcoholism and intoxication programs fund interest earnings based on:

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

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

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

KSA 41-1127 — Sections part of liquor control act

Sections part of liquor control act.

K.S.A.

41-307a

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41-308b

,

41-331

through

41-341

,

41-728

and

41-729

shall be part of and supplemental to the Kansas liquor control act.

KSA 41-1201 — Temporary permits to sell and serve alcoholic liquor and cereal malt beverage; temporary permit fee cap; application requirements; issuance; employment restrictions

Temporary permits to sell and serve alcoholic liquor and cereal malt beverage; temporary permit fee cap; application requirements; issuance; employment restrictions.

(a) A temporary permit shall:

(1) Allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit;

(2) authorize the permit holder to sell, in accordance with rules and regulations adopted by the secretary, alcoholic liquor at a charitable auction, or one or more limited issue porcelain containers containing alcoholic liquor; and

(3) allow the permit holder to offer for sale, sell and serve alcoholic liquor that is beer or hard cider manufactured by a microbrewery licensee and purchased by the temporary permit holder from such microbrewery licensee as provided by K.S.A.

41-308b

, and amendments thereto, for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit.

(b) A temporary permit holder may charge a fee for entrance into the premises described in the permit, or any portion thereof.

(c) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(d) (1) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought, unless the director waives such requirement for good cause. The application shall be upon a form prescribed by the director. Each application shall be electronically submitted and accompanied by a non-refundable permit fee of $25 for each day for which the permit is issued, and such fee shall be paid by a check or credit card in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(2) No city, county or township shall charge more than a $25 non-refundable fee for each day for which the permit is issued.

(e) Each application for a temporary permit shall specify the premises for which such permit is issued, including a diagram of the premises covered by the temporary permit. The diagram shall clearly show the boundaries of the premises, entrances to and exits from the premises and the area in which the service of alcoholic liquor would take place. A temporary permit shall be issued only for premises where the city, county or township zoning code allows the use for which the permit is issued. No temporary permit shall be issued for premises that are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or

(B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A.

41-2646

, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A.

41-2646

, and amendments thereto.

(f) (1) (A) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for an event if: (i) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such event; (ii) a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body; and (iii) the event has been approved by the governing body of such city, county or township by ordinance or resolution.

(B) The boundaries of any such event shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of an event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the event, for the duration of the temporary permit issued for such event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of an event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) Each temporary permit holder selling alcoholic liquor for consumption on the permit premises shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor that occur in areas covered by multiple temporary permits.

(g) (1) A temporary permit may be issued for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds during the days of the Kansas state fair, or as authorized by the Kansas state fair board, if the Kansas state fair board has authorized such consumption and possession of such wine, beer or other alcoholic liquor. Each application for such temporary permit shall specify the premises within the fairgrounds for which the permit is issued, including a diagram of the premises covered by the temporary permit. Such diagram shall match the entirety of the premises as leased from the Kansas state fair board. The boundaries of the Kansas state fairgrounds shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which wine, beer or other alcoholic liquor, may be possessed or consumed at the state fair.

(2) Each temporary permit holder selling wine, beer or other alcoholic liquor for consumption on the premises of the Kansas state fairgrounds that is covered by such temporary permit shall be liable for all violations of laws governing the sale and consumption of such alcoholic liquor that occur on such temporary premises.

(3) Any temporary permit holder who has received a temporary permit for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds may allow such wine, beer or other alcoholic liquor to be removed from the temporary permit premises and onto the Kansas state fairgrounds.

(h) (1) Except as otherwise provided in this subsection, a temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. An applicant may not be issued more than four temporary permits in a calendar year.

(2) The director may issue a sufficient number of temporary permits as required by the state fair board, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of wine, beer or other alcoholic liquor on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose subject to the conditions imposed by the state fair board. Nothing in this paragraph shall be construed to limit the number of temporary permits the director may issue for the sale of wine, beer or other alcoholic liquor on the state fairgrounds consistent with the requirements of the state fair board.

(3) For an event approved by the governing body of a city, county or township pursuant to subsection (e)(1), the director may issue a temporary permit, which may, at the director's discretion, be valid for the entire period of such event, but in no event shall such permit be issued for a period of time that exceeds 30 consecutive days.

(i) An application for a temporary permit may be rejected by the director if:

(1) The applicant has been granted 12 permits in the current calendar year;

(2) the application was not filed with the director at least 14 days prior to the event;

(3) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any entity holding a temporary permit, club, drinking establishment or caterer's license, had such permit or license surrendered, and at the time such permit or license was surrendered had been ordered to appear

and show cause why the permit or license should not be revoked or suspended;

(4) the applicant has designated an area for an event that was the subject of the order to appear and show cause as set forth in paragraph (3), and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former permit or license holder;

(5) the applicant has had a license or permit revoked under the club and drinking establishment act, or has been convicted of a violation of the Kansas liquor control act, the club and drinking establishment act, the Kansas cereal malt beverage act or the provisions of K.S.A.

79-41a01

et seq., and amendments thereto; or

(6) the applicant has not remitted all liquor drink taxes due from a previous temporary permit.

(j) (1) A temporary permit holder may purchase and possess alcoholic liquor for resale for a period of three days prior to the first day of sale of such alcoholic liquor. A distributor may, without any further permission from the director, deliver such alcoholic liquor to the permit premises.

(2) If a licensee has sold alcoholic liquor to a temporary permit holder, and a distributor directly delivers such alcoholic liquor to such temporary permit holder, but such licensee's normal hours of operation make immediate payment to the distributor impossible, the licensee may pay the retailer and the retailer may pay the distributor for such alcoholic liquor within 48 hours of the sale.

(3) Within three business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the retailer, farm winery or microbrewery from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(4) Upon written permission from the director and after four business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the licensee from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(k) A temporary permit shall not be transferable or assignable.

(l) Each temporary permit holder shall not employ or use the services of any person:

(1) Who is under 18 years of age to serve alcoholic liquor;

(2) who is under 21 years of age to mix or dispense drinks containing alcoholic liquor;

(3) who is under 21 years of age and not supervised by the temporary permit holder or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor; or

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of this state, any other state or the United States, to dispense, mix or serve alcoholic liquor.

KSA 41-1202 — Temporary permit holders; acquisition of alcoholic liquor and cereal malt beverage; conduct within boundary of permitted premises

Temporary permit holders; acquisition of alcoholic liquor and cereal malt beverage; conduct within boundary of permitted premises.

(a) A temporary permit holder shall only purchase alcoholic liquor or cereal malt beverage from a retailer, a farm winery or a microbrewery, as provided by K.S.A.

41-308b

, and amendments thereto, and may receive delivery of such alcoholic liquor or cereal malt beverage from a distributor.

(b) Temporary permit holders shall only purchase alcoholic liquor or cereal malt beverage from a retailer who possesses a federal wholesaler's basic permit and has a sign on display at the licensed premises that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." All alcoholic liquor or cereal malt beverage purchased on any one day shall be removed from the licensed premises of the retailer, farm winery or microbrewery within 48 hours. Temporary permit holders shall not warehouse any alcoholic liquor or cereal malt beverage on the licensed premises of any retailer, farm winery or microbrewery for more than 48 hours.

(c) Each temporary permit holder, when purchasing alcoholic liquor or cereal malt beverage from a retailer, farm winery or microbrewery, shall obtain and keep for at least one year from the date of purchase a sales receipt that contains the following information:

(1) The date of purchase;

(2) the name and address of the retailer, farm winery or microbrewery;

(3) the name and address of the temporary permit holder as it appears on the temporary permit;

(4) the brand, size, proof and amount of all alcoholic liquor or cereal malt beverage purchased; and

(5) the subtotal of the cost of all alcoholic liquor or cereal malt beverage purchased, and the total cost of such purchase, including enforcement tax.

(d) Each temporary permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permit premises:

(1) An employee of the temporary permit holder, or of any person contracting with the temporary permit holder to provide services or food in connection with an event; or

(2) any individual dispensing, mixing or serving alcoholic liquor or cereal malt beverage at an event.

(e) Except for a temporary permit holder who has obtained such permit for the sale of alcoholic liquor at a charitable auction or for the sale of one or more limited issue porcelain containers containing alcoholic liquor, no temporary permit holder shall sell alcoholic liquor or cereal malt beverage for removal from or consumption off the licensed premises, except that alcoholic liquor or cereal malt beverage may be removed to a drinking establishment that has extended its premises into the event area in accordance with K.S.A.

41-2608

, and amendments thereto.

(f) The boundary of any premises covered by a temporary permit shall be marked by a line of demarcation.

KSA 41-1203 — Dispensing alcoholic liquor and cereal malt beverage; carrying alcoholic liquor and cereal malt beverage onto permitted premises

Dispensing alcoholic liquor and cereal malt beverage; carrying alcoholic liquor and cereal malt beverage onto permitted premises.

(a) All alcoholic liquor or cereal malt beverage sold at an event covered by a temporary permit shall be dispensed only from original containers.

(b) An individual may carry an original container of alcoholic liquor or cereal malt beverage onto the event premises with the approval of the temporary permit holder and under the following conditions:

(1) The temporary permit holder shall not store any such containers of alcoholic liquor or cereal malt beverage on the event premises; and

(2) each individual carrying any such container onto the event premises shall remove such container when the individual exits the event premises.

KSA 41-1204 — Providing samples of alcoholic liquor and cereal malt beverage

Providing samples of alcoholic liquor and cereal malt beverage.

Notwithstanding any other provisions of the Kansas liquor control act or the club and drinking establishment act to the contrary, any person or entity who is issued a temporary permit may provide samples of wine, beer, cereal malt beverage and distilled spirits on the permit premises as follows:

(a) All wine, beer, cereal malt beverage and distilled spirits sampled shall come from the inventory of the temporary permit holder. Except as provided by subsection (b), a person other than the temporary permit holder, or such permit holder's agent or employee, may not dispense or participate in the dispensing of alcoholic liquor or cereal malt beverage under this section.

(b) A supplier's permit holder, or such permit holder's agent or employee, may provide samples of wine, beer, cereal malt beverage and distilled spirits on the permit premises, and may open, touch or pour such alcoholic liquor or cereal malt beverage, make a presentation, or answer questions at such sampling events. Any alcoholic liquor or cereal malt

beverage sampled under this subsection must be purchased from a retailer or the temporary permit holder on whose premises the sampling event is held.

(c) No charge of any sort may be made for a sample serving.

(d) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the permit premises.

(e) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

KSA 41-1205 — Beer and cereal malt beverage keg registration act not applicable

Beer and cereal malt beverage keg registration act not applicable.

The provisions of beer and cereal malt beverage keg registration act, K.S.A.

41-2901

through

41-2906

, and amendments thereto, shall not apply to retail sales of alcoholic liquor to temporary permit holders.

