

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:45 a.m. on February 18, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Others attending:

See attached list.

The Chairman called for final action on **SB 69 - Crime stoppers advisory council; Kansas crime stopper trust fund.** Jason Thompson, staff revisor, reviewed the bill.

Senator Donovan moved, Senator Vratil seconded, to recommend SB 69 favorably for passage. Motion carried.

The Chairman called for final action on **SB 211 - Providing journalists with privilege concerning the disclosure of certain information.** Senator Mary Pilcher-Cook indicated she will recuse herself from voting on this bill. Senator Owens indicated his desire for a up down vote and would prefer not to vote unless absolutely necessary. Senator Schmidt requested that in order to have an odd number of voting members the action be delayed pending Senator Haley's arrival. Request granted.

The Chairman called for final action on **SB 237 - Scrap metal, regulations concerning selling and buying.** Jason Thompson, staff revisor, reviewed the bill and distributed a balloon amendment on behalf of Senator Bruce regarding purchase from minors. (Attachment 1)

Senator Bruce moved, Senator Lynn seconded, to amend SB 237 as reflected in the balloon. Motion carried.

A balloon amendment reflecting suggested changes by Ed Klumpp during the hearing on Feb 11 was distributed. Senator Vratil moved, Senator Bruce seconded, to amend SB 237 as reflected in the balloon. Motion carried. (Attachment 2)

Senator Donovan moved, Senator Kelly seconded, to recommend SB 237 as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 238 - Cockfighting, unlawful acts, asset forfeiture.** Jason Thompson, staff revisor, reviewed the bill and distributed a balloon amendment. (Attachment 3)

Senator Lynn moved, Senator Schodorf seconded, to amend SB 238 as reflected in the balloon amendment. Motion carried.

Senator Schmidt indicted there appears to be several inconsistencies between the cockfighting, dog fighting and animal cruelty statutes. He suggested requesting the Judicial Council to conduct a review to bring them into alignment with the general instructions that if there is a conflict the intent is towards the more severe penalty. Senator Vratil suggested the Criminal Recodification Commission would be better suited to conduct the review. The Chairman agreed to make the request.

Senator Bruce moved, Senator Lynn seconded, to amend SB 238 by defining attendance of a cockfight with the penalty a class B non-person misdemeanor and to allow the revisor latitude in the drafting of the language. Motion carried.

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:45 a.m. on February 18, 2009, in Room 545-N of the Capitol.

The Chairman returned to final action on **SB 211 - Providing journalists with privilege concerning the disclosure of certain information.** Senator Schmidt reviewed the bill. Senator Vratil provided the committee with his concerns regarding the bill.

Senator Vratil moved, Senator Bruce seconded, to refer SB 211 the Judicial Council.

Senator Schmidt made a substitute motion, Senator Kelly seconded, to recommend SB 211 favorably for passage. Motion failed.

The Chairman indicated the committee was back to the original motion refer the bill to the Judicial Council. Motion carried.

The next meeting is scheduled for February 24, 2009.

The meeting was adjourned at 10:31 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-18-09

NAME	REPRESENTING
Joe Mosiman	Hein Law Firm
Richard Gannon	KPA
Keat Cornish	KAB
Richard Samaniego	Kennedy Assoc.
Don Murray	Federico Consulty
Linda WCLSL	Judicial Branch
SEAN MILLER	CAPITOL STRATEGIES
Holly Smith	KS Liberty
Bryan Dillman	Intern - Senator Hensley
Phil Terry	UBA of CKC
Ed Klunpp	KACP & KPOA
Terry Symonds	KCSA
Andrew Holmes	Senator Bruce
Jim Spartzner	ATFT
JOHN BOTTEBERG	Sheriffs
Whitney Lannon	KS Bar Assn.
JOSEPH Moliva	KS Bar Assn.
Callie Hawke	KS Assn for Justice

