City of Hays
Office of the City Manager

Memo

To: City Commission

From: Toby Dougherty, City Manager

Date: 9-22-15

Re: October 1, 2015 Work Session

Please find the attached agenda and supporting documentation for the October 1, 2015 Work Session.

Item 2 – 2015 Uniform Public Offense Code/2015 Standard Traffic Ordinance

This is a housekeeping matter. Each year after the changes enacted by the Kansas State Legislature have been codified, the League of Kansas Municipalities prepares updates to the Uniform Public Offense Code and the Standard Traffic Ordinance. Please refer to the memorandum from Don Scheibler, Chief of Police, for the notable changes to the documents for 2015.

Item 3 – Strong Towns Continued Discussion

In June, I introduced the City Commission to the results of City staff's Strong Towns fiscal investigation of the City of Hays. Since then, City staff has been very busy in the background continuing to fine-tune the investigation and implement the results as was previously discussed. I feel it is imperative that City staff and the Commission continue to discuss this issue to keep it in the forefront of our thoughts and actions. Therefore, at the October 1st Work Session, I will give the Commissioners an update on what has been happening since June. There will be a few topics that I will throw out to the Commission to begin a dialogue that can be fine-tuned moving forward. Much more information will be shared with you at the work session.

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CITY OF HAYS
CITY COMMISSION WORK SESSION
THURSDAY, OCTOBER 1, 2015 – 6:30 P.M.
AGENDA

1. **ITEM FOR REVIEW: September 17, 2015 Work Session Notes** (PAGE 1)
   DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance

2. **ITEM FOR REVIEW: 2015 Uniform Public Offense Code/2015 Standard Traffic Ordinance** (PAGE 5)
   DEPARTMENT HEAD RESPONSIBLE: Don Scheibler, Chief of Police

3. **ITEM FOR REVIEW: Strong Towns Continued Discussion**
   PERSON RESPONSIBLE: Toby Dougherty, City Manager

4. **OTHER ITEMS FOR DISCUSSION**

5. **EXECUTIVE SESSION (IF REQUIRED)**

6. **ADJOURNMENT**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

City of Hays

City Commission

Work Session Notes

Thursday, September 17, 2015 – 6:30 p.m.

Present: Eber Phelps, Shaun Musil, James Meier, Lance Jones, John Bird, Toby Dougherty and Kim Rupp

Absent: Henry Schwaller IV

September 3, 2015 Work Session Notes

There were no corrections or additions to the minutes of the work session held on September 3, 2015; the minutes stand approved as presented.

DHDC Update

Sandy Jacobs, President of the Downtown Hays Development Corporation (DHDC) and Sara Bloom, Executive Director of DHDC, shared the new marketing plan for downtown. The marketing plan called the Bricks in Downtown Hays will be launched October 1, 2015. It was designed to develop a place identity for Downtown Hays like Mass Street in Lawrence or Aggieville in Manhattan, where community members feel a sense of unity, a university presence, and energy and excitement from the activities, businesses and people there.

The proposed branding and marketing strategies are based on feedback from community members and Fort Hays State University students who participated in a series of focus groups.

The Commissioners were also updated on new activities that DHDC have planned.

USACE Section 205 Study – Survey and Geotechnical Services

The City of Hays entered into a study cost share agreement with the United States Army Corps of Engineers (USACE) under the Section 205 Small Project program to study the Lincoln Draw watershed. The study will look at potential locations for detention basins within the Lincoln Draw watershed to reduce flood risk within the watershed. The City of Hays is proposing to meet certain obligations under this agreement through in-kind services which will include work performed by City staff and work contracted to outside engineering firms.

Steven Walters, Stormwater Specialist, reported that City staff issued a request for proposals for land survey and geotechnical services to be contracted as in-kind services as part of the study cost share agreement. The proposed contract will be used to meet the 2015 and part of the 2016 monetary obligations for the cost share agreement.

At the September 24, 2015 Commission meeting, Commissioners will be asked to direct the City Manager to execute a contract with Olsson Associates for field services in the amount of $109,365 to be funded out of the Stormwater Reserve Fund.

Kansas Water Pollution Control Revolving Fund Loan Ordinance

As has been discussed for several weeks, the City's wastewater plant is at the end of its useful life and more stringent environmental regulations have forced staff to seek a major improvement project. The facility plan estimates total costs including financing in the amount of $30,260,000.

Finance Director, Kim Rupp, reported on several options available to finance the project. After review City staff feels the Kansas Water Pollution Control Revolving Fund (SRF) Loan is the best source of funding the project costs.

At the September 24, 2015 Commission meeting, Commissioners will be asked to approve an ordinance authorizing the Kansas Water Pollution Control

Revolving Fund Loan financing the City of Hays Wastewater Treatment Plant Improvements project in the amount of $30,260,000.

Airport Marketing and 2016 EAS Bid Update/Release of 2015 Marketing Funds

City Manager, Toby Dougherty, updated the Commissioners on the upcoming Airport marketing campaign as well as the process for the 2016 Essential Air Service (EAS) contract bids. He stated because of scheduling conflicts early this year, the City lost its early morning flight for two months and enplanements have decreased since then. The morning flight was restored and we would like to see those using the flight increase. The new campaign will emphasize the convenience, reliability, and affordability of the Hays Regional Airport. He stated we need to get the message out to the public that we need to utilize our airport or it will not be there to utilize. If we lose SkyWest, we lose the viability of the airport.

At the September 24, 2015 Commission meeting, Commissioners will be asked to authorize the expenditure of $25,000 from the Financial Policy Projects line item to fund marketing efforts at the Hays Regional Airport.

Other Items for Discussion

There were no other items for discussion.

The work session was adjourned at 7:18 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

Commission Work Session Agenda Memo

From: Don Scheibler, Chief of Police

Work Session: October 1, 2015

Subject: 2015 Uniform Public Offense Code
2015 Standard Traffic Ordinance

Person(s) Responsible: Don Scheibler, Chief of Police

Summary

The Hays City Commission is being asked to adopt by ordinance, the updated 2015 Uniform Public Offense Code for Kansas Cities (UPOC) and the updated 2015 Standard Traffic Ordinance for Kansas Cities (STO) for use within the City of Hays. The ordinances and any changes to the UPOC and the STO are presented to the Commission annually. It is the recommendation of city staff that the Commission approve the ordinances adopting the 2015 revised UPOC and STO.

Background

The League of Kansas Municipalities (LKM) publishes a revised version of the Uniform Public Offense Code for Kansas Cities (UPOC) and the Standard Traffic Ordinance for Kansas Cities (STO) on a yearly basis. These publications are made available for purchase by municipalities. The municipalities may adopt these two sets of ordinances for their use. These ordinances contain the most current legislative changes and updates put into place annually by the Kansas Legislature.

Discussion

The majority of the UPOC and STO remain the same from year to year, with only a few changes being made. Changes to the UPOC and STO are noted on the last page of each publication. A handout has been prepared by staff, listing the ordinances that have been changed with a brief outline of the changes.

Some of the changes and additions to the 2015 UPOC include the following:

Sec. 3.2 - Battery Against a Law Enforcement Officer – Changes were made to Sec. 3.2 to include battery against a judge engaged in the performance of the judge's duty, an attorney engaged in the performance of the attorney's duty (including a prosecutor or a defense attorney), or a court services or community correction officer in the performance of their duties. This violation is a Class A misdemeanor.

Sec. 3.2.2 – Battery Against a School Employee – Added a new section that prohibited the battery of school employees (kindergarten – 12th grade) in or on any school property, or at an extracurricular activity, where such employee is engaged in the performance of their duties. This violation used to be a simple battery and was a Class B misdemeanor. This violation is now a Class A misdemeanor.