KSA 41-1206 — Application of enforcement laws; rules and regulations; definitions

Application of enforcement laws; rules and regulations; definitions.

(a) The provisions of K.S.A.

41-1201

through

41-1205

, and amendments thereto, shall be subject to the enforcement provisions of the Kansas liquor control act and the club and drinking establishment act and the rules and regulations adopted under such acts.

(b) The secretary of revenue may adopt rules and regulations for the administration and enforcement of K.S.A.

41-1201

through

41-1205

, and amendments thereto.

(c) Those terms used in K.S.A.

41-1201

through

41-1205

, and amendments thereto, that are defined in K.S.A.

41-102

or

41-2601

, and amendments thereto, shall have the same meaning as such terms are defined in K.S.A.

41-102

or

41-2601

, and amendments thereto, as the case may be.

KSA 41-2601 — Definitions

Definitions.

As used in the club and drinking establishment act:

(a) The following terms mean the same as provided by K.S.A.

41-102

, and amendments thereto:

(1) "Alcoholic liquor";

(2) "director";

(3) "original package";

(4) "person";

(5) "sale"; and

(6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation that sells alcoholic liquor or cereal malt beverage by the individual drink, and provides services related to the serving thereof, on unlicensed premises that may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor or cereal malt beverage in accordance with the terms of such permit.

(d) "Cereal malt beverage" means the same as provided by K.S.A.

41-2701

, and amendments thereto.

(e) "Class A club" means a premises that is owned or leased by a corporation, partnership, business trust or association and that is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates, hereinafter referred to as members, and their families and guests accompanying them, as provided in K.S.A.

41-2637

, and amendments thereto.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises that may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold. The term "Drinking establishment" includes a railway car.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Food service establishment" means the same as provided by K.S.A.

36-501

, and amendments thereto.

(k) "Hotel" means the same as provided by K.S.A.

36-501

, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than:

(1) Eight ounces of wine;

(2) thirty-two ounces of beer or cereal malt beverage; or

(3) four ounces of a single spirit or a combination of spirits.

(m) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device that requires the use of a key, magnetic card or similar device.

(n) "Minor" means a person under 21 years of age.

(o) "Morals charge" means a charge involving the sale of sexual relations; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

(1) Not fewer than 4,000 permanent seats; and

(2) not fewer than two private suites that are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month period.

(s) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment that, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A.

41-2642

, and amendments thereto, a licensed food service establishment that, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A.

41-2642

, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A.

75-1212

, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Sample" means a serving of alcoholic liquor or cereal malt beverage that contains not more than:

(1) One-half ounce of distilled spirits;

(2) one ounce of wine; or

(3) two ounces of beer or cereal malt beverage.

A sample of a mixed alcoholic beverage shall contain not more than Â½ ounce of distilled spirits.

(v) "Secretary" means the secretary of revenue.

(w) "Temporary permit" means a temporary permit issued pursuant to K.S.A.

41-1201

, and amendments thereto.

KSA 41-2604 — Allowing consumption of alcoholic liquor or cereal malt beverage in violation of act; penalties

Allowing consumption of alcoholic liquor or cereal malt beverage in violation of act; penalties.

(a) Any person allowing consumption of alcoholic liquor or cereal malt beverage in violation of this act on any property owned, leased or otherwise under such person's control shall thereby subject such person and the property on which

such illegal consumption takes place to the penalties provided in this section.

(b) The person allowing such consumption shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed $500 or confinement in the county jail not to exceed six months, or both such fine and imprisonment.

(c) The property on which the violation takes place is declared to be a public nuisance, and as such is subject to abatement as provided for any other liquor nuisance in K.S.A.

41-805

, and amendments thereto.

KSA 41-2605 — Licenses; to whom issued

Licenses; to whom issued.

The director shall issue a license to each applicant for licensure which qualifies under this act. Such license shall be issued in the name of the corporation, municipal corporation, partners, trustees, association officers or individual applying.

KSA 41-2606 — Same; application; fees

Same; application; fees.

(a) Applications for all licenses under this act shall be completed and submitted to the director in a manner prescribed by the director. Each applicant shall submit an application fee of $30 for each initial application and $10 for each renewal application to defray the cost of processing such application.

(b) Each application for licensure as a club shall be accompanied by a copy of the current bylaws and rules of the club and a current list of the officers of the club.

(c) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(d) If the applicant elects to pay only one-half of the license fee pursuant to subsection (c)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this subsection on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this subsection for not more than 30 days beyond the date such payment is originally due.

(e) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(f) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(g) All fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

KSA 41-2607 — Club licenses; term; refund of fees, when

Club licenses; term; refund of fees, when.

(a) The license provided herein shall be issued for a term of two years, renewable on expiration. When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary shall adopt, in accordance with K.S.A.

41-210

, and amendments thereto, rules and regulations providing for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

(b) The director, may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond such date the license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A.

41-2622

, and amendments thereto, by the same number of days the director has extended the license term.

KSA 41-2608 — Club licenses; premises licensed; zoning compliance; zoning exception for a farm winery or a producer licensee who is a registered agritourism operator; temporary extension of premises

Club licenses; premises licensed; zoning compliance; zoning exception for a farm winery or a producer licensee who is a registered agritourism operator; temporary extension of premises.

(a) Any public venue, club or drinking establishment license issued pursuant to this act shall be for one particular premises that shall be stated in the application and in the license. Not more than one premises licensed under the club and drinking establishment act shall exist at a single legal address.

(b) No license shall be issued for a public venue, club or drinking establishment unless the city, township or county zoning code allows a club or drinking establishment at that location.

(c) The licensed premises of a license may be extend into a city, county or township street, alley, road, sidewalk or highway if:

(1) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township at any time during which alcoholic liquor or cereal malt beverage is to be sold or consumed; and

(2) such extension has been approved by the city, county or township by ordinance or resolution that specifies the exact times during which alcoholic liquor or cereal malt beverage may be sold or consumed on the street, alley, road, sidewalk or highway.

(d) Notwithstanding the provisions of this section, a license under this act shall be issued to a farm winery or producer licensee who meets the requirements for a license under this act and who is a registered agritourism operator as defined in K.S.A.

32-1432

, and amendments thereto. Such license shall not be denied on the basis of any zoning regulation or other regulation, ordinance or resolution of any city or county.

KSA 41-2609 — Application of Kansas administrative procedure act to proceedings; hearings

Application of Kansas administrative procedure act to proceedings; hearings.

(a) The provisions of the Kansas administrative procedure act shall apply to all proceedings involving the following:

(1) Denial of an application for any license to be issued pursuant to the club and drinking establishment act;

(2) suspension of any license issued pursuant to the club and drinking establishment act;

(3) involuntary cancellation of any license issued pursuant to the club and drinking establishment act;

(4) revocation of any license issued pursuant to the club and drinking establishment act; and

(5) assessment of any civil fine pursuant to K.S.A.

41-2633a

, and amendments thereto.

(b) No license shall be suspended, involuntarily canceled or revoked except after an opportunity for a hearing before the director.

KSA 41-2610 — Unlawful acts of licensee; employment restrictions

Unlawful acts of licensee; employment restrictions.

It shall be unlawful for any licensee or holder of a temporary permit under this act to:

(a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor or cereal malt beverage.

(b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or cereal malt beverage or the mixing of drinks containing alcoholic liquor or cereal malt beverage who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

(c) Knowingly employ or continue to employ any person in connection with the dispensing or serving of alcoholic liquor or cereal malt beverage, or the mixing of drinks containing alcoholic liquor or cereal malt beverage, who has been adjudged guilty of two or more violations of K.S.A.

21-5607

, and amendments thereto, furnishing alcoholic liquor or cereal malt beverage to minors or a similar law of any other state, or of the United States, pertaining to furnishing alcoholic liquor or cereal malt beverage to minors within the immediately preceding five years, or who has been adjudged guilty of three or more violations of any intoxicating liquor law of this or any other state, or of the United States, not involving the furnishing of alcoholic liquor or cereal malt beverage to minors within the immediately preceding five years.

(d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.

(e) Purchase alcoholic liquor or cereal malt beverage from any person except from a person authorized by law to sell such alcoholic liquor or cereal malt beverage to such licensee or permit holder.

(f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor or cereal malt beverage is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.

(g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor or cereal malt beverage.

KSA 41-2611 — Grounds for suspension, involuntary cancellation or revocation of license

Grounds for suspension, involuntary cancellation or revocation of license.

The director may suspend, involuntarily cancel or revoke any license issued pursuant to the club and drinking establishment act for any one or more of the following reasons:

(a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.

(b) The licensee has violated any of the provisions of the club and drinking establishment act, any rules or regulations adopted pursuant to such act or any lawful order issued by the director.

(c) The licensee has become ineligible to obtain a license or permit under this act.

(d) The licensee's manager or employee has been intoxicated while on duty.

(e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor or cereal malt beverage is sold by such licensee.

(f) There has been a violation of a provision of the laws of this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquor or cereal malt beverage, or any crime involving a morals charge, on premises where alcoholic liquor or cereal malt beverage is sold by such licensee.

(g) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor or cereal malt beverage is sold by such licensee, a federal wagering occupational stamp issued by the United States treasury department.

(h) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor or cereal malt beverage is sold by such licensee, a federal coin operated gambling device stamp for the premises issued by the United States treasury department.

(i) The licensee holds a license as a class B club, drinking establishment or caterer and:

(1) Has been found guilty of a violation of article 10 of chapter 44 of the Kansas Statutes Annotated, and amendments thereto, under a decision or order of the Kansas human rights commission that has become final; or

(2) such licensee has been found guilty of a violation of K.S.A.

21-4003

, prior to its repeal, or K.S.A.

21-6102

, and amendments thereto.

(j) There has been a violation of K.S.A.

21-4106

or

21-4107

, prior to their repeal, or K.S.A.

21-6204

, and amendments thereto, on premises where alcoholic liquor or cereal malt beverage is sold by such licensee.

KSA 41-2612 — Display of license

Display of license.

Every holder of a license for a club or drinking establishment shall cause such license to be framed and hung in plain view in a conspicuous place on the licensed premises. In the case of a railway car, the license shall be posted at its main office which shall be stated in the application.

KSA 41-2613 — Immediate entry to and inspection of premises as condition of license or permit; revocation for refusal

Immediate entry to and inspection of premises as condition of license or permit; revocation for refusal.