SENATE BILL No. 237

By Committee on Judiciary

2-6

SB237-Bruce.pdf
RS - JThompson - 02/18/09

Senate Judiciary
2-18-09
Attachment 1

9 AN ACT concerning scrap metal; relating to regulation thereof; amend-
10 ing K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and
11 repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2008 Supp. 50-6,109 is hereby amended to read as
15 follows: 50-6,109. As used in K.S.A. 2008 Supp. 50-6,109 through 50-
16 6,112, and amendments thereto:

17 (a) "Scrap metal dealer" means any person that operates a business
18 out of a fixed location, and that is also either:

19 (1) Engaged in the business of buying and dealing in regulated scrap
20 metal;

21 (2) purchasing, gathering, collecting, soliciting or procuring regulated
22 scrap metal; or

23 (3) operating, carrying on, conducting or maintaining a regulated
24 scrap metal yard or place where regulated scrap metal is gathered to-
25 gether and stored or kept for shipment, sale or transfer.

26 (b) "Regulated scrap metal yard" means any yard, plot, space, enclo-
27 sure, building or any other place where regulated scrap metal is collected,
28 gathered together and stored or kept for shipment, sale or transfer.

29 (c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire
30 scraps, pieces, pellets, clamps, aircraft parts, *junk vehicles, vehicle parts,*
31 pipes or connectors made from aluminum; catalytic converters containing
32 platinum, palladium or rhodium; and copper, titanium, tungsten, stainless
33 steel and nickel in any form; for which the purchase price described in
34 K.S.A. 2008 Supp. 50-6,110 and 50-6,111, and amendments thereto, was
35 primarily based on the content therein of aluminum, copper, titanium,
36 tungsten, nickel, platinum, palladium, stainless steel or rhodium; *any item*
37 *composed in whole or in part of any nonferrous metal other than an item*
38 *composed of tin, that is purchased or otherwise acquired for the purpose*
39 *of recycling or storage for later recycling.* Aluminum shall not include
40 food or beverage containers.

41 (d) "*Bales of regulated metal*" means regulated scrap metal property
42 processed with professional recycling equipment by compression, shear-
43 ing or shredding, to a form in which it may be sold by a scrap metal dealer

1 consistent with industry standards.

2 (e) "Ferrous metal" means a metal that contains iron or steel.

3 (f) "Junk vehicle" means a motor vehicle, aircraft, boat, farming im-
4 plement, industrial equipment, trailer or any other convenience used on
5 the highways and roadways, which has no use or resale value except as
6 scrap.

7 (g) "Nonferrous metal" means a metal that does not contain iron or
8 steel, including but not limited to, copper, brass, aluminum, bronze, lead,
9 zinc, nickel and their alloys.

10 (h) "Tin" means a metal consisting predominantly of light sheet metal
11 ferrous scrap, including large and small household appliances, construc-
12 tion siding and construction roofing.

13 (i) "Vehicle part" means either the front clip consisting of the two
14 front fenders, hood, grill and front bumper of an automobile assembled
15 as one unit; or the rear clip consisting of those body parts behind the rear
16 edge of the back doors, including both rear quarter panels, the rear win-
17 dow, trunk lid, trunk floor panel and rear bumper, assembled as one unit.

18 Sec. 2. K.S.A. 2008 Supp. 50-6,110 is hereby amended to read as
19 follows: 50-6,110. (a) Except as provided in subsection (e), it shall be
20 unlawful for any person to sell any item or items of regulated scrap metal
21 to a scrap metal dealer in this state unless such person presents to such
22 scrap metal dealer, at or before the time of sale, the following information
23 described below regarding such item or items of regulated scrap metal:
24 —Such information shall include: The seller's name, address and place
25 of business, if any, sex, date of birth and the identifying number from the
26 seller's driver's license, military identification card, passport or personal
27 identification license. The identifying number from an official govern-
28 mental document for a country other than the United States may be used
29 to meet this requirement provided that a legible fingerprint is also ob-
30 tained from the seller.

