

HOUSE BILL No. 2177

By Committee on Corrections and Juvenile Justice

Requested by Representative Barrett

1-30

1 AN ACT concerning motor vehicles; relating to fleeing or attempting to
2 elude a police officer; increasing the criminal penalty for certain
3 violations when the person has prior convictions of the offense;
4 amending K.S.A. 8-1568 and repealing the existing section.
5

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

7 Section 1. K.S.A. 8-1568 is hereby amended to read as follows: 8-
8 1568. (a) (1) (A) Any driver of a motor vehicle who knowingly fails or
9 refuses to bring such driver's vehicle to a stop for a pursuing police vehicle
10 or police bicycle, when given visual or audible signal to bring the vehicle
11 to a stop, shall be guilty as provided by subsection (c)(1).

12 (B) Any driver of a motor vehicle who knowingly otherwise flees or
13 attempts to elude a pursuing police vehicle or police bicycle, when given
14 visual or audible signal to bring the vehicle to a stop, shall be guilty as
15 provided by subsection (c)(1).

16 (2) It shall be an affirmative defense to any prosecution under
17 subsection (a)(1) that the driver's conduct in violation of such subsection
18 was caused by such driver's reasonable belief that the vehicle or bicycle
19 pursuing such driver's vehicle is not a police vehicle or police bicycle.

20 (b) Any driver of a motor vehicle who knowingly fails or refuses to
21 bring such driver's vehicle to a stop, or who otherwise flees or attempts to
22 elude a pursuing police vehicle or police bicycle, when given visual or
23 audible signal to bring the vehicle to a stop, and who:

24 (1) Commits any of the following during a police pursuit, shall be
25 guilty as provided by subsection (c)(2):

26 (A) Fails to stop for a police road block;

27 (B) drives around tire deflating devices placed by a police officer;

28 (C) engages in reckless driving as defined by K.S.A. 8-1566, and
29 amendments thereto;

30 (D) is involved in any motor vehicle accident or intentionally causes
31 damage to property;

32 (E) commits five or more moving violations; or

33 (F) is operating a stolen motor vehicle;

34 (2) is attempting to elude capture for the commission of any felony,
35 shall be guilty as provided by subsection (c)(2); or

1 (3) knowingly drives the wrong way into an opposing lane of travel
2 on a divided highway as defined in K.S.A. 8-1414, and amendments
3 thereto, knowingly departs the appropriate lane of travel into an opposing
4 lane of travel on any roadway causing an evasive maneuver by another
5 driver, knowingly drives through any intersection causing an evasive
6 maneuver by another driver or causes a collision involving another driver,
7 shall be guilty as provided by subsection (c)(3).

8 (c) (1) Violation of subsection (a) is a:

9 (A) Class B nonperson misdemeanor when the person being
10 sentenced has no prior convictions for a violation of subsection (a) or (b);

11 (B) class A nonperson misdemeanor when the person being sentenced
12 has one prior conviction for a violation of subsection (a) or (b); or

13 (C) severity level 9, person felony when the person being sentenced
14 has two or more prior convictions for a violation of subsection (a) or (b).

15 (2) Violation of subsection (b)(1) or (b)(2) is a:

16 (A) Severity level 9, person felony *when the person being sentenced*
17 *has no prior convictions for a violation of subsection (b);*

18 (B) *severity level 7, person felony when the person being sentenced*
19 *has one prior conviction for a violation of subsection (b); and*

20 (C) *severity level 5, person felony when the person being sentenced*
21 *has two or more prior convictions for a violation of subsection (b).*

22 (3) Violation of subsection (b)(3) is a:

23 (A) Severity level 7, person felony *when the person being sentenced*
24 *has no prior convictions for a violation of subsection (b);*

25 (B) *severity level 6, person felony when the person being sentenced*
26 *has one prior conviction for a violation of subsection (b);*

27 (C) *severity level 4, person felony when the person being sentenced*
28 *has two or more prior convictions for a violation of subsection (b).*

29 (4) In addition to the penalty described in ~~paragraph~~ *paragraphs (2)*
30 *and (3), for a violation of subsection (b), the court shall impose a fine of*
31 *not less than \$500 when the driver is operating a stolen motor vehicle*
32 *during the commission of the offense.*

33 (d) The signal given by the police officer may be by hand, voice,
34 emergency light or siren:

35 (1) If the officer giving such signal is within or upon an official police
36 vehicle or police bicycle at the time the signal is given, the vehicle or
37 bicycle shall be appropriately marked showing it to be an official police
38 vehicle or police bicycle; or

39 (2) if the officer giving such signal is not utilizing an official police
40 vehicle or police bicycle at the time the signal is given, the officer shall be
41 in uniform, prominently displaying such officer's badge of office at the
42 time the signal is given.

43 (e) For the purpose of this section:

1 (1) "Conviction" means a final conviction without regard to whether
2 sentence was suspended or probation granted after such conviction.
3 Forfeiture of bail, bond or collateral deposited to secure a defendant's
4 appearance in court, which forfeiture has not been vacated, shall be
5 equivalent to a conviction. For the purpose of determining whether a
6 conviction is a first, second, third or subsequent conviction in sentencing
7 under this section, it is irrelevant whether an offense occurred before or
8 after conviction for a previous offense.

9 (2) "Appropriately marked" official police vehicle or police bicycle
10 shall include, but not be limited to, any police vehicle or bicycle equipped
11 with functional emergency lights or siren or both and which the emergency
12 lights or siren or both have been activated for the purpose of signaling a
13 driver to stop a motor vehicle.

14 (f) The division of vehicles of the department of revenue shall
15 promote public awareness of the provisions of this section when persons
16 apply for or renew such person's driver's license.

17 Sec. 2. K.S.A. 8-1568 is hereby repealed.

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