

**32-1138. Same; preliminary screening test.** A law enforcement officer may request a person who is operating or attempting to operate a vessel within this state to submit to a preliminary screening test of the person's breath to determine the alcohol concentration of the person's breath if the officer has reasonable grounds to believe that the person: (a) Has alcohol in the person's body; (b) has committed a boating law violation; or (c) has been involved in a vessel accident or collision. At the time the test is requested, the person shall be given oral notice that: (1) There is no right to consult with an attorney regarding whether to submit to testing; (2) refusal to submit to testing shall subject the person to the same fine as prescribed by K.S.A. 8-2118, and amendments thereto, for refusal to submit to a preliminary breath test; and (3) further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test. Refusal to take and complete the test as requested shall subject the person to the same fine as prescribed by K.S.A. 8-2118, and amendments thereto, for refusal to submit to a preliminary breath test. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 32-1132, and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vessel except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 32-1132, and amendments thereto.

**History:** L. 1999, ch. 113, § 3; L. 2005, ch. 172, § 4; July 1.