The right of immediate entry to and inspection of any premises licensed as a public venue, club or drinking establishment or any premises where alcoholic liquor or cereal malt beverage is sold by a holder of a temporary permit, or any premises subject to the control of any licensee or temporary permit holder, by any duly authorized officer or agent of the director, or by any law enforcement officer, shall be a condition on which every license or temporary permit is issued, and the application for, and acceptance of, any license or temporary permit shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such immediate entry and inspection. Such right of immediate entry and inspection shall be at any time when the premises are occupied and is not limited to hours when the club or drinking establishment is open for business. Such consent shall not be revocable during the term of the license or temporary permit. Refusal of such entry shall be grounds for revocation of the license or temporary permit.

KSA 41-2614 — Hours of operation

Hours of operation.

(a) Except as provided by subsection (c), no public venue, club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor or cereal malt beverage on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(b) No caterer shall allow the serving, mixing or consumption of alcoholic liquor or cereal malt beverage between the hours of 2:00 a.m. and 6:00 a.m. on any day at an event catered by such caterer.

(c) A hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment caterer may allow at any time the serving, mixing and consumption of alcoholic liquor and cereal malt beverage from a minibar in a guest room by guests registered to stay in such room, and guests of guests registered to stay in such room.

KSA 41-2615 — Possession or consumption by minor prohibited

Possession or consumption by minor prohibited.

(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.

KSA 41-2619 — Search warrant for premises where alcoholic liquor or cereal malt beverage is sold by the drink without license or permit

Search warrant for premises where alcoholic liquor or cereal malt beverage is sold by the drink without license or permit.

The existence of any place for which a license or temporary permit has not been issued pursuant to this act and which purports, or is held out to the public or to any person by the proprietors or their agents or employees, to be a place where alcoholic liquor or cereal malt beverage is sold by the individual drink, shall be deemed to be sufficient probable cause for any judge of the district court to issue a search warrant to any law enforcement officer of the state or a subdivision of the state for the purpose of searching such place for alcoholic liquor or cereal malt beverage being sold, possessed or consumed in violation of this act, any other law of the state or any ordinance of a municipal subdivision of the state.

KSA 41-2620 — Sale of liquor by the drink without license or permit prohibited

Sale of liquor by the drink without license or permit prohibited.

(a) No person shall maintain or operate any club or drinking establishment in this state without having in such person's possession for the location of the establishment a valid unexpired and unrevoked license issued by the director for such club or establishment.

(b) No person shall act as a caterer in this state without having in such person's possession a valid unexpired and unrevoked caterer's license issued by the director.

(c) No person or organization shall sponsor, conduct or hold an event in this state which requires a temporary permit unless such person or organization has in such person's or organization's possession a temporary permit issued by the director for such event and such event is conducted in accordance with the terms of such permit.

KSA 41-2621 — Club or drinking establishment license limited to premises specified

Club or drinking establishment license limited to premises specified.

A club or drinking establishment license shall allow the licensee to operate a club or drinking establishment only at the premises specified in such license in accordance with the provisions of this act and the rules and regulations adopted by the secretary as provided by K.S.A.

41-210

and amendments thereto.

KSA 41-2622 — License fees; city or county taxes; other state fees fund

License fees; city or county taxes; other state fees fund.

(a) At the time application is made to the director for a license pursuant to the club and drinking establishment act, the applicant shall pay the following license fee in the manner provided by K.S.A.

41-2606

, and amendments thereto:

(1) For a class A club which is a bona fide nonprofit fraternal or war veterans' club, as defined by rules and regulations of the secretary, $500;

(2) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has not more than 500 members, $1,000;

(3) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has more than 500 members, $2,000;

(4) for a class B club, $2,000;

(5) for a caterer, $1,000;

(6) for a drinking establishment, $2,000;

(7) for a hotel of which the entire premises are licensed as a drinking establishment, $6,000;

(8) for a drinking establishment caterer, $3,000;

(9) for a drinking establishment caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, $7,000;

(10) for a public venue with a maximum capacity of not more than 10,000 persons, $5,000;

(11) for a public venue with a maximum capacity of not more than 25,000 persons, $7,500; and

(12) for a public venue with a maximum capacity exceeding 25,000 persons, $10,000.

(b) In addition to the fee provided by subsection (a), any city where the licensed premises of a club or drinking establishment are located or, if such licensed premises are not located in a city, the board of county commissioners of the county where the licensed premises are located may levy and collect a biennial occupation or license tax from the licensee in an amount equal to not less than $200 nor more than $500.

(c) In addition to the fee provided by subsection (a), any city where the licensed premises of a public venue is located or, if such licensed premises is not located in a city, the board of county commissioners of the county where the licensed premises is located may levy and collect a biennial occupation or license tax from the licensee in an amount not more than $1,000.

(d) No occupational or excise tax or license fee other than that authorized by subsection (b) or (c) shall be levied by any city or county against or collected from a licensed public venue, club or drinking establishment.

(e) The director shall remit all moneys received under this section 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. Of each such deposit, 50% shall be credited to the state general fund, and the remaining 50% shall be credited to the other state fees fund of the Kansas department for aging and disability services. In addition to other purposes for which expenditures may be made from the other state fees fund of the Kansas department for aging and disability services, expenditures may be made by the secretary for aging and disability services for the purpose of implementing the powers and duties of the secretary under the provisions of K.S.A.

65-4006

and

65-4007

, and amendments thereto.

KSA 41-2623 — Persons and entities ineligible for licensure

Persons and entities ineligible for licensure.

(a) No license shall be issued under the provisions of this act to:

(1) Any person described in K.S.A.

41-311

(a)(1), (2), (4), (5), (6), (7), (8), (9), (12), (13) or (15), and amendments thereto, except that the provisions of K.S.A.

41-311

(a)(7), and amendments thereto, shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquor or cereal malt beverage or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment that is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments that are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery, microdistillery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(F) Any person who has a beneficial interest in a manufacturer licensed pursuant to the Kansas liquor control act may be issued one drinking establishment license.

(4) A copartnership, unless all of the copartners are qualified to obtain a license.

(5) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship requirements.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(7) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of K.S.A.

41-311

(a)(6), and amendments thereto, shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to a person who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises that is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

KSA 41-2623a — Licensure qualifications for limited liability company

Licensure qualifications for limited liability company.

(a) Notwithstanding any other provision of law, any limited liability company applying for a license under the club and drinking establishment act shall be required to meet the qualifications for licensure of a corporation under K.S.A.

41-2623

, and amendments thereto.

(b) Any limited liability company applying for a license under the club and drinking establishment act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the club and drinking establishment act.

KSA 41-2625 — Same; corporations and partnerships

Same; corporations and partnerships.

(a) No corporation shall be issued a license as a club, drinking establishment or caterer unless such corporation first appoints a citizen of the United States, and resident of Kansas, as its agent and files with the director a duly authenticated copy of a duly executed power of attorney authorizing such agent to: (1) Accept service of process from the director and the courts of this state; and (2) exercise full authority of such corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to the business licensed. Such agent must have the qualifications of a licensee except for the qualification of residence. Such agent shall at all times be maintained by such corporation.

(b) No corporation shall be issued a license as a club, drinking establishment or caterer unless such corporation first files with the director a copy of its articles of incorporation and its bylaws.

(c) No partnership shall be issued a license as a club, drinking establishment or caterer unless such partnership first files with the director a copy of the partnership agreement.

KSA 41-2626 — Violations of act or rules and regulations; revocation or suspension of license

Violations of act or rules and regulations; revocation or suspension of license.

Whenever any licensee under this act has been convicted by any court of a violation of any of the provisions of this act, or the rules and regulations lawfully promulgated thereunder, the director shall revoke or suspend the licensee's license in an original proceeding brought before the director for that purpose. The proceeding shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

KSA 41-2627 — Club or drinking establishment license; change in premises

Club or drinking establishment license; change in premises.

The provisions of K.S.A.

41-315

, and amendments thereto, relating to retail licenses under the Kansas liquor control act are hereby made applicable to licenses issued under the provisions of this act for clubs and drinking establishments.

KSA 41-2628 — Time limit for grant or denial of license

Time limit for grant or denial of license.

The provisions of K.S.A.

41-319

, and amendments thereto, relating to applications for retailers' licenses under the Kansas liquor control act shall apply to applications for licenses made under the provisions of this act.

KSA 41-2629 — Issuance of licenses; term; assignability; refund of fees, when

Issuance of licenses; term; assignability; refund of fees, when.

(a) A class B club, drinking establishment, public venue or caterer's license shall be issued for a term not to exceed two years commencing on the effective date as specified on the license, except as otherwise provided by law, unless sooner suspended or revoked as provided in this act.

(b) The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond such date the license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A.

41-2622

, and amendments thereto, by the same number of days the director has extended the license term.

(c) A class B club, drinking establishment, public venue or caterer's license shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A class B club, drinking establishment, public venue or caterer's license shall not descend by the laws of testate or intestate devolution but shall cease or expire upon the death of the licensee subject to subsection (d).

(d) An executor, administrator or representative of the estate of any deceased holder of a class B club, drinking establishment, public venue or caterer's license, or the trustee of any insolvent or bankrupt class B club, drinking establishment, public venue or caterer's license may continue the licensee's business under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such licensee or after such insolvency or bankruptcy until the expiration of such license, but in no case longer than one year after the death, insolvency or bankruptcy of such licensee.

(e) When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary shall adopt, in accordance with K.S.A.

41-210

, and amendments thereto, rules and regulations providing for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

KSA 41-2630 — Injunction for violation of act by licensee

Injunction for violation of act by licensee.

The attorney general, the attorney for the director or any county or district attorney, within their county or district, shall at all times have the power to enjoin any person from operating or maintaining a club or drinking establishment or business as a caterer within their respective jurisdictions, notwithstanding the person has a license therefor, if it appears that the licensee has violated any provision of this act, or any of the rules and regulations adopted under this act. Such injunction proceedings shall be the same as is now prescribed for the enjoining of alcoholic liquor nuisances under the Kansas liquor control act.

KSA 41-2631 — City ordinance conflicting with act void; ordinance limitations

City ordinance conflicting with act void; ordinance limitations.

No city shall enact any ordinance in conflict with or contrary to the provisions of this act and any ordinance of any city in effect at the time this act takes effect or thereafter enacted which is in conflict with or contrary to the provisions of this act shall be null and void. Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violations thereof, but the minimum penalty in any such ordinance shall not exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed by this act for the same violation.

KSA 41-2632 — Influencing purchases by licensees prohibited

Influencing purchases by licensees prohibited.

(a) As used in this section:

(1) "Distributor" means a person, firm, association or corporation that is the holder of an alcoholic liquor distributor's license issued under the Kansas liquor control act;

(2) "retailer" means a person, copartnership or association that is the holder of a retailer's license issued under the Kansas liquor control act; and

(3) "manufacturer" means the same as such term is defined in K.S.A.

41-102

, and amendments thereto.

