

## HOUSE BILL No. 2240

By Representative McCreary

1-31

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AN ACT concerning crimes, punishment and criminal procedure; relating to involuntary manslaughter while handling a firearm under the influence of alcohol or drugs; aggravated battery with a firearm; amending K.S.A. 2000 Supp. 21-3204 and repealing the existing section.

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

New Section 1. (a) Involuntary manslaughter while handling a firearm under the influence of alcohol or drugs is the unintentional killing of a human being by the operation or handling of a firearm while under the influence of alcohol or drugs.

(b) Involuntary manslaughter while handling a firearm under the influence of alcohol or drugs is a severity level 5, person felony.

(c) As used in this section:

(1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "Other competent evidence" includes: (A) Alcohol concentration tests obtained from samples taken two hours or more after the operation or handling of a firearm; and (B) readings obtained from a partial alcohol concentration test on a breath testing machine.

(3) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(4) "Under the influence of alcohol or drugs" means:

(A) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence as defined herein, is .08 or more;

(B) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of operating or handling a firearm, is .08 or more;

(C) under the influence of alcohol to a degree that renders the person incapable of safely operating or handling a firearm;

(D) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating or handling a firearm; or

(E) under the influence of a combination of alcohol and any drug or

1 drugs to a degree that renders the person incapable of safely operating  
2 or handling a firearm.

3 (d) This section shall be part of and supplemental to the Kansas crim-  
4 inal code.

5 New Sec. 2. (a) Aggravated battery with a firearm is the uninten-  
6 tional discharge of a firearm while under the influence of alcohol or drugs  
7 which results in:

8 (1) Bodily harm to a person; or

9 (2) great bodily harm to a person.

10 (b) Violation of subsection (a)(1) is a severity level 7, person felony.  
11 Violation of subsection (a)(2) is a severity level 6, person felony.

12 (c) As used in this section, the terms shall have the meanings ascribed  
13 thereto by section 1, and amendments thereto.

14 (d) This section shall be part of and supplemental to the Kansas crim-  
15 inal code.

16 New Sec. 3. (a) A law enforcement officer shall perform one or more  
17 tests of the person's blood, breath, urine or other bodily substances to  
18 determine the presence of alcohol or drugs if the officer has reasonable  
19 grounds to believe the person was operating or handling a firearm while  
20 under the influence of alcohol or drugs, or both, and the person has been  
21 arrested or otherwise taken into custody for any offense in which bodily  
22 harm or death occurred.

23 (b) No law enforcement officer who is acting in accordance with this  
24 section shall be liable in any civil or criminal proceeding involving the  
25 action.

26 Sec. 4. K.S.A. 2000 Supp. 21-3204 is hereby amended to read as  
27 follows: 21-3204. A person may be guilty of an offense without having  
28 criminal intent if the crime is: (1) A misdemeanor, cigarette or tobacco  
29 infraction or traffic infraction and the statute defining the offense clearly  
30 indicates a legislative purpose to impose absolute liability for the conduct  
31 described; or (2) a violation of K.S.A. 8-1567 ~~or~~, 8-1567a, *section 1 or 2*,  
32 and amendments thereto.

33 Sec. 5. K.S.A. 2000 Supp. 21-3204 is hereby repealed.

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

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