Sec. 6.24 & 6.25 – Unlawfully Selling and Buying of Scrap Metal – Both Section 6.24 and 6.25 were deleted from the UPOC in 2015. The State of Kansas created the Scrap Metal Theft Reduction Act and gave the Kansas Attorney General jurisdiction and authority over the implementation, administration and enforcement of the provisions of this Act. Local government is prohibited from enacting or enforcing any ordinance, resolution, or regulation relating to the Act and any existing ordinance, resolution or regulation is null and void.

There were few amendments to the state traffic statues in 2015, and most of the changes to the STO are small in nature.

A handout has been prepared by staff noting the additions and/or changes to the UPOC and STO.

Legal Consideration

Ordinances adopting the UPOC and the STO have been drafted by the City Attorney for Commission Approval. There are no known legal obstacles to proceeding as recommended by City Staff.

Financial Consideration

There are no financial considerations other than staff hours incurred drafting these ordinances.

Options

The City Commission has the following options:

1. Approve the ordinances adopting the 2015 revised UPOC and STO.
2. Not approve the ordinances adopting the 2014 revisions, with the continuation of the 2014/current UPOC and STO.

Recommendation

It is the recommendation of city staff that the Commission approve the ordinances adopting the 2015 revised versions of the Uniformed Public Offense Code and Standard Traffic Ordinances.

Action Requested

Approve the ordinances adopting the 2015 revised UPOC and STO

Supporting Documentation

List of additions or changes made in the 2015 UPOC and STO
Draft ordinances adopting the 2015 UPOC and STO for use in the City of Hays

OVERVIEW OF CHANGES TO THE 2015 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES

Brief outline of changes made to ordinance

Words Added ~~**Words Deleted**~~

1.1 DEFINITIONS

(pages 6-24) Added definitions Advance Voting Site, Animal, Auction Motor Vehicle Dealer, Beer, Cardholder, Caterer, Cigarette, City or County Correctional Officer or Employee, Club, Class A Club, Class B Club, Court Appointed Guardian, Distribute, Domestic Pet, Drinking Establishment, Equine, Farm Animal, Fighting Words, Financial Card, Fish, Funeral, Furbearing Animal, Furharvest, Game Animal, Health Care Facility, Health Care Provider, Hunt, Juvenile Correctional Facility Officer or Employee, Juvenile Detention Facility Officer or Employee, Maliciously, Needle, Nonferrous Metal, Possession, Private Place, Public Demonstration, Retail Dealer, Rebuilder, Runaway, Salvage Vehicle Dealer, Salvage Vehicle Pool, Sample, School Employee, Scrap Metal Recycler, Sexual Intercourse, Sodomy, State Correctional Officer or Employee, Spirits, Spouse, Telecommunications Device, Temporary Permit, Tobacco Products, Unlawful Sexual Act, Vehicle Crusher, Vehicle Dealer, Vehicle Recycler, Wildlife and Wine. Removed definitions Arson Dog, Correctional Officer or Employee, Identification Document, Regulated Scrap Metal, Regulated Scrap Metal Yard, Scrap Metal Dealer, Search and Rescue Dog. Removed language from the definition To Deprive Permanently. Added and removed language from Law Enforcement Officer. Added and removed language from the definition Public Officer. Added and removed language from the definition State or This State. Added language to the definition Toxic Vapors. Added language to the definition Written Instrument.

Advance Voting Site. The central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 25-2812.

Animal. Every living vertebrate except a human being.

~~**Arson Dog.** Any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires.~~

Auction Motor Vehicle Dealer. 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.

Beer. 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.

Cardholder. The person or entity to whom or for whose benefit a financial card is issued.

Caterer. An individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

Cigarette. Any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

City or County Correctional Officer or Employee. Any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility.

~~**Correctional Officer or Employee.** Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution.~~

Club. A Class A or Class B club.

Class A Club. A premises which is owned or leased by a corporation, partnership, business trust or association and which 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.

Class B Club. 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.

Court Appointed Guardian. One who is appointed by a court and has legal authority and duty to care for another person, especially because of the other's infancy, incapacity or disability.

~~To~~ Deprive Permanently.

(a) Take from the owner the possession, use or benefit of property, without an intent to restore the same; ~~or~~

(b) Retain property without intent to restore~~, it~~ 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

(c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

Distribute. 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.

Domestic Pet. Any domesticated animal which is kept for pleasure rather than utility.

Drinking Establishment. Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. **Drinking establishment** includes a railway car.

Equine. A horse, pony, mule, jenny, donkey or hinny.

Farm Animal. An animal raised on a farm or ranch and used or intended for use as food or fiber.

Fighting Words. Words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of the peace.

Financial Card. 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.

Fish. As a verb, means take, in any manner, any fish.

Funeral. The ceremonies, processions, and memorial services held in connection with the burial or cremation of a person.

Furbearing Animal. Any badger, beaver, bobcat, grey fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, red fox, spotted skunk, striped skunk, swift fox or weasel.

Furharvest.

(a) Take, in any manner, any furbearing animal; or

(b) Trap or attempt to trap any coyote.

Game Animal. Any big game animal, wild turkey or small game animal.

Health Care Facility. 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.

Health Care Provider. 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

Hunt.

(a) Take, in any manner, any wildlife other than a fish, bullfrog, furbearing animal or coyote; or

(b) Take, in any manner other than by trapping, any coyote.

~~**Identification Document.** 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.~~

Juvenile Correctional Facility Officer or Employee. Any officer or employee of the juvenile justice authority or any independent contractor, or any employee of such contractor, working at a juvenile correctional facility, as defined in K.S.A. 38-2302, and amendments thereto.

Juvenile Detention Facility Officer or Employee. Any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto.

Law Enforcement Officer.

(a) Any person who by virtue of ~~his or her~~ such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

(b) Any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

Maliciously. A state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Needle. A sharp, pointed implement used for the purpose of tattooing, cosmetic tattooing or body piercing. The term **needle** does not include any implements or object altered to be used as needles.

Nonferrous Metal. A metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

Possession. Having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

Private Place. A place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

Public Demonstration.

(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.

Public Officer. Includes the following, whether elected or appointed.

(a) An executive or administrative officer of the city;

(b) A member of the governing body of the city;

(c) A judicial officer, which shall include a judge, municipal judge, magistrate, juror, master or any other person appointed by a judge or court to hear or determine a cause of controversy;

(d) 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;

(e) A law enforcement officer; and ~~or public safety officer~~

(f) Any other person exercising the functions of a public officer under color of right.

~~**Regulated Scrap Metal.** Means wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes, or connectors made from aluminum; catalytic converters containing platinum, palladium, or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel, or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling, Aluminum shall not include food or beverage containers.~~

~~**Regulated Scrap Metal Yard.** Any yard, plot, space, enclosure, building, or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale, or transfer.~~

Retail Dealer. A person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer.

Rebuilder. 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.

Runaway. A child under 18 years of age who is voluntarily absent from:

(a) The child's home without the consent of the child's parent or other custodian; or

(b) 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.

Salvage Vehicle Dealer. 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.

Salvage Vehicle Pool. 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.

Sample. Cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

School Employee. 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.

~~**Scrap Metal Dealer.** Any person that operates a business out of a fixed location, and that is also either:~~

~~(a) Engaged in the business of buying and dealing in regulated scrap metal;~~

~~(b) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or~~

~~(c) Operating, carrying on, conducting, or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale, or transfer.~~

Scrap Metal Recycler. 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.

~~**Search and Rescue Dog.** Any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.~~

Sexual Intercourse. 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:

(a) Generally recognized health care practices; or

(b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

State or This State. ~~The State of Kansas.~~ Means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction or the air space above such land and water.

Sodomy. 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:

(a) Generally recognized health care practices; or

(b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

State Correctional Officer or Employee. Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution.

Spirits. 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.

Spouse. 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.

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.

Temporary Permit. A temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Tobacco Products. Cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; Cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

Toxic Vapors. The following substances or products containing such substances:

(a) Alcohols, including methyl, isopropyl, propyl, or butyl;
(b) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
(c) Acetone;
(d) Benzene;
(e) Carbon tetrachloride;
(f) Cyclohexane;
(g) Freons, including freon 11, freon 12, and other halogenated hydrocarbons;
(h) Hexane;
(i) Methyl ethyl ketone;
(j) Methyl isobutyl ketone;
(k) Naptha;
(l) Perchlorethylene;
(m) Toluene;
(n) Trichloroethane; or
(o) Xylene.