31 (b) Every scrap metal dealer shall keep a register in which the dealer
32 shall at the time of purchase or receipt of any item for which such infor-
33 mation is required to be presented, cross-reference to previously received
34 information, or enter the name, residence or place of business, if any, of
35 the person from whom the scrap metal dealer purchased or received the
36 item, a description made in accordance with the commodity code stan-
37 dards of the trade of items purchased, the price paid for such item or
38 items, and a copy of the seller's photo driver's license card or another
39 government-issued photo identification card. accurately and legibly rec-
40 ord at the time of sale the following information:

41 (1) The time, date and place of transaction;

42 (2) the seller's name, address, sex, date of birth, and the identifying
43 number from the seller's driver's license, military identification card, pass-

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1 port, or personal identification license; the identifying number from an
2 official governmental document for a country other than the United States
3 may be used to meet this requirement provided that a legible fingerprint
4 is also obtained from the seller;

5 (3) a copy of the identification card or document containing such
6 identifying number;

7 (4) the license number, color and style or make of any motor vehicle
8 in which the junk vehicle or other regulated scrap metal property is de-
9 livered in a purchase transaction;

10 (5) a general description, made in accordance with the custom of the
11 trade, of the predominant types of junk vehicle or other regulated scrap
12 metal property purchased in the transaction;

13 (6) the weight, quantity or volume, made in accordance with the cus-
14 tom of the trade, of the regulated scrap metal property purchased;

15 (7) if a junk vehicle or vehicle part is being bought or sold, a descrip-
16 tion of the junk vehicle or vehicle part, including the make, model, color,
17 vehicle identification number and serial number if applicable;

18 (8) the amount of consideration given in a purchase transaction for
19 the junk vehicle or other regulated scrap metal property;

20 (9) the name of the individual acting on behalf of the regulated scrap
21 metal dealer in making the purchase; and

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

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

25 (1) Transactions involving regulated scrap metal, except for catalytic
26 converters, for which the total sale price for all regulated scrap metal is
27 \$50.00 or less;

28 (2) transactions involving only catalytic converters for which the total
29 sale price is \$30.00 or less;

30 (3) transactions in which the seller is also a scrap metal dealer; or

31 (4) transactions for which the seller is known to the purchasing scrap
32 metal dealer to be an established business that operates out of a fixed
33 business location and that can reasonably be expected to generate regu-
34 lated scrap metal.

35 Sec. 3. K.S.A. 2008 Supp. 50-6,111 is hereby amended to read as
36 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer
37 to purchase any item or items of regulated scrap metal in a transaction
38 for which K.S.A. 2008 Supp. 50-6,110, and amendments thereto, requires
39 information to be presented by the seller, without demanding and re-
40 ceiving from the seller that information. Every scrap metal dealer shall
41 file and maintain a record of information obtained in compliance with the
42 requirements in K.S.A. 2008 Supp. 50-6,110, and amendments thereto.
43 All records kept in accordance with the provisions of this act shall be open

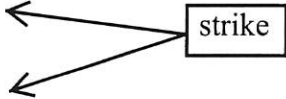
17-1

1 at all times to peace or law enforcement officers and shall be kept for two
2 years. If the required information is maintained in electronic format, the
3 scrap metal dealer shall provide a printout of the information to peace or
4 law enforcement officers upon request.

5 (b) It shall be unlawful for any scrap metal dealer to purchase any
6 item or items of regulated scrap metal in a transaction for which K.S.A.
7 2008 Supp. 50-6,110, and amendments thereto, requires information to
8 be presented by the seller, without obtaining from the seller a signed
9 statement that: (1) each item is the seller's own personal property, is free
10 of encumbrances and is not stolen; or (2) that the seller is acting for the
11 owner and has permission to sell each item.

