

SENATE BILL No. 377

By Committee on Judiciary

1-27

1 AN ACT concerning driving; relating to preliminary screening test of
2 breath or saliva; reasonable suspicion; amending K.S.A. 2015 Supp. 8-
3 1012 and repealing the existing section.

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

6 Section 1. K.S.A. 2015 Supp. 8-1012 is hereby amended to read as
7 follows: 8-1012. (a) Any person who operates or attempts to operate a
8 vehicle within this state is deemed to have given consent to submit to a
9 preliminary screening test of the person's breath or saliva, or both, subject
10 to the provisions set out in subsection (b).

11 (b) A law enforcement officer may request a person who is operating
12 or attempting to operate a vehicle within this state to submit to a
13 preliminary screening test of the person's breath or saliva, or both, if the
14 officer has reasonable suspicion to believe the person has been operating
15 or attempting to operate a vehicle while ~~under the influence of alcohol or~~
16 ~~drugs~~ *having alcohol* or both alcohol and drugs *in such person's system*.

17 (c) At the time the test is requested, the person shall be given oral
18 notice that: (1) There is no right to consult with an attorney regarding
19 whether to submit to testing; (2) refusal to submit to testing is a traffic
20 infraction; and (3) further testing may be required after the preliminary
21 screening test. Failure to provide the notice shall not be an issue or defense
22 in any action. The law enforcement officer then shall request the person to
23 submit to the test.

24 (d) Refusal to take and complete the test as requested is a traffic
25 infraction. If the person submits to the test, the results shall be used for the
26 purpose of assisting law enforcement officers in determining whether an
27 arrest should be made and whether to request the tests authorized by
28 K.S.A. 8-1001, and amendments thereto. A law enforcement officer may
29 arrest a person based in whole or in part upon the results of a preliminary
30 screening test. Such results shall not be admissible in any civil or criminal
31 action concerning the operation of or attempted operation of a vehicle
32 except to aid the court or hearing officer in determining a challenge to the
33 validity of the arrest or the validity of the request to submit to a test
34 pursuant to K.S.A. 8-1001, and amendments thereto. Following the
35 preliminary screening test, additional tests may be requested pursuant to
36 K.S.A. 8-1001, and amendments thereto.

1 (e) Any preliminary screening of a person's breath shall be conducted
2 with a device approved pursuant to K.S.A. 65-1,107, and amendments
3 thereto.

4 Sec. 2. K.S.A. 2015 Supp. 8-1012 is hereby repealed.

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