Unlawful Sexual Act. Any lewd and lascivious behavior or sexual battery as defined in this code.

Vehicle Crusher. 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.

Vehicle Dealer. Any person who:

(a) 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

(b) 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 below; but does not include:

- (1) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgement 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.
- (2) public officers while performing their official duties;
- (3) employees of persons enumerated provisions (1) and (2), when engaged in the specific performance of their duties as such employees;
- (4) auctioneers conducting auctions for persons enumerated in provisions (1), (2), or (3); or
- (5) auctioneers who, while engaged in conducting an auction of tangible person property for others, offer for sale:
  - (A) 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;
  - (B) vehicles which meet the statutory definition of antique vehicles; or
  - (C) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (5), except truck, truck tractors, pole trailers,

trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

Vehicle Recycler. 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.

Wildlife. Any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. Wildlife does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl).

Wine. 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.

Written Instrument. 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, tokens, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. (K.S.A. 8-126; K.S.A. 12-4113; K.S.A. 21-5111; K.S.A. 21-5413; K.S.A. 21-5603; K.S.A. 21-5809; K.S.A. 21-5918; K.S.A. 21-6101; K.S.A. 21-6109; K.S.A. 21-6301; K.S.A. 21-6321; K.S.A. 21-6416; K.S.A. 21-6417; K.S.A. 32-1102; K.S.A. 32-1130; K.S.A. 41-102; K.S.A. 41-601; K.S.A. 41-2701; K.S.A. 51-301; K.S.A. 79-3301; K.S.A. 82a-802, as amended)

3.2 BATTERY AGAINST A LAW ENFORCEMENT OFFICER.

(pages 30 & 31) Reformatted to add subsections (a), (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (b), (b)(1), (b)(2), (b)(3) and (b)(4). Added language.

3.2 BATTERY AGAINST A LAW ENFORCEMENT OFFICER.

~~Battery against a law enforcement officer is a battery, as defined in Section 3.1(b) of this article, committed against: (A) A uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or (B) a uniformed~~

~~or properly identified state, county, or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee or a juvenile detention facility officer or employee, while such officer is engaged in the performance of such officer's duty. (K.S.A. Supp. 21-5413)~~

(a) Battery against a law enforcement officer is a battery, as defined in Section 3.1(b) of this article, committed against a:

(1) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
(2) 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;
(3) judge, while such judge is engaged in the performance of such judge's duty;
(4) attorney, while such attorney is engaged in the performance of such attorney's duty; or
(5) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(b) As used in this section:

(1) **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;
(2) **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;
(3) **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; and

(4) **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. (K.S.A. Supp. 21-5413)

Battery against a law enforcement officer is a Class A violation.

3.2.2 **BATTERY AGAINST A SCHOOL EMPLOYEE.**

(pages 31 & 32) Added entire section.

3.2.2 **BATTERY AGAINST A SCHOOL EMPLOYEE.** Battery against a school employee is a battery, as defined in Section 3.1, 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. (K.S.A. Supp. 21-5413)

Battery against a school employee is a Class A violation.

3.12 **BREACH OF PRIVACY.**

(pages 36 & 37) Removed subsection (d).

(a) Breach of privacy is knowingly and without lawful authority:

(1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;

(2) Divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;

(3) Entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;

(4) Installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein; or

(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. (K.S.A. Supp. 21-6101)

(b) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

(c) The provisions of this section shall not apply to an operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility.

~~(d) As used in this section, "private place" means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.~~

Breach of privacy, as defined in this section, is a Class A violation.

5.1 **CONTRIBUTING TO A CHILD'S MISCONDUCT OR DEPRIVATION.**

(page 42) Removed subsections (c), (c)(1) and (c)(2). Added language to subsection (b).

(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) 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) 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.
(K.S.A. Supp. 21-5603)

~~(c) 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. (K.S.A. Supp. 21-5603)~~

Contributing to a child's misconduct or deprivation is a Class A violation.

5.2 FURNISHING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE TO A MINOR.

(pages 43 & 44) Removed language from subsection (d). Added subsection (e).

(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) This section shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes.

(c) It shall be a defense to a prosecution under this section 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 non driver'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.

(d) This section 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. ~~(K.S.A. Supp. 21-5607)~~

(e) As used in this section, **minor** means a person under 21 years of age. (K.S.A. Supp. 21-5607)

Furnishing alcoholic liquor or cereal malt beverage to a minor is a Class B violation for which the minimum fine is $200.

5.5 **WATERCRAFT; LIFESAVING DEVICES REQUIRED.**

(page 45) Reformatted to add subsections (a) and (b).

5.5 **WATERCRAFT; LIFESAVING DEVICES REQUIRED.**
~~**The operator of every vessel shall require every person 12 years of age or under to wear a United States Coast Guard approved type I, type II or type III personal flotation device while aboard or being towed by such vessel. A life belt or ring shall not satisfy the requirement of this section. (K.S.A. 32-1129)**~~

(a) The operator of every vessel shall require every person 12 years of age or under to wear a United States Coast Guard approved type I,

type II or type III personal flotation device while aboard or being towed by such vessel. A life belt or ring shall not satisfy the requirement of this section.

(b) As used in this section, **operator** means the person who operates or has charge of the navigation or use of a motorboat or a vessel. (K.S.A. 32-1129)

Violation of this section shall constitute a Class C violation.

5.7 **SELLING, GIVING OR FURNISHING CIGARETTES OR TOBACCO PRODUCTS TO A MINOR.**

(pages 45-47) Removed language from subsection (c)(2). Added subsection (d).

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

(1) Sell, furnish or distribute cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age; or
(2) Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 18 years of age.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;
(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and
(3) To purchase or receive the cigarettes, electronic cigarettes, or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, or tobacco products.
(4) For purposes of this section the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age or the retail dealer

who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(c) It shall be a defense to a prosecution under this subsection if:

(1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and

(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 18 or more years of age. ~~(K.S.A. Supp. 79-3302, 79-3321:79-3322)~~

(d) As used in this section, **sale** means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration. (K.S.A. Supp. 79-3302, 79-3321:79-3322)

Violation of this section shall constitute a Class B violation punishable by a minimum fine of $200.

6.2 **INTENT; PERMANENTLY DEPRIVE.**

(pages 50-53) Added language to subsection (a)(1). Added and removed language from subsection (a)(8). Removed subsection (a)(1)(B). Added new subsection (d). Added subsections (e), (e)(1), (e)(2), (e)(2)(A), (e)(2)(B), (e)(2)(C), (e)(2)(D), (e)(2)(E).

(a) In any prosecution under this article, 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 and fails 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 appropriate state and local computer system listing stolen motor vehicles;

(7) Removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or

(8) Under the provisions of subsection ~~(e)~~ (a)(5) of section 6.1 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) 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.~~

(b) In any prosecution 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 prosecution for theft as defined in Section 6.1, 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 prosecution for theft as defined in Section 6.1, and such theft is of regulated scrap metal as defined in K.S.A. 2014 Supp. 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.

~~(d) As used in this section:~~

~~(1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at~~

~~the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and~~

~~(2) "Tampering" includes, but is not limited to:~~

~~(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;~~

~~(B) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;~~

~~(C) Preventing any such meters from properly measuring or registering;~~

~~(D) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or~~

~~(E) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts. (K.S.A. Supp. 21-5804)~~

(e) As used in this section:

(1) **Notice** means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) **Tampering** includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) Preventing any such meters from properly measuring or registering;

(D) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(E) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts. (K.S.A. Supp. 21-5804)

6.7 **CRIMINAL TRESPASS.**

(pages 55 & 56) Removed old subsections (b), (b)(1) and (b)(2). Replaced old subsections (c)(1) and (c)(2) with new subsections (b)(1) and (b)(2).