(b) It shall be unlawful for a distributor of alcoholic liquor, or a manufacturer, or any officer, agent or employee thereof, to influence, coerce or induce or attempt to influence, coerce or induce, either directly or indirectly, any holder of a license issued under this act, or any officer, agent or employee of the holder of such a license, to: (1) Purchase any particular brand or kind of alcoholic liquor to be dispensed by the licensee, except that a distributor or manufacturer may provide to a licensee information regarding the availability of brands in the market and things of value as authorized by K.S.A.

41-703

(d), and amendments thereto; or (2) purchase from a particular retailer alcoholic liquor to be dispensed by the licensee.

(c) Violation of this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000 or by imprisonment for not more than six months, or by both.

(d) The provisions of this section shall not apply to any manufacturer who holds a drinking establishment license with respect to purchases made by such drinking establishment.

KSA 41-2633 — Violations of act or rules and regulations; criminal penalty

Violations of act or rules and regulations; criminal penalty.

Violation of any provision of the club and drinking establishment act, and amendments thereto, or any rule or regulation adopted thereunder, for which a penalty is not otherwise specifically provided is punishable by a fine not to exceed $500 or imprisonment not to exceed six months, or both.

KSA 41-2633a — Violations of act by licensee or permit holder; civil fine

Violations of act by licensee or permit holder; civil fine.

(a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee or temporary permit holder under the club and drinking establishment act has violated any provision thereof, may impose on such licensee or temporary permit holder a civil fine not exceeding $1,000 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the director to the licensee or temporary permit holder who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee or temporary permit holder to appeal the order. Such order shall be subject to appeal and review in accordance with the provisions of the Kansas administrative procedure act.

(c) Any fine imposed pursuant to this section shall be paid to the state treasurer, who shall deposit the same in the state treasury and credit it to the state general fund.

KSA 41-2633b — Administrative orders; civil fines; time limit on orders

Administrative orders; civil fines; time limit on orders.

(a) Notwithstanding the provisions of either the Kansas administrative procedure act, and amendments thereto, or any rule and regulation adopted pursuant to the club and drinking establishment act, and amendments thereto, governing the issuance of any written administrative notice or order concerning the imposition of any proposed civil fine or other penalty to be imposed for a violation of any of the provisions of the club and drinking establishment act, K.S.A.

41-2601

et seq., and amendments thereto, such notice or order shall be issued no later than 90 days after the date a citation for such violation was issued.

(b) This section shall be part of and supplemental to the provisions of the Kansas club and drinking establishment act, K.S.A.

41-2601

et seq., and amendments thereto.

KSA 41-2634 — Rules and regulations; criteria for class A clubs

Rules and regulations; criteria for class A clubs.

(a) The secretary of revenue may adopt rules and regulations for the administration and enforcement of article 26 of chapter 41 of Kansas Statutes Annotated.

(b) The secretary of revenue shall adopt rules and regulations establishing criteria for determining whether an applicant or licensee is a bona fide nonprofit social, fraternal or war veterans club, based on the following standards:

(1) An applicant or licensee is a bona fide nonprofit social club if:

(A) It is organized and operated exclusively for pleasure, recreation and other nonprofitable purposes; and

(B) no part of its net earnings inures to the benefit of any of its private shareholders or members.

(2) An applicant or licensee is a bona fide nonprofit fraternal club if:

(A) It is a fraternal beneficiary society, order or association which operates under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and

(B) such society, order or association provides for the payment of life, sickness, accident or other benefits to its members or their dependents.

(3) An applicant or licensee is a bona fide nonprofit war veterans club if:

(A) It is a post or organization of war veterans or an auxiliary unit or society of, or a trust or foundation for, any such post or organization, organized in the United States or any of its possessions;

(B) not less than seventy-five percent (75%) of its members are war veterans and substantially all of its other members are veterans or widows or widowers of veterans; and

(C) no part of its net earnings inures to the benefit of any private shareholder or individual.

(c) Any rules and regulations adopted pursuant to subsection (d) shall be based on the same criteria and standards used to determine the right to exemption from federal income taxes pursuant to section 501(c)(7), (8) and (19) of the internal revenue code of 1954, as amended.

KSA 41-2635 — Severability

Severability.

If any phrase, clause, sentence or section of this act is declared invalid or unconstitutional by any court of competent jurisdiction it shall be conclusively presumed that the legislature would have passed the remainder of the act without the part so held invalid or unconstitutional.

KSA 41-2636 — Sale of class A club license prohibited

Sale of class A club license prohibited.

(a) No person shall sell or offer for sale any class A club license.

(b) This section shall be part of and supplemental to K.S.A.

41-2601

to

41-2635

, inclusive, and amendments thereto.

KSA 41-2637 — Class A club license; rights of licensee; storing customer wine; samples; events

Class A club license; rights of licensee; storing customer wine; samples; events.

(a) A license for a class A club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises by members and their families, and guests accompanying them; (2) serve samples of alcoholic liquor or cereal malt beverage free of charge for consumption by members and their families and guests accompanying them; and (3) offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by individuals other than those individuals specified in paragraph (1) during an event held in accordance with subsection (d).

(b) No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(c) (1) Subject to the provisions of subsection (c)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs that

are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club that is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club that is a party to such agreement, alcoholic liquor or cereal malt beverage for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(d) (1) A licensee may offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by individuals other than members of the licensee, their families or guests during an event. The licensee shall provide electronic notification to the director at least 48 hours prior to any such event. The director shall make the electronic notification available to local law enforcement. Such notice shall consist of the date, time, location and the names of the contracting parties of the event. The licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts and records of alcohol purchased.

(2) For purposes of this subsection, the term "event" means any function, occasion, celebration or other event held on the licensed premises for a specified duration of time and during which individuals who are not members of the licensee, their families or guests are permitted to enter and use the licensed premises pursuant to an agreement between the licensee and the contracting party.

(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

KSA 41-2639 — Sale of club memberships; restrictions

Sale of club memberships; restrictions.

(a) No person shall receive a commission or other compensation for the sale of any membership to a club.

(b) No person shall sell or offer for sale any membership to a club except on the licensed premises of such club.

(c) This section shall be part of and supplemental to K.S.A.

41-2601

to

41-2637

, inclusive, and amendments thereto.

KSA 41-2640 — Certain sales practices prohibited; practices permitted for licensees; penalties

Certain sales practices prohibited; practices permitted for licensees; penalties.

(a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;

(5) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A.

41-102

, and amendments thereto; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (5).

(b) No public venue, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acquisition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

(3) sell or serve alcoholic liquor in glass containers to customers in the general admission area;

(4) sell or serve more than two drinks per customer at any one time in the general admission area;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;

(6) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A.

41-102

, and amendments thereto; or

(7) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through (6).

(c) A public venue, club, drinking establishment, caterer or holder of a temporary permit may:

(1) Offer free food or entertainment at any time;

(2) sell or deliver wine by the bottle or carafe;

(3) sell, offer to sell and serve individual drinks at different prices throughout any day;

(4) sell or serve beer, cereal malt beverage or mixed alcoholic beverage in a pitcher; or

(5) offer samples of alcohol liquor free of charge as authorized by this act.

(d) A hotel of which the entire premises is licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A.

79-41a01

et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

(e) (1) A public venue, club or drinking establishment may offer customer self-service of beer or wine, or both, from automated devices on licensed premises so long as the licensee monitors and has the ability to control the dispensing of such beer or wine, or both, from the automated devices.

(2) (A) For purposes of this subsection, "automated device" means any mechanized device capable of dispensing wine or beer, or both, directly to a customer in exchange for compensation that a licensee has received directly from the customer.

(B) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(C) Each licensee offering customer self-service of wine or beer, or both, from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(D) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for beer or wine dispensed from the automated device. Access cards may be sold, used or reactivated only during a business day. Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this subsection, an access card shall be deemed active if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine or 32 ounces of beer. Each purchase of an access card under this subparagraph shall be subject to the liquor drink tax imposed by K.S.A.

79-41a02

, and amendments thereto.

(E) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subparagraph (D).

(F) Each access card shall become inactive at the end of each business day.

(G) Each access card shall be programmed to allow the dispensing of no more than 15 ounces of wine or 32 ounces of beer to a customer. Once an access card has been used to dispense 15 ounces of wine or 32 ounces of beer to a customer, the access card shall become inactive. Any customer in possession of an inactive access card may, upon production of the customer's valid identification to the licensee or licensee's employee, have the access card reactivated to allow the dispensing of an additional 15 ounces of wine or 32 ounces of beer from an automated device.

Subparagraph (D), (E), (F) or (G) shall not apply to wine or beer that is dispensed directly to the licensee or the licensee's agent or employee.

(3) The secretary shall adopt rules and regulations prior to January 1, 2019, as necessary to implement the provisions of this subsection.

(4) Notwithstanding any other provision of law, all laws and rules and regulations applicable to the sale of alcoholic liquor to persons under the legal age of consumption shall be applicable to the sales transaction of the prepaid access card.

(f) A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A.

79-41a01

et seq., and amendments thereto.

(g) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A.

41-2633

, and amendments thereto.

(h) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A.

41-2609

, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A.

41-2633a

, and amendments thereto.

(i) For the purposes of this section:

(1) "Day" means from 6:00 a.m. until 2:00 a.m. the following calendar day;

(2) "mixed alcoholic beverage" means a beverage that is made by combining alcoholic liquor with a non-alcoholic liquid or other edible substance and that is comprised of at least 25% non-alcoholic liquid or other edible substance, including, but not limited to, margarita, sangria, daiquiri or mojito; and

(3) "pitcher" means any container that is capable of containing more than 32 fluid ounces but not more than 64 fluid ounces that is used to serve alcoholic liquor or cereal malt beverage to one or more individuals.

KSA 41-2641 — Class B club license; rights of licensee; membership; storing customer wine; samples

Class B club license; rights of licensee; membership; storing customer wine; samples.

(a) A license for a class B club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises by members of such club and guests accompanying them; and (2) serve samples of alcoholic liquor or cereal malt beverage free of charge on the licensed premises for consumption by such members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs that are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club that is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club that is a party to such agreement, alcoholic liquor or cereal malt beverage for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

(1) Be screened by the club for good moral character; and

(2) pay an annual membership fee of not less than $10.

(d) Notwithstanding the membership fee requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the fee requirement of this section.

(2) Any class B club located on property that is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor or cereal malt beverage is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this paragraph shall present the temporary duty orders to the club. Temporary membership issued under this paragraph shall not be subject to the fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the fee requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if: (A) The hotel or RV resort is located in the same county as the club; (B) there is no class B club located on the premises of the hotel or RV resort; and (C) no other club has entered into a written agreement with the hotel or RV resort pursuant to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the fee requirement of this section.

(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

KSA 41-2642 — Drinking establishment license; rights of licensee; hotel minibars; storing customer wine; samples

Drinking establishment license; rights of licensee; hotel minibars; storing customer wine; samples.