12 (c) It shall be unlawful for any scrap metal dealer to purchase any
13 junk vehicle in a transaction for which K.S.A. 2008 Supp. 50-6,110, and
14 amendments thereto, requires information to be presented by the seller,
15 without: (1) inspecting the vehicle offered for sale and recording the ve-
16 hicle identification number; and (2) obtaining an appropriate vehicle title
17 or bill of sale issued by a governmentally operated vehicle impound facility
18 if the vehicle purchased has been impounded by such facility or agency.

19 (d) It shall be unlawful for any scrap metal dealer to ~~directly or~~
20 ~~indirectly~~ purchase or receive any regulated scrap metal from a minor
21 ~~or receive any stolen property or any property which such dealer has~~
22 ~~reason to believe or suspect cannot be rightfully or lawfully sold by the~~
23 ~~person offering it.~~



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

- 30 (1) Utility access cover;
- 31 (2) street light poles and fixtures;
- 32 (3) road and bridge guard rails;
- 33 (4) highway or street sign;
- 34 (5) water meter cover;
- 35 (6) traffic directional and traffic control signs;
- 36 (7) traffic light signals;
- 37 (8) any metal marked with any form of the name or initials of a gov-
38 ernmental entity;
- 39 (9) property owned and marked by a telephone, cable, electric, water
40 or other utility provider;
- 41 (10) property owned and marked by a railroad;
- 42 (11) funeral markers and vases;
- 43 (12) historical markers;

- 1 (13) *bales of regulated scrap metal property;*
2 (14) *beer kegs;*
3 (15) *manhole covers;*
4 (16) *fire hydrants;*
5 (17) *junk vehicles with missing or altered vehicle identification*
6 *numbers;*
7 (18) *real estate signs; and*
8 (19) *bleachers or risers.*

9 (f) *It shall be unlawful for any scrap metal dealer to sell, trade, melt*
10 *or crush, or in any way dispose of, alter or destroy any regulated scrap*
11 *metal, junk vehicle or vehicle part upon notice from any law enforcement*
12 *agency, or any of their agents or employees, that they have cause to believe*
13 *an item has been stolen. A scrap metal dealer shall hold any of the items*
14 *that are designated by or on behalf of the law enforcement agency for 30*
15 *days, exclusive of weekends and holidays.*

16 Sec. 4. K.S.A. 2008 Supp. 50-6,112 is hereby amended to read as
17 follows: 50-6,112. (a) *Except as provided in subsections (b) and (c), any*
18 *person intentionally violating the provisions of K.S.A. 2008 Supp. 50-*
19 *6,109 through 50-6,111, and amendments thereto, shall be guilty of a*
20 *class C misdemeanor and shall be subject to a fine of not less than \$200*
21 *nor more than \$500 or confinement in the county jail for a term of not*
22 *more than one month, or both such fine and confinement.*

23 (b) *Any person convicted of violating the provisions of K.S.A. 2008*
24 *Supp. 50-6,109 through 50-6,111, and amendments thereto, for the second*
25 *time within a two-year period shall be guilty of a class B misdemeanor*
26 *and shall be subject to a fine of not less than \$500 nor more than \$1000*
27 *or confinement in the county jail for a term of not more than six months,*
28 *or both such fine and confinement.*

29 (c) *Any person convicted of violating the provisions of K.S.A. 2008*
30 *Supp. 50-6,109 through 50-6,111, and amendments thereto, for the third*
31 *and subsequent times within a two-year period shall be guilty of a class*
32 *A misdemeanor and shall be subject to a fine of not less than \$1000 nor*
33 *more than \$2500 or confinement in the county jail for a term of not more*
34 *than one year, or both such fine and confinement.*

35 Sec. 5. K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112
36 are hereby repealed.

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

1 at all times to peace or law enforcement officers and shall be kept for two
2 years. If the required information is maintained in electronic format, the
3 scrap metal dealer shall provide a printout of the information to peace or
4 law enforcement officers upon request.