(a) Criminal trespass is entering or remaining upon or in any:

(1) Land, non-navigable 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 by a court of competent jurisdiction and the restraining order has been personally served upon the person so restrained.

(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. (K.S.A. Supp. 21-5808)

~~(b) 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.~~

~~(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. (K.S.A. Supp. 21-5808)~~

~~(c)~~ (b) (1) This section shall not apply to 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.

(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.

Criminal trespass is a Class B violation.

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.

6.7.1 **TRESPASSING ON RAILROAD PROPERTY.**

(pages 56 & 57) Added language to subsection (c). Removed subsection (d).

(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) Subsection (a) shall not be construed to interfere with the lawful use of a public or private crossing.

(c) Nothing in this section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such

business as provided under the railway labor act (45 U.S.C & 151 et seq.) and other federal labor laws. (K.S.A. 21-5809)

~~(d) 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.~~

Trespassing on a railroad property that results in a demonstrable monetary loss, damage, or destruction less than $1,500 is a Class A violation.

6.17 **CRIMINAL USE OF A FINANCIAL CARD.**

(page 63) Removed old subsections (b)(1) and (b)(2). Replaced old subsection (c) with new subsection (b).

(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) As used in this section:~~

~~(1) **Financial Card** means an identification card, plate, instrument, device or number issued by a business organization authorized 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.~~

~~(c)~~ (b) 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 name holder thereof as shown on such financial card or by the records of the company. (K.S.A. Supp. 21-5828.)

Criminal use of a financial card is a Class A violation if the money, goods, property or services obtained within a seven-day period is of the value of less than $1,000.

6.18 **MOTOR VEHICLE DEALERS; SELLING MOTOR VEHICLES WIHTOUT A LICENSE.**

(pages 63 & 64) Reformatted section to add subsections (a), (b), (b)(1) and (b)(2) and added language.

~~6.18 **MOTOR VEHICLE DEALERS; SELLING MOTOR VEHICLES WIHTOUT A LICENSE.** It shall be unlawful 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 of vehicles. 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. (K.S.A. Supp. 8-2434)~~

(a) It shall be unlawful 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 of vehicles. 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.

(b) As used in this section:

(1) **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 the Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms “manufactured home” and “mobile home” shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(2) **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 the Kansas

Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto. (K.S.A. Supp. 8-2434)

Violation of this section shall be punishable by a fine not to exceed $2,500.

6.24 **UNLAWFULLY SELLING SCRAP METAL.**

(page 71) Removed entire section.

~~(a) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller's name, address, sex, date of birth, and the identifying number from the seller's driver's license, military identification card, passport, or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.~~

~~(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:~~

~~(1) The time, date, and place of transaction;~~
~~(2) The seller's name, address, sex, date of birth, and the identifying number from the seller's driver's license, military identification card, passport, or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;~~
~~(3) A copy of the identification card or document containing such identifying number;~~
~~(4) The license number, color, and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;~~

(5) A general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
(6) The weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
(7) If a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number, and serial number if applicable;
(8) The amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and
(9) The name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.

(c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.

(d) Notwithstanding the foregoing, this section shall not apply to:

(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is $50 or less;
(2) Transactions involving only catalytic converters for which the total sale price is $30 or less;
(3) Transactions in which the seller is also a scrap metal dealer; or
(4) Transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;
(2) Coated or insulated wire or stripped wire or burnt wire;
(3) Refrigeration condensing units or air conditioning coils of any type; or
(4) Copper tubing bars, plate, buss bar and sheet copper.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:

~~(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or~~

~~(2) A system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b). (K.S.A. Supp. 50-6, 110; K.S.A. Supp. 50-6, 112)~~

~~Any person intentionally violating the provisions of this section shall be guilty of a Class C violation for which the minimum fine is $200. Any person convicted of violating the provisions of this section for the second time within a two-year period shall be guilty of a Class B violation for which the minimum fine is $500. Any person convicted of violating the provisions of this section for the third and subsequent times within a two-year period shall be guilty of a Class A violation for which the minimum fine is $1,000.~~

6.25 **UNLAWFULLY BUYING SCRAP METAL.**

(page 72) Removed entire section.

~~(a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 6.24 requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in Section 6.24. All records kept in accordance with the provisions of this section shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.~~

~~(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 6.24 requires information to be presented by the seller, without obtaining from the seller a signed statement that:~~

~~(1) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or~~

~~(2) That the seller is acting for the owner and has permission to sell each time.~~

~~(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which Section 6.24 requires information to be presented by the seller, without:~~

~~(1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and~~
~~(2) Obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.~~

~~(d) It shall be unlawful for any scrap metal dealer, or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.~~

~~(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:~~

~~(1) Utility access cover;~~
~~(2) Street light poles or fixtures;~~
~~(3) Road or bridge guard rails;~~
~~(4) Highway or street sign;~~
~~(5) Water meter cover;~~
~~(6) Traffic directional or traffic control signals;~~
~~(7) Traffic light signs;~~
~~(8) Any metal marked with any form of the name or initials of a governmental entity;~~
~~(9) Property owned and marked by a telephone, cable, electric, water or other utility provider;~~
~~(10) Property owned and marked by a railroad;~~
~~(11) Funeral markers or vases;~~
~~(12) Historical markers;~~
~~(13) Bales of regulated metal;~~
~~(14) Beer kegs;~~
~~(15) Manhole covers;~~
~~(16) Fire hydrants or fire hydrant caps;~~

~~(17) Junk vehicles with missing or altered vehicle identification numbers;~~
~~(18) Real estate signs;~~
~~(19) Bleachers or risers, in whole or in part; and~~
~~(20) Twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24, or 26 gauge.~~

~~(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays. (K.S.A. Supp. 50-6, 111: 50-6, 112)~~

~~Any person intentionally violating the provisions of this section shall be guilty of a Class C violation for which the minimum fine is $200. Any person convicted of violating the provisions of this section for the second time within a two-year period shall be guilty of a Class B violation for which the minimum fine is $500. Any person convicted of violating the provisions of this section for the third and subsequent times within a two-year period shall be guilty of a Class A violation for which the minimum fine is $1,000.~~

7.14 **ELECTIONEERING.**

(page 79) Reformatted the section to remove subsections (a) and (b).

~~(a) Electioneering is knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicates support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof. Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.~~

~~(b) As used in this section, **advance voting site** means the central county election office or satellite advance voting sites designated as~~

~~such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 25-2812 (K.S.A. Supp. 25-2430)~~

~~Electioneering is a Class C violation.~~

7.14 **ELECTIONEERING.** Electioneering is knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicates support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof. Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting. (K.S.A. Supp. 25-2430)

Electioneering is a Class C violation.

9.1 **DISORDERLY CONDUCT.**

(page 80) Reformatted entire section. Removed old subsection (b).

9.1 **DISORDERLY CONDUCT.** 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:

~~(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) 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.~~

(a) Brawling or fighting;

(b) Disturbing an assembly, meeting or procession, not unlawful in its character; or

(c) Using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others. (K.S.A. Supp. 21-6203)

Disorderly conduct is a Class C violation.

9.8 **CRIMINAL DESECRATION.**

(page 83) Reformatted section to remove subsections (a)(1), (a)(2), (a)(2)(A), (a)(2)(B), (a)(2)(C), (a)(2)(D), (b) and (c) and add subsections (b)(1), (b)(2), (b)(3), (b)(4) and last two paragraphs of section.

