

SENATE BILL No. 49

By Committee on Natural Resources

1-18

1 AN ACT concerning boating and water activities; relating to boating under
2 the influence; amending K.S.A. **32-1130 and** 32-1131 and repealing the
3 existing section **sections**.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 **Section 1. K.S.A. 32-1130 is hereby amended to read as follows: 32-**
7 **1130. As used in K.S.A. 32-1131 through 32-1136, and amendments**
8 **thereto:**

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

11 (b) **"Other competent evidence" includes: (1) Alcohol**
12 **concentration tests obtained from samples taken ~~two~~ three hours or**
13 **more after the operation or attempted operation of a vessel; and (2)**
14 **readings obtained from a partial alcohol concentration test on a breath**
15 **testing machine.**

16 (c) **"Samples" includes breath supplied directly for testing, which**
17 **breath is not preserved.**

18 (d) **"Vessel" and "operate" have the meanings provided by K.S.A.**
19 **32-1102, and amendments thereto.**

20 ~~Section 1.~~ **Sec. 2. K.S.A. 32-1131 is hereby amended to read as**
21 **follows: 32-1131. (a) No person shall operate or attempt to operate any**
22 **vessel within this state while:**

23 (1) **The alcohol concentration in the person's blood or breath as**
24 **shown by any competent evidence, including other competent evidence,**
25 **as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and**
26 **amendments thereto, is .08 or more;**

27 ~~(+)~~ (2) **The alcohol concentration in the person's blood or breath, at**
28 **the time or within ~~two~~ three hours after the person operated or attempted**
29 **to operate the vessel, is .08 or more;**

30 ~~(2)~~ (3) **the alcohol concentration in the person's blood or breath, at the**
31 **time or within ~~two~~ three hours after the person operated or attempted to**
32 **operate the vessel is .02 or more and the person is less than 21 years of**
33 **age;**

34 ~~(3)~~ (4) **under the influence of alcohol to a degree that renders the**
35 **person incapable of safely operating a vessel;**

36 ~~(4)~~ (5) **under the influence of any drug or combination of drugs to a**

1 degree that renders the person incapable of safely operating a vessel; or

2 ~~(5)~~ **(6)** under the influence of a combination of alcohol and any drug
3 or drugs to a degree that renders the person incapable of safely operating a
4 vessel.

5 ~~(b)~~ No person shall operate or attempt to operate any vessel within
6 this state if the person is a habitual user of any narcotic, hypnotic,
7 somnifacient or stimulating drug.

8 ~~(e)~~ **(b)** If a person is charged with a violation of this section involving
9 drugs, the fact that the person is or has been entitled to use the drug under
10 the laws of this state shall not constitute a defense against the charge.

11 ~~(d)~~ **(c)** No person shall operate or attempt to operate any vessel within
12 this state for three months after the date of refusal of submitting to a test if
13 such person refuses to submit to a test pursuant to K.S.A. 32-1132, and
14 amendments thereto.

15 ~~(e)~~ **(d)** Except as provided by subsection ~~(f)~~ **(e)**, violation of this
16 section is a misdemeanor punishable:

17 (1) On the first conviction, by imprisonment of not more than one
18 year or a fine of not less than \$100 nor more than \$500, or both; and

19 (2) on the second or a subsequent conviction, by imprisonment for
20 not less than 90 days nor more than one year and, in the court's discretion,
21 a fine of not less than \$100 nor more than \$500.

22 ~~(f)~~ **(e)** Subsection ~~(e)~~ **(d)** shall not apply to or affect a person less than
23 21 years of age who submits to a breath or blood alcohol test requested
24 pursuant to K.S.A. 32-1132, and amendments thereto, and produces a test
25 result of an alcohol concentration of .02 or greater but less than .08. Such
26 person's boating privileges upon the first occurrence shall be suspended for
27 30 days and upon a second or subsequent occurrence shall be suspended for
28 90 days.

29 ~~(g)~~ **(f)** In addition to any other penalties prescribed by law or rule and
30 regulation, any person convicted of a violation of this section shall be
31 required to satisfactorily complete a boater safety education course of
32 instruction approved by the secretary before such person subsequently
33 operates or attempts to operate any vessel.

34 Sec. ~~2~~ **3**. K.S.A. ~~32-1130 and 32-1131~~ is *are* hereby repealed.

35 Sec. ~~3~~ **4**. This act shall take effect and be in force from and after
36 January 1, 2014, and its publication in the statute book.

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