

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2649

By Representative Decker

1-29

10 AN ACT concerning crimes, punishment and criminal procedure; relat-
11 ing to the unlawful use of controlled substances.

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

14 Section 1. (a) Except as authorized by the uniform controlled sub-
15 stances act, it shall be unlawful for any person to use any controlled sub-
16 stance prohibited in K.S.A. 65-4160 or 65-4162, and amendments thereto.

17 (b) Except as otherwise provided, any person who violates this section
18 shall be guilty of a class A nonperson misdemeanor. If any person has a
19 prior conviction under this section, a conviction for a substantially similar
20 offense from another jurisdiction or a conviction of a violation of an or-
21 dinance of any city or resolution of any county for a substantially similar
22 offense, then such person shall be guilty of a drug severity level 4 felony.

23 (c) As used in this section, "use" means to inject, ingest, inhale or
24 otherwise introduce into the human body, any controlled substance.
25 Knowledge of the presence of the controlled substance is a required com-
26 ponent of use. Knowledge of the presence of the controlled substance
27 may be inferred from the presence of the controlled substance in the
28 person's body or from other circumstantial evidence.

29 (d) The provisions of this section shall be part of and supplemental
30 to the uniform controlled substances act.

31 Sec. 2. Following arrest for a violation of section 1, K.S.A. 21-3609,
32 ~~21-3410, or 21-3412, 65-4160 or 65-4162~~ or **K.S.A. 2003 Supp. 21-**
33 **3412a**, and amendments thereto, the law enforcement officer shall re-
34 quest a person to submit to a test or tests if the officer has probable cause
35 to believe the person used a controlled substance. The law enforcement
36 officer directing administration of the test or tests may act on personal
37 knowledge or on the basis of the collective information available to law
38 enforcement officers involved in the arrest. Such tests shall comply with
39 the provisions of K.S.A. 8-1001, and amendments thereto. If the person
40 refuses, the person's refusal shall be admissible in evidence against the
41 person at any trial on a charge of section 1, ~~K.S.A. 65-4160 or 65-4162,~~
42 and amendments thereto.

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1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.