(a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises that may be open to the public, and to serve samples of such alcoholic liquor or cereal malt beverage free of charge on licensed premises subject to the requirements of subsection (c), if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A.

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, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A.

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, and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A.

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, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A.

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, and amendments thereto.

(c) No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(d) (1) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

(2) If the drinking establishment licensee also holds a manufacturer's license issued under the Kansas liquor control act, the licensed premises specified in the drinking establishment license shall not be the same as the licensed premises specified in the manufacturer's license, but such specified premises shall be located not more than two miles by the usually traveled road from the licensed premises specified in the manufacturer's license.

(e) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

(f) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

(g) If the drinking establishment licensee also holds a manufacturer's license issued under the Kansas liquor control act, the drinking establishment shall not sell alcoholic liquor manufactured by such manufacturer's licensee to the exclusion of other alcoholic liquor. All beer and cereal malt beverage sold by the drinking establishment shall be acquired from a distributor, retailer or microbrewery licensed under the Kansas liquor control act, and all wine and spirits sold by the drinking establishment shall be acquired from a retailer or farm winery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit, except that hard cider may be acquired from a microbrewery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit.

KSA 41-2643 — Caterer's license; rights of licensee

Caterer's license; rights of licensee.

(a) A caterer's license shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on unlicensed premises, which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A.

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, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A.

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, and amendments thereto.

(b) A caterer shall be required to derive from sales of food at catered events not less than 30% of the caterer's gross receipts from all sales of food and beverages at catered events in a 12-month period unless the caterer offers for sale, sells and serves alcoholic liquor or cereal malt beverage only in counties where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A.

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, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A.

41-2646

, and amendments thereto.

(c) Each caterer shall maintain the caterer's principal place of business in a county in this state where the caterer is authorized by this section to sell alcoholic liquor by the individual drink in a public place. All records of the caterer relating to the caterer's licensed business and the caterer's license shall be kept at such place of business. The caterer's principal place of business shall be stated in the application for a caterer's license and the caterer shall notify the director of any change in its location within 10 days after such change.

(d) Except as otherwise provided herein, a caterer shall provide electronic notification to the director at least 48 hours prior to any event at which the caterer will sell alcoholic liquor or cereal malt beverage by the individual drink. The director shall make the electronic notification available to local law enforcement. Notice shall consist of the time, location and the

names of the contracting parties of the event. For events where alcoholic liquor or cereal malt beverage is served, a licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts, employees assigned to the event and records of alcoholic liquor and cereal malt beverage purchased. Notification shall not be required for weddings, funerals, events sponsored by religious institutions, or for business, industry or trade sponsored meetings, including, but not limited to, awards presentations and retirement celebrations.

(e) A caterer may rebate a portion of the caterer's receipts from the sale of alcoholic liquor or cereal malt beverage at an event to the person or organization contracting with the caterer to sell alcoholic liquor or cereal malt beverage at such event.

KSA 41-2644 — Drinking establishment caterer license; rights of licensee

Drinking establishment caterer license; rights of licensee.

A license for a drinking establishment caterer shall allow the licensee all the rights and privileges of a holder of a drinking establishment license and of a licensed caterer, subject to all provisions of law relating to such an establishment or caterer.

KSA 41-2646 — Sale of liquor by the drink in public places; election to prohibit or permit

Sale of liquor by the drink in public places; election to prohibit or permit.

(a) The board of county commissioners may, by resolution, or shall, upon a petition filed in accordance with subsection (b), submit to the qualified electors of the county at any state general election a proposition to:

(1) Prohibit the sale of alcoholic liquor by the individual drink in public places within the county;

(2) permit the sale of alcoholic liquor by the individual drink in public places within the county which derive not less than 30% of their gross receipts from the sale of food for consumption on the premises; or

(3) permit the sale of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food.

(b) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 10% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The appropriate version following shall appear on the petition:

"We request an election to determine whether the sale of alcoholic liquor by the individual drink in _____ county shall be (prohibited in public places) (allowed in public places where at least 30% of the gross receipts are from sales of food for consumption on the premises) (allowed in public places without a requirement that any portion of their gross receipts be from sales of food)."

(c) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this section, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot at the next succeeding state general election which occurs more than 90 days after the resolution is adopted or the petition is filed with the county election officer:

"Shall sale of alcoholic liquor by the individual drink in _____ county be (prohibited) (allowed in public places where at least 30% of the gross receipts are from sales of food for consumption on the premises and prohibited in all other public places) (allowed in public places without a requirement that any portion of their gross receipts be from sales of food)?"

(d) If a majority of the votes cast and counted is in favor of the proposition, the county election officer shall transmit a copy of the results to the director, who shall issue or refuse to issue temporary permits and licenses for drinking establishments and caterers within the county accordingly and the rights of licensees holding licenses on the date of the election shall be modified in accordance with the result of the election as provided by rules and regulations of the secretary.

(e) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

KSA 41-2647 — Possession of liquor or cereal malt beverage on licensed premises

Possession of liquor or cereal malt beverage on licensed premises.

(a) Nothing in the club and drinking establishment act shall be construed to prohibit a person from possessing, on premises licensed pursuant to such act, alcoholic liquor or cereal malt beverage not purchased from the licensee.

(b) Nothing in this section shall prevent a licensee from adopting a policy prohibiting the possession, on the licensee's licensed premises, of alcoholic liquor or cereal malt beverage not purchased from the licensee.

KSA 41-2648 — Effective date of license; conversion of club license to drinking establishment license

Effective date of license; conversion of club license to drinking establishment license.

(a) No drinking establishment license, caterer's license or temporary permit shall be effective before July 1, 1987.

(b) On and after July 1, 1987, the director may provide procedures whereby a license for a class B club issued before July 1, 1987, may be converted to a drinking establishment license or a drinking establishment caterer license if all requirements of this act are met and the licensee pays that portion of the additional license fee, if any, attributable to the remaining unexpired license term.

KSA 41-2649 — Title of act

Title of act.

K.S.A.

41-2601

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through

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through

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and

41-2640

, and amendments thereto, and K.S.A.

41-2641

through

41-2648

shall be known and may be cited as the club and drinking establishment act.

KSA 41-2650 — Severability

Severability.

If any provisions of this act or the application thereof to any person or circumstances is held invalid the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or application and to this end the provisions of this act are severable.

KSA 41-2651 — Application for licensure, renewal, suspension or revocation; notice to governing body of city or county; power of such governing body to request suspension or revocation hearing; hearings

Application for licensure, renewal, suspension or revocation; notice to governing body of city or county; power of such governing body to request suspension or revocation hearing; hearings.

(a) When application for licensure or renewal of licensure as a club or drinking establishment is received by the director, the director shall notify the governing body of the city or county where the premises to be licensed are located, if such governing body requests such notification.

(b) No such license or renewal shall be granted by the director until the expiration of at least 10 days from the time of filing the application for licensure or renewal with the director, during which period the governing body of any city or county notified pursuant to subsection (a) may request the director to hold a hearing on the granting or refusal to grant such license or renewal.

(c) At any time, the governing body of any city or county may request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended. The governing body shall provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause.

(d) Any hearing held pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act as provided in K.S.A.

41-2609

, and amendments thereto.

(e) At any hearing held pursuant to this section the governing body of such city or county shall have the right to appear before the director and present testimony and evidence and make recommendations regarding the granting or refusal to grant such license or renewal, or whether such license should be revoked or suspended. In determining whether to grant or to refuse to grant such license or renewal, or to revoke or suspend such license, the director shall take into consideration the testimony and evidence and recommendations of the governing body of such city or county. The director may refuse to grant such license or renewal, or may revoke or suspend such license based on the evidence gathered at such hearing, in the interest of protecting the public welfare, and in accordance with rules and regulations adopted by the secretary.

(f) This section shall be part of and supplemental to the club and drinking establishment act.

KSA 41-2652 — Use of minors to determine compliance with law, limitations

Use of minors to determine compliance with law, limitations.

(a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under 21 years of age to violate the provisions of the club and drinking establishment act in order to develop a program or system which determines and encourages compliance with the provisions of such act prohibiting the furnishing or sale of alcoholic liquor to a person under 21 years of age or the consumption of alcoholic liquor by such persons.

(b) No person shall engage or direct a person under 21 years of age to violate any provision of the club and drinking establishment act for purposes of determining compliance with the provisions of such act unless such person is:

(1) An officer having authority to enforce the provisions of the club and drinking establishment act;

(2) an authorized representative of the attorney general, a county attorney or a district attorney; or

(3) a licensee or permittee under the club and drinking establishment act or such licensee's or permittee's designee pursuant to a self-compliance program designed to increase compliance with the provisions of the club and drinking establishment act if such program has been approved by the director.

KSA 41-2653 — Removal of alcoholic liquor or cereal malt beverage from premises of club or drinking establishment

Removal of alcoholic liquor or cereal malt beverage from premises of club or drinking establishment.

(a) In addition to the rights of a licensee pursuant to provisions of K.S.A.

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41-2641

or

41-2642

, and amendments thereto, a class A club license, class B club license or drinking establishment license shall allow the licensee to allow legal patrons of the club or drinking establishment to remove alcoholic liquor or cereal malt beverage from the licensed premises in one or more containers, including in the original unopened container, subject to the following conditions:

(1) It must be otherwise legal for the licensee to sell the alcoholic liquor or cereal malt beverage;

(2) each container of alcoholic liquor or cereal malt beverage must have been purchased by a patron of the licensed premises;

(3) the licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor or cereal malt beverage;

(4) before any container of alcoholic liquor or cereal malt beverage is removed from the licensed premises, the licensee or the licensee's employee must securely reseal any opened containers, and place the container in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened;

(5) no original unopened containers of spirits may be removed from the licensed premises; and

(6) no alcoholic liquor or cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

(b) A patron may remove one or more containers of beer, domestic beer and cereal malt beverage, as those terms are defined in K.S.A.

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, and amendments thereto, that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers:

(1) Contain between 32 and 64 fluid ounces;

(2) have a label affixed that clearly indicates the licensee's name and the type of alcoholic beverage contained in such container; and

(3) are not sold or removed from the premises after 11:00 p.m.

(d)* All alcoholic liquor, cereal malt beverage and nonalcoholic malt beverage sold by a licensee shall be subject to the tax imposed by K.S.A.

79-41a02

, and amendments thereto.

(e)* This section shall be a part of and supplemental to the club and drinking establishment act.

KSA 41-2654 — Drinking establishment license; municipal corporation; qualifications

Drinking establishment license; municipal corporation; qualifications.

(a) The director shall issue a drinking establishment license to any municipal corporation that qualifies under K.S.A.