5 (b) It shall be unlawful for any scrap metal dealer to purchase any
6 item or items of regulated scrap metal in a transaction for which K.S.A.
7 2008 Supp. 50-6,110, and amendments thereto, requires information to
8 be presented by the seller, without obtaining from the seller a signed
9 statement that: (1) each item is the seller's own personal property, is free
10 of encumbrances and is not stolen; or (2) that the seller is acting for the
11 owner and has permission to sell each item.

12 (c) It shall be unlawful for any scrap metal dealer to purchase any
13 junk vehicle in a transaction for which K.S.A. 2008 Supp. 50-6,110, and
14 amendments thereto, requires information to be presented by the seller,
15 without: (1) inspecting the vehicle offered for sale and recording the ve-
16 hicle identification number; and (2) obtaining an appropriate vehicle title
17 or bill of sale issued by a governmentally operated vehicle impound facility
18 if the vehicle purchased has been impounded by such facility or agency.

19 (d) It shall be unlawful for any scrap metal dealer to, directly or
20 indirectly, purchase or receive any regulated scrap metal from a minor
21 or receive any stolen property or any property which such dealer has
22 reason to believe or suspect cannot be rightfully or lawfully sold by the
23 person offering it.

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

- 30 (1) Utility access cover;
- 31 (2) street light poles and fixtures;
- 32 (3) road and bridge guard rails;
- 33 (4) highway or street sign;
- 34 (5) water meter cover;
- 35 (6) traffic directional and traffic control signs;
- 36 (7) traffic light signals;
- 37 (8) any metal marked with any form of the name or initials of a gov-
38 ernmental entity;
- 39 (9) property owned and marked by a telephone, cable, electric, water
40 or other utility provider;
- 41 (10) property owned and marked by a railroad;
- 42 (11) funeral markers ~~and~~ vases;
- 43 (12) historical markers;

- 1 (13) bales of regulated scrap metal property;
- 2 (14) beer kegs;
- 3 (15) manhole covers;
- 4 or fire hydrant caps
- 5 (16) fire hydrants;
- 6 (17) junk vehicles with missing or altered vehicle identification
6 numbers;
- 7 (18) real estate signs; and
- 8 in whole or in part
- 9 (19) bleachers or risers.

9 (f) It shall be unlawful for any scrap metal dealer to sell, trade, melt
10 or crush, or in any way dispose of, alter or destroy any regulated scrap
11 metal, junk vehicle or vehicle part upon notice from any law enforcement
12 agency, or any of their agents or employees, that they have cause to believe
13 an item has been stolen. A scrap metal dealer shall hold any of the items
14 that are designated by or on behalf of the law enforcement agency for 30
15 days, exclusive of weekends and holidays.

16 Sec. 4. K.S.A. 2008 Supp. 50-6,112 is hereby amended to read as
17 follows: 50-6,112. (a) Except as provided in subsections (b) and (c), any
18 person intentionally violating the provisions of K.S.A. 2008 Supp. 50-
19 6,109 through 50-6,111, and amendments thereto, shall be guilty of a
20 class C misdemeanor- and shall be subject to a fine of not less than \$200
21 nor more than \$500 or confinement in the county jail for a term of not
22 more than one month, or both such fine and confinement.

23 (b) Any person convicted of violating the provisions of K.S.A. 2008
24 Supp. 50-6,109 through 50-6,111, and amendments thereto, for the second
25 time within a two-year period shall be guilty of a class B misdemeanor
26 and shall be subject to a fine of not less than \$500 nor more than \$1000
27 or confinement in the county jail for a term of not more than six months,
28 or both such fine and confinement.

29 (c) Any person convicted of violating the provisions of K.S.A. 2008
30 Supp. 50-6,109 through 50-6,111, and amendments thereto, for the third
31 and subsequent times within a two-year period shall be guilty of a class
32 A misdemeanor and shall be subject to a fine of not less than \$1000 nor
33 more than \$2500 or confinement in the county jail for a term of not more
34 than one year, or both such fine and confinement.