~~(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;~~

~~(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. (K.S.A. 21-6205)~~

~~(b) Criminal desecration as described in subsections (a)(2)(B), (a)(2)(C) and (a)(2)(D) is a Class A violation if the property is damaged to the extent of less than $1,000.~~

~~(c) Criminal desecration as described in subsections (a)(1) and (a)(2)(A) is a Class A violation.~~

Criminal desecration is:

(a) 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;

(b) Recklessly by means other than by fire or explosive:
   (1) 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;
   (2) Damaging, defacing or destroying any public monument or structure;
   (3) Damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or
   (4) Damaging, defacing or destroying any place of worship. (K.S.A. 21-6205)

Criminal desecration as described in subsections (b)(2), (b)(3) and (b)(4) is a Class A violation if the property is damaged to the extent of less than $1,000.

Criminal desecration as described in subsections (a) and (b)(1) is a Class A violation.

9.10 **HARASSMENT BY TELECOMMUNICATIONS DEVICE.**

(pages 84 & 85) Added language to subsection (a)(2). Removed old subsection (b) and updated new subsection (b) with old subsection (c).

(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 a 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. (K.S.A. Supp. 21-6206)

~~(b) 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. (K.S.A. Supp. 21-6206)~~

~~(c)~~ (b) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in sections 11.1 and 11.2.

Harassment by a telecommunication device is a Class A violation.

9.11 **UNLAWFUL PUBLIC DEMONSTRATION AT A FUNERAL.**

(page 85) Removed old subsections (a), (a)(1), (a)(2), (a)(3), (b), (b)(1) and (b)(2). Added new subsections (a), (b) and (c).

~~(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) 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.~~

~~(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. (K.S.A. Supp. 21-6106)~~

(a) 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;

(b) Knowingly obstructing, hindering, impeding or blocking another person's entry to or exit from a funeral; or

(c) Knowingly impeding vehicles which are part of a funeral procession. (K.S.A. Supp. 21-6106)

Violation of this section is a Class B violation. Each day on which a violation occurs shall constitute a separate offense.

10.1 **CRIMINAL USE OF WEAPONS.**

(pages 86-89) Added and removed language from subsection (d)(5).

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, metal knuckles or throwing star;
(2) Possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, or any other dangerous or deadly weapon of instrument or like character;
(3) Setting a spring gun;
(4) 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;
(5) Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(6) 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;

(7) Possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(8) 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;

(9) 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;

(10) Possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age.

(b) Criminal use of weapons as defined in:

(1) Subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) or (a)(9) is a Class A violation;

(2) Subsection (a)(7) or (a)(8) is a Class B violation;

(3) Subsection (a)(10) is a Class A violation on a first offense.

(c) Subsections (a)(1), (a)(2) 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)(8) 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 ~~licensed by the attorney general to carry a concealed handgun under K.S.A. Supp. 75-7c01 et seq., and amendments thereto~~ not prohibited from possessing a firearm under either federal or state law.

(e) Subsection (a)(6) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. Supp. 75-7c26, and amendments thereto.

(f) Subsection (a)(10) 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 (f)(1) through (f)(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. Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto. (K.S.A. Supp. 21-6301)

10.1.1 **CRIMINAL CARRYING OF A WEAPON.**

(pages 89 & 90) Added language to subsection (a)(3). Added subsection (a)(4). Removed old subsection (b). Updated old subsections (c), (c)(1), (c)(2), (c)(3), (c)(4) and (d) with new subsections (b), (b)(1), (b)(2), (b)(3), (b)(4) and (c). Added paragraph at the end of the section.

(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; or

(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.

~~(b) Criminal carrying of a weapon as defined in subsections (a)(1), (a)(2) or (a)(3) is a Class A violation.~~

~~(c)~~ (b) 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 offcer;
(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 (b)(1), (b)(2) and (b)(3) to possess such weapons.

~~(d)~~ (c) It shall not be a violation of this section if a person violates the provisions of K.S.A. Supp. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state. (K.S.A. Supp. 21-6302)

Criminal carrying of a weapon is a Class A violation.

10.4 **CONFISCATION, DISPOSITION OF WEAPONS.**

(page 92) Removed entire section.

~~(a) Upon conviction of a violation of Sections 10.1 or 10.2 of this article, any weapon seized in connection therewith shall remain in the custody of the trial court.~~

~~(b) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known, All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court be:~~

~~(1) Destroyed;~~
~~(2) 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; or~~

~~(3) Forfeited to the Kansas bureau of investigation for law enforcement, testing, comparison, or destruction by the Kansas bureau of investigation forensic laboratory.~~

~~(c) If weapons are sold as authorized by subsection (b), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency. (K.S.A. Supp. 21-6307)~~

10.14 **OPERATION OF A MOTORBOAT OR SAILBOAT.**

(pages 95 & 96) Added subsections (d)(1) and (d)(2).

(a) (1) No person born on or after January 1, 1989, shall operate on public waters of this city any motorboat or sailboat unless the person possesses a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person as provided by K.S.A. 32-1101 et seq.

(2) No owner or person in possession of any motorboat or sailboat shall permit another person, who is subject to the requirements in subsection (a)(1), to operate such motorboat or sailboat unless such other person either:

(A) Has been lawfully issued a certificate of completion of an approved boater safety education course of instruction as provided by K.S.A. 32-1101 et seq.; or

(B) Is legally exempt from the requirements of subsection (a)(1).

The requirement in subsection (a)(1), shall not apply to a person 21 years of age or older.

(b) The requirement in subsection (a)(1) shall not apply to a person operating a motorboat or sailboat accompanied by and under the direct and audible supervision of a person over 17 years of age who either:

(1) Possesses a certificate of completion of an approved boater safety education course; or

(2) Is legally exempt from the requirements of subsection (a)(1).

(c) No person who is charged with a violation of subsection (a)(1) shall be convicted of the violation if such person produces in court or in the office of the arresting officer a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person and valid at the time of such person's arrest. (K.S.A. 32-1139)

(d) As used in this section:

(1) **Owner** means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(2) **Operate** means to navigate or otherwise use a motorboat or a vessel.

10.15 **OPERATING A VESSEL UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PENALTIES.**

(pages 97 & 98) Added subsection (g).

(a) No person shall operate or attempt to operate any vessel within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more;

(2) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .08 or more;

(3) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;

(4) Under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel;

(5) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(6) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

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

(c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

(d) Except as provided by subsection (e), violation of this section is a violation punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than $100 nor more than $500, or both; and

(2) On the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than $100 nor more than $500.

(e) Subsection (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132 and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

(f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction before such person subsequently operates or attempts to operate any vessel. (K.S.A. Supp. 32-1131)

(g) As used in this section, **operate** means to navigate or otherwise use a motorboat or a vessel.

10.16 **THROWING OBJECTS.**

(pages 98 & 99) Reformatted section to replace subsections (a), (a)(1) and (a)(2) with subsections (a) and (b). Added language to new subsection (b). Removed old subsections (b)(1) and (b)(2) and replaced them with two paragraphs at the end of the section.

10.16 **THROWING OBJECTS.** It is unlawful for any person to:

~~(1)~~ (a) 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)~~ (b) 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. (K.S.A. Supp. 21-5819)

~~(b) (1) Violation of subsection (a)(1) is a Class B violation.~~

~~(2) Violation of subsection (a)(2) is a Class A nonperson violation~~

Violation of subsection (a) is a Class B violation.
Violation of subsection (b) is a Class A nonperson violation.

10.20 **UNLAWFULLY OBTAINING A PRESCRIPTION-ONLY DRUG.**

(pages 102 & 103) Added subsections (b)(3), (b)(4), (b)(4)(A), (b)(4)(B), (b)(4)(C) and (b)(4)(D).

(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) 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.

(3) **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.

(4) **Drug** means:

(A) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(B) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(C) substances, other than food, intended to affect the structure or any function of the body of man or animals; and

(D) substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.

(c) 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. (K.S.A. Supp. 21-5708)

Unlawfully obtaining a prescription-only drug is a Class A violation for the first offense.

10.24 **SMOKING PROHIBITED.**

(pages 104-106) Removed language from subsection (d)(9). Added subsections (d)(10), (d)(10)(A), (d)(10)(B), (d)(10)(C) and (d)(11).

(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, 10.25 or 10.26, 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; and

(9) A private club in designated areas where minors are prohibited. ~~(K.S.A. Supp. 21-6110)~~

(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. (K.S.A. Supp. 21-6110)

11.1 **PROMOTING OBSCENITY.**

(pages 104-106) Removed subsection (c)(5) and replaced with old subsection (c)(6).

(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) 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.

(c) (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**. Any tangible thing which is capable of being used or adapted to arouse interest, whether throughout the medium of reading, observation, sound or other manner.

(3) **Obscene Device.** 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.** Any play, motion picture, dance or other exhibition performed before an audience.

~~(5) **Sexual Intercourse** and **Sodomy** have the meaning provided by K.S.A. Supp. 21-5501, and amendments thereto.~~

~~(6)~~ (5) **Wholesaler.** 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.

(d) 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 incident to an approved course or program of instruction at such school.

(e) The provisions of this section 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. (K.S.A. Supp. 21-6401)

Promoting obscenity is a Class A violation on conviction of a first offense.

Upon any conviction of promoting obscenity, 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 within two years after such conviction, the defendant shall forfeit the recognizance.

11.8 **GAMBLING.**

(pages 118-123) Added subsections (a)(8) and (a)(9). Added new subsections (d), (d)(1), (d)(2), (d)(3), (d)(3)(A) and (d)(3)(B). Removed subsections (e), (e)(1), (e)(2), (e)(3) and (e)(4).

11.8 **GAMBLING.** Definitions of gambling terms used in sections 11.8, 11.9, and 11.10 shall be as follows:

(a) A **bet** is a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the laws 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 the 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 pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel racing act; or

(7) Tribal gaming;
(8) Charitable raffles as defined by section 3 of Senate Sub. for HB 2155, and amendments thereto; or
(9) A fantasy sports league as defined in this section.

(b) A **lottery** is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

(1) A lottery operated by the state pursuant to the Kansas lottery act; or
(2) Tribal gaming.

(c) **Consideration** means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

Consideration shall not include sums of money paid by or for:

(1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;
(2) Participants in any lottery operated by the state pursuant to the Kansas lottery act;
(3) Participants in any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel 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 multiple 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.

~~(d)~~ (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) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) Other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) Subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device,

electronic device or other contrivance as a constituent part; or

(D) Token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) **Gabling device** shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) Any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) Any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) Any machine, mechanical device, electronic device or other contrivance used in tribal gaming.

~~(e)~~ (f) A **gambling place** is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

~~(1) Making and settling bets;~~

~~(2) Receiving, holding, recording or forwarding bets or offers to bet;~~
~~(3) Conducting lotteries; or~~
~~(4) Playing gambling devices.~~
~~Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.~~

~~(f)~~ (g) **Tribal gaming** has the meaning provided by K.S.A. 74-9802, and amendments thereto.

~~(g)~~ (h) **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. (K.S.A. Supp. 21-6403; K.S.A. Supp. 21-6404)

Gambling is a Class B violation.

11.11 **CRUELTY TO ANIMALS.**

(pages 125-127) Added language to subsection (b)(11). Removed old subsection (c). Updated new subsection (c) with old subsection (d).

(a) Cruelty to animals is:

(1) Knowingly abandoning any animal any place without making provisions for its proper care;
(2) 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 need for health or well-being of such kind of animal;
(3) 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; or
(4) Intentionally causing any physical injury other than the acts described in subsection (a)(1).

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) Bona fide experiments carried on by commonly recognized research facilities;

(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) Rodeo practices accepted by the rodeo cowboys' association;

(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) Laying an equine down for medical or identification purposes;

(10) Normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

(11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfacre act, public law 89-544, as amended and in effect on July 1, 2006. (K.S.A. Supp. 21-6412)

~~(c) As used in this section, (1) **Equine** means a horse, pony, mule, jenny, donkey or hinny; (2) **Maliciously** means a state of mind characterized by actual evil-mindedness or specific intent to do a~~

~~harmful act without a reasonable justification or excuse. (K.S.A. Supp. 21-6412)~~

~~(d)~~ (c) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

On first conviction, cruelty to animals is a Class A violation.

ORDINANCE NO._____

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF HAYS, KANSAS, INCORPORATING BY REFERENCE "THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES," EDITION OF 2015, AND REPEALING ORDINANCE NO. 3888 OF THE CODE OF ORDINANCES OF THE CITY OF HAYS, KANSAS, AS PASSED ON SEPTEMBER 25, 2014, AND AS PUBLISHED ON OCTOBER 13, 2014.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

Section 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Hays, Kansas, that certain code known as "The Uniform Public Offenses Code," Edition of 2015, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. _____," and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

Section 2. REPEAL. Ordinance No. 3888, adopted September 25, 2014, and as published October 13, 2014, is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in The Hays Daily News, the official city newspaper.

PASSED by the Commission the _____ day of October, 2015.

APPROVED AND SIGNED by the Mayor this _____ day of October, 2015.

_____
EBER PHELPS
Mayor

ATTEST:

_____
BRENDA KITCHEN
City Clerk

(SEAL)

OVERVIEW OF CHANGES TO THE 2015 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES

Brief outline of changes made to ordinance

Words Added ~~**Words Deleted**~~

Sec. 1. Definitions.

(pages 6-22) Added definitions Autocycle, Interstate System, Motor Home, Samples, Security Agreement and Security Interest. Removed definitions Christian Science Practitioner, Commission or State Highway Commission, Double Parking, Explosives, Flammable Liquid, Lightweight Roadable Vehicle, Low Power Cycle, Road Tractor. Changed the definition Alley or Alleyway to Alley. Removed language from All-Terrain Vehicle. Added language to Authorized Emergency Vehicle. Added language to Church Bus. Added and removed one word from Day Care Program Bus. Added language to House Trailer. Added and removed language from Motorcycle. Added and removed language from Motorized Bicycle. Removed language from Railroad. Added and removed language from Recreational Off-Highway Vehicle. Added and removed language from Residence District. Added language to Revocation of Driver's License. Added and removed language from School Crossing Guard. Added language to Toxic Vapors. Added and removed language from Work-Site Utility Vehicle.

Alley ~~**or Alleyway**~~**.** 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.

All-Terrain Vehicle. Any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, and traveling on three or more nonhighway tires. ~~having a seat designed to be straddled by the operator. As used in this subsection,~~ ~~**non-highway tire** means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.~~

Authorized Emergency Vehicle. 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. 65-2101 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.

Autocycle. A three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

~~**Christian Science Practitioner.** An individual listed in The Christian Science Journal as a Christian Science practitioner.~~

Church Bus. 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.

~~**Commission** or **State Highway Commission.** The director of vehicles of the department of revenue.~~

Day Care Program Bus. 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 ~~and~~ 18 years of age.

~~**Double Parking.** The standing or stopping of a vehicle in the line of traffic, and:~~

~~(a) To the rear of a vehicle angle parked, or to the rear of a space where a vehicle may be parked at any angle to the curb or edge of the roadway; or~~

~~(b) To the roadway side of a vehicle parked parallel with the curb or edge of the roadway or the roadway side of the space in which a vehicle may be parked parallel to the curb or edge of the roadway.~~

~~**Explosives.** 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, qunatities, 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.~~

~~**Flammable Liquid.** Any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a Tagliabue or equivalent closed-cup test device.~~

House Trailer.

(a) 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

(b) 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.

(c) **House Trailer** does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 58-4202.

Interstate System. The national system of interstate and defense highways.

~~**Lightweight Roadable Vehicle.** 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.~~

~~**Low Power Cycle.** Low power cycle means every vehicle and every bicycle and tricycle with not to exceed one brake horsepower provided by battery in addition to human power.~~

Motor Home. Every motor vehicle designed to provide temporary living quarters for recreational, camping or travel use.