41-2601

et seq., and amendments thereto, for the premises specified in the license application.

(b) Municipal corporations applying for a drinking establishment license shall not be subject to the provisions of subsection (a)(1) or (a)(3) through (9) of K.S.A.

41-2623

, and amendments thereto.

KSA 41-2655 — Public venue license; rights of licensee

Public venue license; rights of licensee.

(a) A license for a public venue shall allow the licensee to:

(1) Offer for sale, sell and serve alcoholic liquor or cereal malt beverage by the individual drink for consumption on the licensed premises;

(2) offer for sale, sell and serve unlimited drinks for a fixed price in designated areas of the licensed premises;

(3) offer for sale and sell all-inclusive packages that include unlimited drinks in designated areas of the licensed premises;

(4) offer for sale, sell and serve alcoholic liquor or cereal malt beverage in the original container for consumption on the licensed premises in private suites that are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier;

(5) store, in each private suite that is an enclosed or semi-enclosed seating area, having controlled access and separated from the general admission areas by a permanent barrier, alcoholic liquor or cereal malt beverage sold in the original container to a customer in that private suite; and

(6) with the approval of the retailer or distributor, return for a full refund of the original purchase price unopened containers of alcoholic liquor or cereal malt beverage to the retailer or distributor from whom such items were purchased upon the conclusion of an event if the next scheduled event for that premises is more than 90 days from the date of the concluded event.

(b) An applicant or public venue licensee shall specify in the application for a license, or renewal of a license, the premises to be licensed. No public venue licensee may offer for sale, sell or serve any alcoholic liquor or cereal malt beverage in any area not included in the licensed premises.

(c) The term "designated areas" for purposes of this section means an area identified in the license application, which may include suites, that has controlled access and is separated from the general admission by a barrier.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the club and drinking establishment act.

KSA 41-2656 — Samples; regulation thereof

Samples; regulation thereof.

(a) Alcoholic liquor and cereal malt beverage for the sampling as provided for in K.S.A.

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and

41-2642

, and amendments thereto, shall be withdrawn from the inventory of the licensee. Except as provided by subsection (b), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(b) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a licensee's premises, monitored and regulated by the division of alcoholic beverage

control, and may open, touch or pour alcoholic beverages, make a presentation or answer questions at the tasting. Any alcoholic beverage or cereal malt beverages sampled under this subsection must be purchased from the licensee on whose premises the sampling is held. The licensee may not require the purchase of more alcoholic beverages or cereal malt beverages than is necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage or cereal malt beverage from the holder of a distributor's license or provide an alcoholic beverage or cereal malt beverage for sampling on the licensee's premises that is not purchased from the licensee.

KSA 41-2658 — Dispensing infused alcoholic liquor and cereal malt beverage

Dispensing infused alcoholic liquor and cereal malt beverage.

(a) Alcoholic liquor or cereal malt beverage shall be dispensed only from original containers, except any drinking establishment licensee or its agent or employee, may dispense:

(1) Alcoholic liquor or cereal malt beverage from a machine or container used to mix alcoholic liquor or cereal malt beverage with other liquids or solids intended for human consumption;

(2) alcoholic liquor or cereal malt beverage from a machine or container used to chill alcoholic liquor or cereal malt beverage that may contain additional liquids or solids intended for human consumption; or

(3) infused alcoholic liquor or cereal malt beverage from a container used to infuse alcoholic liquor or cereal malt beverage with other substances intended for human consumption.

(b) A drinking establishment licensee, or its agent or employee, shall not refill any original container with any alcoholic liquor or cereal malt beverage or any other substance.

(c) Any drinking establishment licensee, or its agent or employee, may infuse alcoholic liquor or cereal malt beverage with spices, herbs, fruits, vegetables, candy or other substances intended for human consumption if no additional fermentation occurs during the process.

(d) As used in this section:

(1) "Dispense" means to portion out servings of alcoholic liquor or cereal malt beverage for consumption. This term includes the pouring of drinks of alcoholic liquor or cereal malt beverage and opening original containers of alcoholic liquor or cereal malt beverage by the licensee or licensee's employee for consumption by customers, and shall not include any self-dispensing by a customer.

(2) "Infuse" means to add flavor or scent to a liquid by steeping additional ingredients in the liquid.

(e) This section shall be a part of and supplemental to the club and drinking establishment act.

KSA 41-2659 — Common consumption areas; cities and counties; permits; duties and liabilities; signs posted that identify boundaries of area

Common consumption areas; cities and counties; permits; duties and liabilities; signs posted that identify boundaries of area.

(a) (1) A city or a county may establish one or more common consumption areas within the limits of the city or within the unincorporated portion of the county, as applicable, by ordinance or resolution, respectively, and authorize the possession and consumption of alcoholic liquor or cereal malt beverage within the common consumption area. The ordinance or resolution shall designate the boundaries of any common consumption area and prescribe the times during which alcoholic liquor or cereal malt beverage may be consumed therein. The ordinance or resolution may require that any public street or roadway that lies within a common consumption area be blocked from motorized traffic during the hours in which alcoholic liquor or cereal malt beverage is consumed.

(2) The city or county shall immediately notify the director of the division of alcoholic beverage control of the establishment of a common consumption area and submit a copy of the ordinance or resolution along with such notice.

(b) A common consumption area permit shall allow the consumption of alcoholic liquor or cereal malt beverage in any area designated by such permit. The director may issue common consumption area permits to the city or county or any one person who shall be a resident of Kansas or an organization that has its principal place of business in Kansas and that has been approved by the respective city or county, in accordance with rules and regulations adopted by the secretary of revenue.

(c) Applications for common consumption area permits shall be submitted to the director, subject to the following:

(1) A copy of any ordinance or resolution promulgated in accordance with subsection (a) shall accompany any application for a common consumption area permit.

(2) Each application shall be accompanied by a non-refundable permit fee of $100. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(3) A common consumption area permit shall be issued for a period of not to exceed one year. A common consumption area permit shall not be transferable or assignable.

(d) Any licensee immediately adjacent to, or located within a common consumption area may request that the licensee's licensed premises participate in the common consumption area for the duration of the common consumption area permit. Such a request shall be made upon forms prescribed by the director.

(e) (1) Any licensee who has requested and received permission to participate in the common consumption area may allow its legal patrons to remove alcoholic liquor or cereal malt beverage purchased from the licensee into the premises described by the common consumption area permit. All alcoholic liquor and cereal malt beverage removed from a licensed premises in such fashion shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.

(2) In addition to their licensed premises, one or more licensees that have requested and received permission to participate in a common consumption area may offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption from one non-contiguous service area within the common consumption area, as designated and approved by the common consumption area permit holder. The licensee shall prominently display a copy of its drinking establishment license and the approval of the common consumption area permit holder at its non-contiguous service area.

(f) (1) Each licensee within a common consumption area shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises.

(2) Each common consumption area permit holder shall be liable for violations that occur off the licensee's premises, but within the common consumption area identified in the permit. No permit holder shall permit any person to remove any open container of alcoholic liquor or cereal malt beverage from the boundaries of the common consumption area.

(g) (1) For the purposes of this section, "common consumption area" means a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas liquor control act or the club and drinking establishment act where the possession and consumption of alcoholic liquor or cereal malt beverage is allowed pursuant to a common consumption area permit.

(2) The boundaries of any common consumption area must be clearly marked using a physical barrier or any apparent line of demarcation. Every common consumption area shall have signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.

(h) The secretary shall adopt rules and regulations to implement this section.

(i) This section shall be a part of and supplemental to the club and drinking establishment act.

KSA 41-2701 — Definitions

Definitions.

As used in this act unless the context otherwise requires:

(a) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in K.S.A.

41-2729

, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

(b) "Director" means the director of alcoholic beverage control of the department of revenue.

(c) "Manufacturer" means a manufacturer as defined by K.S.A.

41-102

, and amendments thereto.

(d) "Person" means any individual, firm, partnership, corporation or association.

(e) "Retailer" means any person who is licensed under the Kansas cereal malt beverage act and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption and not for resale in any form.

(f) "Place of business" means any place at which cereal malt beverages or beer containing not more than 6% alcohol by volume are sold.

(g) "Distributor" means a beer distributor licensed pursuant to the Kansas liquor control act.

(h) "Legal age for consumption of cereal malt beverage" means 21 years of age, except that "legal age for consumption of cereal malt beverage" shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

KSA 41-2702 — Retailer's license; application; notice; fee; state stamp; license nontransferable

Retailer's license; application; notice; fee; state stamp; license nontransferable.

(a) No retailer shall sell any cereal malt beverage or beer containing not more than 6% alcohol by volume without having first secured a license for each place of business as herein provided. In case such place of business is located within the corporate limits of a city, the application for license shall be made to the governing body of such city. In all other cases, the application for license shall be made to the board of county commissioners in the county in which such place of business is to be located, except that the application for license to sell on railway cars shall be made to the director as hereinafter provided.

(b) A board of county commissioners shall not issue or renew a retailer's license without giving the clerk of the township where the place of business is to be located written notice by registered mail of the filing of the application for licensure or renewal. The township board may within 10 days file advisory recommendations as to the granting of such license or renewal and such advisory recommendations shall be considered by the board of county commissioners before such license is issued. If an original license is granted and issued, the board of county commissioners shall grant and issue renewals thereof upon application of the license holder, if the license holder is qualified to receive the same and the license has not been revoked as provided by law.

(c) An application for a retailer's license shall be verified and upon a form prepared by the attorney general of the state and shall contain:

(1) The name and residence of the applicant;

(2) the length of time that the applicant has resided within the state of Kansas;

(3) the particular place of business for which a license is desired;

(4) the name of the owner of the premises upon which the place of business is located; and

(5) a statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(d) In addition to the fee provided by subsection (e), each application for a retailer's license to sell cereal malt beverages for consumption on the licensed premises shall be accompanied by a fee as follows:

(1) For licensure of a place of business other than a railway car, a fee of not less than $25 nor more than $200, as prescribed by the board of county commissioners or the governing body of the city, as the case may be; and

(2) for licensure to sell on railway cars, a fee of $100.

(e) Each applicant for a retailer's license or renewal of such a license shall submit to the director a copy of the completed application for such license or license renewal, together with a fee of $25. Upon receipt of such application, the director shall authorize a state stamp to be affixed to the license. No such stamp shall be affixed to any license except such stamps as provided by the director and no retailer's license shall be issued or renewed unless such stamp has first been affixed thereto. The director may refuse to issue a stamp if the applicant or licensee is not current in the payment of any

fines imposed by the director relating to such license or a license previously issued pursuant to this section, the Kansas liquor control act or the club and drinking establishment act.

(f) The director shall remit all fees collected by the director 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 state general fund, except that the director may provide for the deposit in the cereal malt beverage tax refund fund of such amounts as necessary for the refund of any license fees collected hereunder.

