

HOUSE BILL No. 2044

AN ACT concerning motor vehicles; relating to requirements after a collision; amending K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602, 8-1605 and section 292 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 2010 Supp. 8-1603 and 8-1606.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2010 Supp. 8-1602 is hereby amended to read as follows: 8-1602. (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person *or damage to any attended vehicle or property* shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then ~~forthwith~~ immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto. ~~Every such stop shall be made without obstructing traffic more than is necessary.~~

(b) A person who violates ~~this section which~~ subsection (a) when an accident results in:

(1) Total property damages of less than \$1,000 shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in K.S.A. 8-2116, and amendments thereto.

~~(2)~~ (2) Injury to any person or total property damages in excess of \$1,000 or more shall be guilty of a class A person misdemeanor.

~~(3)~~ (3) Great bodily harm to any person shall be guilty of a severity level ~~10~~ 8, person felony.

~~(4)~~ (4) The death of any person shall be guilty of a severity level ~~9~~ 6, person felony, *except as provided in subsection (a)(5).*

(5) *The death of any person, if the person knew or reasonably should have known that such accident resulted in injury or death, shall be a level 5, person felony.*

(c) The director may revoke the license or permit to drive or any non-resident operating privilege of any person so convicted.

(d) *The driver shall comply with the provisions of K.S.A. 2010 Supp. 8-15,107, and amendments thereto.*

Sec. 2. K.S.A. 8-1604 is hereby amended to read as follows: 8-1604.

(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 ~~which is driven or attended by any person~~, shall give such ~~person's~~ driver's name, address and the registration number of the vehicle such ~~person~~ driver is driving, and upon request shall exhibit such ~~person's~~ 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. ~~and~~

(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) In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (a) of this section, and no police officer is present, the driver of any vehicle involved in such accident, after fulfilling all other requirements of K.S.A. 8-1602, and amendments thereto, and of subsection (a) of this section, insofar as possible on such person's part to be performed, shall forthwith report such accident to the nearest office of a duly authorized police authority and submit thereto the information specified in subsection (a) of this section.~~

(b) *If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:*

(1) *There is apparently property damage of \$1000 or more;*

(2) *any person involved in the accident is injured or killed; or*

(3) *the persons specified in subsection (a) are not present or in condition to receive such information.*

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

Sec. 3. K.S.A. 2010 Supp. 8-1605 is hereby amended to read as follows: 8-1605. (a) The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of such ~~person's driver's~~ name, address and the registration number of the vehicle such ~~person driver~~ was driving, or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving such ~~person's driver's~~ name, address and the registration number of the vehicle such ~~person driver~~ was driving, and without unnecessary delay shall notify the nearest office of a duly authorized police authority. ~~Every such stop shall be made without obstructing traffic more than is necessary.~~ Violation of this ~~section subsection~~ is a misdemeanor and, upon conviction shall be punished as provided in K.S.A. 8-2116, and amendments thereto.

(b) The driver under subsection (a), if possible, shall comply with the provisions of K.S.A. 2010 Supp. 8-15,107, and amendments thereto.

Sec. 4. Section 292 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 292. In addition to the provisions of section 291 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined

in subsection (a) of section 47 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal use of weapons as defined in subsection (a)(8) or (a)(13) of section 186 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or possession of a firearm on the grounds or in the state capitol building as defined in section 194 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of subsection (a)(3) of section 40 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) An act described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the act described in K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in subsection (a)(1) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in subsection (a)(2) or (a)(3) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history. An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction. If a crime is a felony in another state, it will be counted as a felony in Kansas. The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson comparable offenses shall be referred to. If the state of Kansas does not have a comparable offense, the out-of-state conviction shall be classified as a nonperson crime. Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications. The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in subsections (d)(3)(B), (d)(3)(C), (d)(3)(D) and (d)(4) of section 291 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of subsections (b)(2) through (b)(4) of K.S.A. 8-1602, and amendments thereto, each of the following prior convictions committed on or after July 1, 2011 shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-

262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and subsection (a)(3) of section 40 and section 41 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

Sec. 5. K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602, 8-1603, 8-1605, 8-1606 and section 292 of chapter 136 of the 2010 Session Laws of Kansas are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.