Motorcycle. 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 a tractor. ~~designed to travel on not more than three wheels in contact~~

~~with the ground, except any such vehicle as may be included within the term **tractor** as defined in this section.~~

Motorized Bicycle. Every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or by both, and which has: ~~(1)~~ (a) A motor which produces not more than 3.5 brake horsepower; ~~(2)~~ (b) a cylinder capacity of not more than 130 cubic centimeters; ~~(3)~~ (c) an automatic transmission; and ~~(4)~~ (d) the capability of a maximum design speed of no more than 30 miles per hour.

Railroad. A carrier of persons or property upon cars~~, other than streetcars,~~ operated upon stationary rails.

Recreational Off-Highway Vehicle. Any motor vehicle more than 50 but not greater than 64 inches in width, ~~64 inches or less in width,~~ having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires~~, having a nonstraddle seat and steering wheel for steering control.~~

Residence District. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is improved in the main, ~~improved~~ with residences or residences and buildings in use for business.

Revocation of Driver's License. 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 by state law.

~~**Road Tractor.** 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.~~

Samples. Includes breath supplied directly for testing, which breath is not preserved.

School Crossing Guard. Any person 18 years of age and older or any person under 18 years of age who is being directly supervised by a person at least 18 years of age, acting with or without compensation and who is authorized under K.S.A. 8-15, 104, and amendments thereto, ~~by a school district, nonpublic school, city, or~~

~~county,~~ to supervise, direct, monitor, or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop.

Security Agreement. A written agreement which reserves or creates a security interest.

Security Interest. 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.

Toxic Vapors. The following substances or products containing such substances:

(a) Alcohols, including methyl, isopropyl, propyl, or butyl;
(b) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
(c) Acetone;
(d) Benzene;
(e) Carbon tetrachloride
(f) Cyclohexane;
(g) Freons, including freon 11, ~~and~~ freon 12 and other halogenated hydrocarbons;
(h) Hexane;
(i) Methyl ethyl ketone;
(j) Methyl isobutyl ketone;
(k) Naptha;
(l) Perchlorethylene;
(m) Toluene;
(n) Trichloroethane; or
(o) Xylene.

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

Sec. 23. Accident Involving Death or Personal Injuries; Duties of Drivers, Reports; Penalties.

(pages 31 and 32) Updated title of section. Added old subsections (c)(1) and (c)(2) as subsections (b)(1) and (b)(2).

Sec. 23. Accident Involving Death or Personal Injuries; Duties of Drivers, Reports; Penalties.

(a) The driver of any vehicle involved in an accident resulting in injury to great bodily harm to or death or 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 Section 25.

(b) A person who violates subsection (a) when an accident results in:

(1) Total property damages of less than $1,000 shall be punished as provided in Section 201.
(2) Any person who violates this section which results in injury to any person or property damages in excess of $1,000 shall be punished by imprisonment for not more than one year or by a fine of not more than $2,500, or by both such fine and imprisonment. (K.S.A. Supp. 8-1602)

(c) The driver shall comply with the provisions of section 26.1.

~~(1) Total property damages of less than $1,000 shall be punished as provided in Section 201.~~
~~(2) Any person who violates this section which results in injury to any person or property damages in excess of $1,000 shall be punished by imprisonment for not more than one year or by a fine of not more than $2,500, or by both such fine and imprisonment. (K.S.A. Supp. 8-1602)~~

Sec. 25. 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.

(pages 32 and 33) Updated title of section.

Sec. 25. Duty of Driver to Give Certain Information ~~and Render Aid~~ 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 other 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. (K.S.A. Supp. 8-1604)

Sec. 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(pages 35-41) Removed old subsections (n)(1) and (n)(2) and replaced with old subsections (n)(2) and (n)(3).

(a) Driving under the influence is operating or attempting to operate any vehicle within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, is .08 or more;
(2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;
(3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
(4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; 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) An ordinance violation. On a first conviction of a violation of this section, the person convicted shall be

sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than $750 nor more than $1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

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

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

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

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

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

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:

(1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, 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, 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) Refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. Supp. 8-1025 or Section 30.2.1;

(B) driving a commercial motor vehicle under the influence, K.S.A. 8-2, 144, and amendments thereto; or section 30.1

(C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;

(D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) or K.S.A. Supp. 21-5405, and amendments thereto;

(E) aggravated battery as described in subsection (b)(3) of K.S.A. Supp. 21-5413, and amendments thereto; and

(F) 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 (h)(2);

(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 state which would constitute a crime described in subsection (h)(1) or (h)(2); and

(C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (h)(1) or (h)(2) if committed of a military reservation in this state;

(4) multiple convictions of any crime described in subsection (h)(1) or (h)(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, only once during the person's lifetime.

(i) Upon conviction of a person of a violation of 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.

(j) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney 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.

(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 to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., or K.S.A. 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the city may, but shall not be

required to, elect one or two of the three prior to submission of the case to the fact finder.

(n) As used in this section:

~~(1) **Alcohol Concentration** means the number of grams of alcohol per 10 milliliters of blood or per 210 liters of breath.~~

(1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(2) **Drug** includes toxic vapors as such term is defined in K.S.A. Supp. 21-5712, and amendments thereto. (K.S.A. Supp. 8-1567)

Ref.: For persons under 21 years of age, see also K.S.A. 8-1567a.

{Editor's Note: Since 2007 the Kansas Legislature has acted to give municipal courts jurisdiction over the felony level offences of Third, Fourth, and Subsequent Driving Under the Influence (DUI), K.S.A. Supp. 8-1567(k)(1) and (k)(3). However, K.S.A. Supp. 8-1567(l)(2) appears to remove this authority from municipal courts. Because of this apparent conflict, and concerns about sentencing issues and cost, the Editor has determined that Third, Fourth, and Subsequent Driving Under the Influence (DUI) would not be included in this Code. Should a city wish to implement these provisions concerning prosecuting felony level DUI in municipal court, a separate ordinance will need to be adopted.**}**

Sec. 30.1. Driving Commercial Motor Vehicle Under the Influence of Intoxication Liquor or Drugs; Penalties.

(pages 41-46) Added and removed language from subsection (m)(2)(D). Added and removed language from subsection (m)(2)(E). Removed old subsections (n)(1) and (n)(2) and replaced with old subsections (n)(2) and (n)(3).

(a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle within this city while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, is .04 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) Committing a violation of subsection (a) of Section 30 of this ordinance.

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

(A) An ordinance violation. On a first conviction, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than $750 nor more than $1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

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

provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

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

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

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

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

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of

this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and
(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) Upon conviction of a person of a violation of 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.

(i) The court is authorized to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(j) Upon the filing of a complaint, citation or notice to appear alleging a violation of 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.

(k) 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 which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section.

(l) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

(m) 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 which 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 of K.S.A. 8-2, 144, and amendments thereto;

(B) refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. Supp. 8-1025, or Section 30.2.1;

(C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;

(D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A. Supp. 21-5405~~ K.S.A. 2014 Sup.. 21-5405(a)(3), and amendments thereto;

(E) aggravated battery as described in ~~subsection (b)(3) of K.S.A. Supp. 21-5413,~~ K.S.A. 2014 Supp. 21-5413(b)(3), and amendments thereto; and

(F) 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 describe in subsection (m)(2);

(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 state which would constitute a crime described in subsection (m)(1) or (m)(2); and

(C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (m)(1) or (m)(2) if committed off a military reservation in this state;

(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 (m)(1) or (m)(2) arising from the same arrest shall only be counted as one conviction.

(n) 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~~
(1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
(2) **Drug** includes toxic vapors as such term is defined in K.S.A. Supp. 21-5712, and amendments thereto. (K.S.A. Supp. 8-2, 144)

Sec. 30.2.1 Refusal to Submit to Alcohol or Drug Test.

(pages 47-52) Added and removed language from subsection (a). Added and removed language from subsection (g)(2)(D). Added and removed language from subsection (g)(2)(E).

(a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under ~~subsection (a) of~~ K.S.A. 8-1001(a), and amendments thereto, if such person has:

(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred:
(A) On or after July 1, 2001; and
(B) when such person was 18 years of age or older; or
(2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2, 144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which 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, which occurred:
(A) On or after July 1, 2001; and
(B) when such person was 18 years of age or older.

(b) (1) Refusing to submit to a test to determine the presence of alcohol or drugs is:

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

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

(c) Any person convicted of violating this section who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of 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) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments 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.

(e) 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.

(f) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(g) 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 K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which 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:

(A) On or after July 1, 2001

(B) when such person was 18 years of age or older. 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 which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older:
   (A) This section or K.S.A. Supp. 8-1025;
   (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2, 144, and amendments thereto;
   (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
   (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A. Supp. 21-5405,~~ K.S.A. 2014 Supp. 21-5405(a)(3), and amendments thereto;
   (E) aggravated battery as described in ~~subsection (b)(3) of K.S.A. Supp. 21-5413~~ K.S.A. 2014 Supp. 21-5413(b)(3), and amendments thereto; and
   (F) 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 (g)(2);
   (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 state which would constitute a crime described in subsection (g)(1) or (g)(2); and
   (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (g)(1) or (g)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense;

(5) multiple convictions of any crime described in subsection (g)(1) or (g)(2) arising from the same arrest shall only be counted as one conviction;

(6) the prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in

determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and

(7) 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.

(h) Upon conviction of a person of a violation of 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.

(i) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(j) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney 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.

(k) 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 to avoid the mandatory penalties established by this section. 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.

(l) As used in this section, **imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city. (K.S.A. Supp. 8-1025)

{Editor's Note: Due to concerns about sentencing issues and cost, the Editor has determined that Second, Third, or Subsequent Refusal to Submit to Alcohol or Drug Test offenses would not be included in this Code. Should a city wish to implement these provisions concerning

prosecuting felony level Refusal to Submit to Alcohol or Drug Test offenses in municipal court, a separate ordinance will need to be adopted.**}**

Sec. 138. Riding on Motorcycles.

(page 100) Added language to subsection (b).

(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 him 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. (K.S.A. 8-1594)

Sec. 142. Equipment for Motorcycle Operator or Rider.

(pages 101 & 102) Added language to subsection (d).

(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 subsections (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 he or she 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 trickster. (K.S.A. Supp. 8-1598)

Ref.: Motorcycle Equipment, Article 18.

Sec. 171. Lighting Equipment and Warning Devices on Church Buses and Day Care Program Buses.

(page 119) Removed old subsection (a). Reformatted section so that old subsection (b) is the first paragraph of the section, old subsections (b)(1) and (b)(2) are subsections (a) and (b).

Sec. 171. Lighting Equipment and Warning Devices on Church Buses and Day Care Program Buses. Any church bus, or day care program bus, in addition to any other equipment and distinctive markings required by law, may be equipped with:

~~(a) 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.~~

(a) Signal lamps which conform to the requirements of Section 170, and rules and regulations adopted pursuant thereto; and

(b) A stop signal arm which conforms to requirements therefor applicable to school buses which have been adopted by rules and regulations of the state board of education. (K.S.A. 8-1730a)

Sec. 182. Child Passenger Safety Restraining System.

(pages 127 & 128) Added language to subsection (a). Added language to subsection (d).

(a) Every driver who transports a child under the age of 14 years in a passenger car or an autocycle on a highway shall provide 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 8 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).

(d) It shall be unlawful for any driver to violate the provisions of subsection (a) 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 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.

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

(f) No driver charged with violating the provisions of this section 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.

(g) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(h) As used in this section **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 (K.S.A. Supp. 8-1343a:8-1345)

Sec. 182.1 Seat Belts.

(pages 129 & 130) Added language to subsection (a)(1). Added language to subsection (a)(2).

(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 property 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 with their specified routes.

(c) 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.

(d) (1) Persons violating subsection (a)(1) shall be fined $10 and no court costs; and
(2) Persons violating subsection (a)(2) shall be fined $60 and no court costs.

(e) As used in this section, **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. (K.S.A. Supp. 8-2502:2504)

Sec. 193. Driver's License in Possession.

(page 133) Added language to the section.

Sec. 193. Driver's License in Possession. Every licensee shall have his or her driver's license in his or her immediate possession at all times when

operating a motor vehicle, and shall display the same upon demand of any law enforcement officer. However, no person charged with violating this section shall be convicted if such person produces in court or the office of the arresting officer a driver's license theretofore issued to such person and valid at the time of arrest. (K.S.A. 8-244)

Sec. 198. Vehicle License; Illegal Tag.

(pages 137-139) Added and removed language from subsection (a)(1).

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

(1) Operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle 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 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 ~~section~~ subsection (1) by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under ~~subsection (b) of~~ K.S.A. 8-128(b) and amendments thereto, shall constitute a violation punishable by a fine of not less than $500. A person shall not be charged with a violation of this subsection (1) for failing to display a registration decal on any vehicle except those included under K.S.A. 8-1, 101 and K.S.A. 2014 Supp. 8-143m and 8-1, 152, and amendments thereto, up to and including the 10th 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 10th 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.

(2) Display of 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 (2) shall

constitute an ordinance violation 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 (2). This subsection (2) 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.

(3) 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.

(4) Remove, conceal, alter, mark or deface the license number plate or plates or any other mark of identification upon any vehicle. License plates shall be kept clean and they shall be placed on all vehicles within the city as required by law so as to be plainly legible.

(5) Carry or display a registered number plate or plates or registration decal upon any vehicle not lawfully issued for such vehicle.

(b) Any person violating subsections (1), (2) or (3) shall be punished by a fine not exceeding $2,500, or by imprisonment for not less than 30 days nor more than six months, or by both such fine and imprisonment. Any person violating subsections (4) or (5) shall be punished as provided in section 201(d) or this ordinance. (K.S.A. Supp. 8-142; K.S.A. 8-149)

Sec. 200. Motor Vehicle Liability Insurance.

(pages 140-142) Added and removed language from subsection (a).

(a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of ~~this act~~ the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq., for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in K.S.A. 40-3104 (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under the agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a

qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of ~~this act~~ the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

(d) (1) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security which meets the requirements of subsection (e) may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. The law enforcement officer shall transmit a copy of the insurance verification for prescribed by the secretary of revenue with the copy of the citation transmitted to the court.

(2) No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such evidence of financial security may be produced by displaying such information on a cellular phone or any other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or any other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, and 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.

(f) Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than $300 nor more than $1,000 or by imprisonment for a term of not more than six months, or both such fine and imprisonment, except that any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than $800 nor more than $2,500 or by imprisonment for a term not to exceed one year, or both such fine and imprisonment. (K.S.A. Supp. 40-3104)

ORDINANCE NO._____

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF HAYS, KANSAS, INCORPORATING BY REFERENCE "THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES," EDITION OF 2015, PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NO. 3889, OF THE CODE OF ORDINANCES OF THE CITY OF HAYS, KANSAS, AS PASSED ON SEPTEMBER 25, 2014, AND AS PUBLISHED ON OCTOBER 13, 2014.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

Section 1. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Hays, Kansas, that certain standard traffic ordinance known as the *Standard Traffic Ordinance* for Kansas Cities, Edition of 2015, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts of portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted By Ordinance No._____", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such *Standard Traffic Ordinance* similarly marked, as may be deemed expedient.

Section 2. TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic violations which are included within this ordinance and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

Section 3. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than -0- nor more than $2,500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been

established in a schedule of fines shall pay a fine fixed by the Court not to exceed $2,500.00.

Section 4. REPEAL. Ordinance No. 3889, as passed on September 25, 2014, and as published on October 13, 2014, is hereby repealed.

Section 5. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in The Hays Daily News, the official city newspaper.

PASSED by the Commission the _____ day of October, 2015.

APPROVED AND SIGNED by the Mayor this_____ day of October, 2015.

_____
EBER PHELPS
Mayor

ATTEST:

_____
BRENDA KITCHEN
City Clerk