(g) The board of county commissioners of the several counties or the governing body of a city shall issue a license upon application duly made as otherwise provided for herein, to any retailer engaged in business in such county or city and qualified to receive such license, to sell only cereal malt beverages in original and unopened containers, and not for consumption on the premises. The annual license fee for such license, which shall be in addition to the fee provided by subsection (e), shall be not less than $25 nor more than $50.

(h) No license issued under this act shall be transferable.

KSA 41-2703 — Retailer's license; issuance, requirements; denial, when; term of license; notice to distributors of nonrenewal, when; special event retailers' permit

Retailer's license; issuance, requirements; denial, when; term of license; notice to distributors of nonrenewal, when; special event retailers' permit.

(a) After examination of an application for a retailer's license, the board of county commissioners or the director shall, if they approve the same, issue a license to the applicant. The governing body of the city shall, if the applicant is qualified as provided by law, issue a license to such applicant.

(b) No retailer's license shall be issued to:

(1) A person who is not a citizen of the United States;

(2) a person who, within two years immediately preceding the date of application approval, has been convicted of, released from incarceration for or released from probation or parole for a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States;

(3) a partnership, unless all the members of the partnership are otherwise qualified to obtain a license;

(4) a corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship requirements;

(5) a person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee;

(6) a person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship requirements or age, except that this paragraph shall not apply in determining eligibility for a renewal license; and

(7) a person whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act.

(c) After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation that has:

(1) Had a retailer's license revoked under K.S.A.

41-2708

, and amendments thereto; or

(2) been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(d) Notwithstanding any generally applicable grant of discretion that may be provided pursuant to subsection (a), if an applicant has been issued a farm winery license pursuant to K.S.A.

41-316

, and amendments thereto, or a producer's license pursuant to K.S.A.

41-355

, and amendments thereto, an application for a retailers' license shall be approved by the board of county commissioners, the governing body of the city or the director, subject to the requirements of subsections (b) and (c).

(e) Retailers' licenses shall be issued either on an annual basis or for the calendar year. If such licenses are issued on an annual basis, the board of county commissioners or the governing body of the city shall notify the distributors supplying the county or city on or before April 1 of the year if a retailer's license is not renewed.

(f) In addition to, and consistent with the requirements of K.S.A.

41-2701

et seq., and amendments thereto, the board of county commissioners of any county or the governing body of any city may provide by resolution or ordinance for the issuance of a special event retailers' permit that shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, that may be open to the public, subject to the following:

(1) A special event retailers' permit shall specify the premises for which the permit is issued;

(2) a special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;

(3) not more than four special event retailers' permits may be issued to any one applicant in a calendar year; and

(4) a special event retailers' permit shall not be transferable or assignable.

(g) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act, K.S.A.

41-2901

et seq., and amendments thereto.

KSA 41-2703a — Licensure qualifications for limited liability company

Licensure qualifications for limited liability company.

(a) Notwithstanding any other provision of law, any limited liability company applying for a license under the Kansas cereal malt beverage act shall be required to meet the qualifications for licensure of a corporation under K.S.A.

41-2703

, and amendments thereto, except that only those individuals owning in the aggregate 25% or more of the ownership interest in such limited liability company shall be required to meet the qualifications for an individual to obtain a license.

(b) Any limited liability company applying for a license under the Kansas cereal malt beverage act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the Kansas cereal malt beverage act.

KSA 41-2704 — Hours and days of sale; prohibited acts

Hours and days of sale; prohibited acts.

(a) In addition to and consistent with the requirements of the Kansas cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A.

41-2911

, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A.

41-2911

, and amendments thereto, no cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business that is licensed to sell cereal malt beverage for consumption on the premises and that is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A.

41-2911

, and amendments thereto, and have not been subsequently restricted as provided in K.S.A.

41-2911

, and amendments thereto, no person shall sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume:

(1) Between the hours of 12 midnight and 6 a.m.;

(2) in the original package not earlier than 9 a.m. and not later than 8 p.m. on Sunday;

(3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business that is licensed to sell cereal malt beverage for consumption on the premises and that is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage or beer containing not more than 6% alcohol by volume to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage or beer containing not more than 6% alcohol by volume, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A.

36-501

, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, except beer containing not more than 6% alcohol by volume, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act or the business is a farm winery licensed pursuant to K.S.A.

41-316

, and amendments thereto, or a producer licensed pursuant to K.S.A.

41-355

, and amendments thereto.

(h) Cereal malt beverages may be sold on premises that are licensed pursuant to both the Kansas cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

KSA 41-2705 — Loans or gifts from manufacturer or distributor prohibited

Loans or gifts from manufacturer or distributor prohibited.

(a) Except to the extent permitted pursuant to K.S.A.

41-703

, and amendments thereto, no retailer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer or distributor; (2) any person connected with, in any way representing or a member of the family of a manufacturer or distributor; (3) any stockholders in a manufacturer or distributor; or (4) any officer, manager, agent or representative of a manufacturer or distributor.

(b) Any licensee who shall permit or assent, or be a party in any way, to any violation or infringement of the provisions of this section or of K.S.A.

41-702

or

41-703

, and amendments thereto, shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this section shall not be recovered, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

KSA 41-2706 — Certain sales on credit or in trade prohibited

Certain sales on credit or in trade prohibited.

(a) Except as provided by subsection (b), no person shall sell or furnish cereal malt beverages or beer containing not more than 6% alcohol by volume at retail to any person on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit for such purpose, the debt attempted to be created shall not be recoverable at law and, in addition, such person shall be subject to the penalties provided in K.S.A.

41-2707

, and amendments thereto.

(b) A licensed retailer may sell cereal malt beverages or beer containing not more than 6% alcohol by volume to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.

KSA 41-2707 — Same; penalties

Same; penalties.

No distributor shall sell or furnish cereal malt beverages to a retailer on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; in payment for any service rendered or to be rendered; or by any extension of credit of any kind, type or class. Any distributor or retailer who violates any of the terms of this section or K.S.A.

41-2706

, and amendments thereto, shall be subject to all penalties and forfeitures provided by K.S.A.

41-2705

and

41-2708

, and amendments thereto, and any debt attempted to be created in violation hereof shall not be recoverable at law.

KSA 41-2708 — Revocation or suspension of license; grounds; appeal

Revocation or suspension of license; grounds; appeal.

(a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A.

41-2701

et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages or beer containing not more than 6% alcohol by volume to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A.

41-102

, and amendments thereto, except beer containing not more than 6% alcohol by volume; or

(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has become ineligible to obtain a license under this act;

(3) the nonpayment of any license fees;

(4) permitting any gambling in or upon the licensee's place of business;

(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages or beer containing not more than 6% alcohol by volume;

(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) there has been a violation of K.S.A.

21-4106

or

21-4107

, prior to their repeal, or K.S.A.

21-6204

, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

KSA 41-2709 — Injunction proceedings

Injunction proceedings.

The attorney general, or any county attorney of the state within his county or any city attorney within his city shall at all times have the power to enjoin any party from selling cereal malt beverages within the county or city notwithstanding said party has a license and permit if it shall appear that the licensee has violated any provision or regulation of this act or any

of the rules or regulations prescribed under this act. Injunction proceedings shall be the same as is now prescribed for the enjoining of intoxicating liquor nuisances.

KSA 41-2711 — Penalties for violation of act

Penalties for violation of act.

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

KSA 41-2712 — Invalidity of part

Invalidity of part.

Should any court declare any section, clause or provision of this act to be unconstitutional such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this act.

KSA 41-2722 — Certain sales practices prohibited; penalties

Certain sales practices prohibited; penalties.

(a) No retailer, or employee or agent of a retailer, licensed to sell cereal malt beverage and beer containing not more than 6% alcohol by volume for consumption on the licensed premises shall:

(1) Offer or serve any free cereal malt beverage or beer containing not more than 6% alcohol by volume to any person;

(2) offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee;

(3) sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking cereal malt beverage or beer containing not more than 6% alcohol by volume or the awarding of drinks as prizes; or

(5) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4).

(b) A retailer may:

(1) Offer free food or entertainment at any time;

(2) sell, offer to sell and serve individual drinks at different prices throughout any day; or

(3) sell or serve cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces.

(c) Violation of any provisions of this section is a misdemeanor punishable as provided by K.S.A.

41-2711

, and amendments thereto.

(d) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A.

41-2708

, and amendments thereto.

(e) Every licensee subject to the provisions of this section shall make available at any time upon request a price list showing the licensee's current prices for all cereal malt beverages and beer containing not more than 6% alcohol by volume.

(f) This section shall be part of and supplemental to K.S.A.

41-2701

through

41-2721

, and amendments thereto.

KSA 41-2725 — Cereal malt beverage prohibited at state capitol

Cereal malt beverage prohibited at state capitol.

(a) No person shall drink or consume cereal malt beverage in the state capitol building or on the grounds of the state capitol building.

(b) Violation 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.

(c) As used in this section, terms have the meanings provided by K.S.A.

41-2701

, and amendments thereto.

KSA 41-2726 — Sales below cost prohibited

Sales below cost prohibited.

(a) No retailer licensed under K.S.A.

41-2701

et seq., and amendments thereto, to sell cereal malt beverage or beer containing not more than 6% alcohol by volume in original and unopened containers and not for consumption on the licensed premises shall sell or offer for sale directly or indirectly any cereal malt beverage or beer containing not more than 6% alcohol by volume at a price that is less than the acquisition cost of such cereal malt beverage or beer containing not more than 6% alcohol by volume to the licensee.

(b) The director may issue to a retailer a permit authorizing the retailer to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at less than the acquisition cost thereof, if:

(1) The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item for a period of not less than 12 months;

(2) the item is damaged or deteriorated in quality and notice is given to the public thereof; or

(3) the sale of the item is by an officer acting under the order of a court.

(c) Violation of this section is a misdemeanor punishable as provided by K.S.A.

41-2711

, and amendments thereto.

(d) Violation of this section shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A.

41-2708

, and amendments thereto.

KSA 41-2727 — Use of minors to determine compliance with law, exceptions

Use of minors to determine compliance with law, exceptions.

(a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under the legal age for consumption of cereal malt beverage to violate the provisions of K.S.A.

41-2701

et seq., and amendments thereto, in order to develop a program or system which determines and encourages compliance with the provisions thereof prohibiting the furnishing or sale of cereal malt beverages to a person under the legal age for consumption of cereal malt beverage or the consumption of cereal malt beverages by such persons.

(b) No person shall engage or direct a person under the legal age for consumption of cereal malt beverage to violate any provision of K.S.A.

41-2701

et seq., and amendments thereto, for purposes of determining compliance therewith unless such person is:

(1) An officer having authority to enforce the provisions of K.S.A.

41-2701

et seq., and amendments thereto;

(2) an authorized representative of the attorney general, a county attorney or a district attorney; or

(3) a licensee under the provisions of K.S.A.

41-2701

et seq., and amendments thereto, or such licensee's designee pursuant to a self-compliance program designed to increase compliance with the provisions of K.S.A.

41-2701

et seq., and amendments thereto, if such program has been approved by the director.

KSA 41-2728 — Title of act; power to regulate cereal malt beverage

Title of act; power to regulate cereal malt beverage.

From and after November 15, 2005:

(a) K.S.A.

41-2701

through

41-2727

and section 14*, and amendments thereto, shall be known and may be cited as the Kansas cereal malt beverage act.

(b) Except as specifically provided in the Kansas cereal malt beverage act, the power to regulate all phases of the manufacture, distribution, sale, possession, transportation and traffic in cereal malt beverages is vested exclusively in the state and shall be exercised as provided in the Kansas cereal malt beverage act. No city or county shall enact any ordinance or resolution which is in conflict with the provisions of the Kansas cereal malt beverage act and any such ordinance or resolution shall be null and void.

(c) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

KSA 41-2729 — Flavored malt beverages

Flavored malt beverages.

(a) This act shall be known as the flavored malt beverage act.

(b) "Flavored malt beverage" means a malt beverage which meets the formula definitions as set forth in department of the treasury, alcohol and tobacco tax and trade bureau regulations published January 3, 2005, at 27 C.F.R. Parts 7 and 25.

(c) Notwithstanding any other provision of law, any malt product which meets the formula definitions of 27 C.F.R. Parts 7 and 25 published January 3, 2005, regarding flavored malt beverages shall have imposed upon it the tax rate for malt beverages as set forth in K.S.A.

41-501

, and amendments thereto, for beer and cereal malt beverage.

(d) Notwithstanding any other provision of law, any malt product which meets the definitions of 27 C.F.R. Parts 7 and 25 published January 3, 2005, regarding flavored malt beverages shall be deemed in compliance with the labeling requirements of this state when its labeling meets the requirements of 27 C.F.R. Parts 7 and 25 published January 3, 2005.

(e) Any manufacturer or brewer who intends that its products be classified as a flavored malt beverage under this act shall file with the secretary of revenue its registration of such products on a form prescribed by the secretary for such purpose, along with such other documentation as the secretary may require by rules and regulations.

KSA 41-2730 — Violations of act; issuance of citations; civil penalties

Violations of act; issuance of citations; civil penalties.

(a) The director, or any properly designated agent of the director, may issue a citation for any violation of the Kansas cereal malt beverage act, or any rules and regulations promulgated thereunder, with regard to the sale, consumption or possession of beer containing not more than 6% alcohol by volume. Any such citation shall be issued in accordance with

the provisions of K.S.A.

41-106

, and amendments thereto.

(b) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a retailer, as defined by K.S.A.

41-2701

(e), and amendments thereto, has violated a provision of the Kansas liquor control act or the Kansas cereal malt beverage act, or any rules and regulations promulgated thereunder, with regard to the sale, consumption or possession of beer containing not more than 6% alcohol by volume may impose upon such retailer a civil fine not exceeding $1,000 for each violation.

(c) No fine shall be imposed pursuant to this section except upon the written order of the director to the retailer who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the retailer to appeal the order. Such order shall be subject to appeal and review in accordance with the Kansas administrative procedure act.

(d) Any fine imposed pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A.

75-4215

, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) This section shall be a part of and supplemental to the Kansas cereal malt beverage act.

KSA 41-2901 — Beer and cereal malt beverage keg registration act; citation

Beer and cereal malt beverage keg registration act; citation.

This section and K.S.A.

41-2902

through

41-2906

, and amendments thereto, shall be known and may be cited as the beer and cereal malt beverage keg registration act.

KSA 41-2902 — Same; regulation by cities and counties, limitations

Same; regulation by cities and counties, limitations.

Any ordinance or resolution adopted by a city or county which supplements or is in conflict with or contrary to the provisions of the beer and cereal malt beverage keg registration act shall be null and void.

KSA 41-2903 — Same; retailer's liability, limitation

Same; retailer's liability, limitation.

Nothing in the beer and cereal malt beverage keg registration act shall be construed as creating a private cause of action against a retailer or a retailer's agent or employee.

KSA 41-2904 — Same; civil and administrative actions, recovery of fees and costs, when

Same; civil and administrative actions, recovery of fees and costs, when.

In any civil or administrative action brought against a retailer or a retailer's agent or employee for a violation of the beer and cereal malt beverage keg registration act, in which the defendant is the prevailing party, the court or presiding officer may award to the defendant reasonable attorney's fees and all other reasonable costs if the court or presiding officer finds the action was not brought in good faith or was brought without a reasonable basis in fact or law.

KSA 41-2905 — Same; duties of beer retailer; violations; penalties; duties of secretary; rules and regulations

Same; duties of beer retailer; violations; penalties; duties of secretary; rules and regulations.

(a) Prior to the sale at retail of any beer in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the beer container a keg identification number or otherwise uniquely identify the container in accordance with this act and rules and regulations adopted by the secretary. At the time of sale at retail of any such container of beer, the retailer or the retailer's employee or agent shall record the keg number; the date of the sale; the purchaser's name and address; and the number on the purchaser's driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain both the purchaser's picture and the purchaser's signature, which shall be exhibited at the time of sale. Such record shall be kept by the retailer at the premises where the sale was made. Such record shall be kept by the retailer until the container is returned or until the expiration of six months following the date of the sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of beer by persons under the age of 21 and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that a retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours of the retailer. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of this section or K.S.A.

21-3610

, prior to its repeal, or subsection (a) of K.S.A.

21-5607

, and amendments thereto, or K.S.A.

41-727

, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than an agent of the retailer or to a law enforcement agency.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the director may suspend or revoke the retailer's license in the manner provided by K.S.A.

41-320

, and amendments thereto, and may impose a fine as provided by K.S.A.

41-328

, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a beer container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a beer container; or (3) possess a beer container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section. Such rules and regulations shall include, but shall not be limited to, provisions relating to records and establishing standards for marking and handling containers which are required to be registered by this act.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this section. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg. There shall be no charge for such tags or labels.

(g) If a person sold beer in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or proceeding or civil or administrative action under this section.

(h) The provisions of this section shall not apply to sales of kegs by distributors or retailers to clubs, drinking establishments, hotel drinking establishments and caterers licensed under the club and drinking establishment act.

(i) Words or phrases used in this section shall have the meaning ascribed thereto by K.S.A.

41-102

, and amendments thereto.

KSA 41-2906 — Same; duties of cereal malt beverage retailers; violations; penalties; duties of secretary; rules and regulations

Same; duties of cereal malt beverage retailers; violations; penalties; duties of secretary; rules and regulations.

(a) Prior to the sale by a retailer or a retailer's employee or agent of any cereal malt beverage in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the cereal malt beverage container a keg identification number or otherwise uniquely identify the container in accordance with rules and regulations adopted by the secretary. At the time of sale of any such container of cereal malt beverage, the retailer, or the retailer's employee or agent, shall record the keg number; the date of the sale; the purchaser's name and address; and the number on the purchaser's driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain both the purchaser's picture and the purchaser's signature, which shall be exhibited at the time of sale. Such record shall be kept by the retailer at the premises where the sale was made. Such record shall be kept by the retailer until the container is returned or until the expiration of six months following the date of the sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of cereal malt beverage by persons under the legal age for consumption of cereal malt beverage and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that such retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of this section or K.S.A.

21-3610

, prior to its repeal, or subsection (a) of K.S.A.

21-5607

, and amendments thereto, or K.S.A.

41-727

, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than an agent of the retailer or to a law enforcement agency.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the board of county commissioners or the governing body of the city may suspend or revoke the retailer's license in the manner provided by K.S.A.

41-2708

, and amendments thereto, and may impose a fine pursuant to K.S.A.

41-2711

, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a cereal malt beverage container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a cereal malt beverage container; or (3) possess a cereal malt beverage container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section. Such rules and regulations shall include, but shall not be limited to, provisions relating to records and establishing standards for marking and handling containers which are required to be registered by this act.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this act. There shall be no charge for such tags or labels. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg.

(g) If a person sold cereal malt beverage in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or proceeding or civil or administrative action under this section.

(h) Words and phrases used in this section shall have the meaning ascribed thereto by K.S.A.

41-2701

, and amendments thereto.

KSA 41-2911 — Hours and days of sale of alcoholic liquor and cereal malt beverage; local option

Hours and days of sale of alcoholic liquor and cereal malt beverage; local option.

(a) (1) The board of county commissioners of any county may, by resolution:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of the county on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the resolution and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to allow such sale within the unincorporated area of the county on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the resolution; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the unincorporated area of the county on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to prohibit such sale within the unincorporated area of the county on Sunday.

Such resolution shall be published once, within two weeks after its adoption, in the official county newspaper. Such resolution shall not become effective earlier than 60 days following the date of its publication. If, within 60 days following publication of the resolution, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (a)(2), such resolution shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (a).

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this subsection (a) shall be filed with the county election officer. The petition shall be signed by qualified voters of the county who reside within the unincorporated area of the county equal in number to not less than 5% of the voters of the county residing within the unincorporated area of the county who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the unincorporated area of _____ county."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the unincorporated area of _____ county and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the unincorporated area of _____ county."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (a), the county commission shall call a special election to be held not later than 45 days after submission of the petition unless a countywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such countywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the unincorporated area of the county at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday)?"

(b) (1) The governing body of any city may, by ordinance:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the city on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the ordinance and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to allow such sale within the city on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the ordinance; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the city on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to prohibit such sale within the city on Sunday.

Such ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective earlier than 60 days following the date of its publication. If, within 60 days following publication of the ordinance, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (b)(2), such ordinance shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (b).

(2) A petition to submit a proposition to the qualified voters of a city pursuant to this subsection (b) shall be filed with the county election officer. The petition shall be signed by qualified voters of the city equal in number to not less than 5% of the voters of the city who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the city of _____."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the city of _____ and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday) within the city of _____."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (b), the city governing body shall call a special election to be held not later than 45 days after submission of the petition unless a citywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such citywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the city at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the city, the following proposition shall be placed on the ballot: "Within the city of _____ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the following proposition shall be placed on the ballot: "Within the city of _____ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on

Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, not earlier than 9 a.m. and not later than 8 p.m. as established in the petition) (prohibited on Sunday)?"

(c) The county election officer shall transmit to the director a copy of the results of an election pursuant to this section.

(d) An election provided for by this section shall be called and held in the manner provided by the general bond law.