35 Sec. 5. K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112
36 are hereby repealed.

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

or

SB 237 Scrap metal sales and purchases
Amendment suggestion by KACP/KPOA

There is no provision to cover acts by an employee or agent of the “scrap metal dealer.” So a person acting on behalf of the dealer who violates one of the laws provisions could not be charged with that violation while the dealer who might have instructed his employees to do the right things can be. This can be fixed in several different ways.

Alternative 1

Change the term “scrap metal dealer” to “scrap metal dealer or person representing the scrap metal dealer” in the following locations:

Lines 21 & 22 on page 2

Line 36 on page 3

Lines 5, 12, 19, and 24 on page 4.

Line 9 on page 5.

The remaining uses of “scrap metal dealer” would remain unchanged.

Alternative 2

Create and insert in the definitions in section 1 a new term to use in the relevant locations. Such as:

Purchasing agent means the scrap metal dealer or any person acting on behalf of the scrap metal dealer who conducts the business transaction; performs or fails to perform any of the acts required in sections 2, 3, or 4; or performs any act prohibited in sections 2, 3, or 4.

Then replace “scrap metal dealer” with “purchasing agent” in the following locations:

Lines 21 & 22 on page 2

Line 36 on page 3

Lines 5, 12, 19, and 24 on page 4.

Line 9 on page 5.

The remaining uses of “scrap metal dealer” would remain unchanged.

SENATE BILL No. 238

By Committee on Judiciary

2-6

SB238-Balloon.pdf
RS - JThompson - 02/17/09

Senate Judiciary
2-18-09
Attachment 3

9 AN ACT concerning crimes and punishments; relating to unlawful con-
10 duct of cockfighting; asset forfeiture; amending K.S.A. 21-4319 and
11 K.S.A. 2008 Supp. 60-4104 and repealing the existing sections.

12
13 Be it enacted by the Legislature of the State of Kansas:

14 Section 1. K.S.A. 21-4319 is hereby amended to read as follows: 21-
15 4319. (a) Unlawful conduct of cockfighting is: (1) Causing, for amusement
16 or gain, any gamecock to fight with or injure or kill another gamecock;
17 (2) knowingly permitting such fighting or injuring on premises under
18 one's ownership, charge or control; (3) training, grooming, preparing or
19 medicating any gamecock for the purpose or with the intent of having it
20 fight with or injure or kill another gamecock; ~~or (4) attending the unlawful~~
21 ~~conduct of cockfighting as provided in this subsection.~~

Strike

22 (b) ~~Unlawful conduct of cockfighting is a class A nonperson misde-~~
23 ~~meanor. Unlawful possession of cockfighting paraphernalia is possession~~
24 ~~of spurs, gaffs, swords, leather training spur covers or anything worn by~~
25 ~~a gamecock during a fight to further the killing power of such gamecock.~~

26 (c) Unlawful conduct of cockfighting is a level 10 nonperson felony.

27 (d) Unlawful possession of cockfighting paraphernalia is a class A
28 nonperson misdemeanor.

(e) Attending the unlawful conduct of
cockfighting is a class B nonperson
misdemeanor.
and re-letter remaining subsections

29 (e) As used in this section, "gamecock" means a domesticated fowl
30 that is bred, reared or trained for the purpose of fighting with other fowl.

31 (f) The provisions of this section shall be part of and supplemental
32 to the Kansas criminal code.

33 Sec. 2. K.S.A. 2008 Supp. 60-4104 is hereby amended to read as
34 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
35 act, whether or not there is a prosecution or conviction related to the
36 offense, are:

37 (a) All offenses which statutorily and specifically authorize forfeiture;

38 (b) violations of the uniform controlled substances act, K.S.A. 65-
39 4101 et seq., and amendments thereto;

40 (c) theft which is classified as a felony violation pursuant to K.S.A.
41 21-3701, and amendments thereto, in which the property taken was
42 livestock;

43 (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments