

HOUSE BILL No. 2093

By Committee on Judiciary

1-21

1 AN ACT concerning motor vehicles; relating to fleeing or attempting to
2 elude a police officer; increasing penalties thereof when operating a
3 stolen motor vehicle, **committing certain driving violations or**
4 **causing a collision involving another driver**; relating to evidence of
5 intent to deprive owner of property; amending K.S.A. 2020 Supp. 8-
6 1568 and 21-5804 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2020 Supp. 8-1568 is hereby amended to read as
10 follows: 8-1568. (a) (1) (A) Any driver of a motor vehicle who ~~willfully~~
11 **knowingly** fails or refuses to bring such driver's vehicle to a stop for a
12 pursuing police vehicle or police bicycle, when given visual or audible
13 signal to bring the vehicle to a stop, shall be guilty as provided by
14 subsection (c)(1).

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

19 ~~(3)~~(2) It shall be an affirmative defense to any prosecution under
20 subsection (a)(1) that the driver's conduct in violation of such ~~paragraph~~
21 *subsection* was caused by such driver's reasonable belief that the vehicle or
22 bicycle pursuing such driver's vehicle is not a police vehicle or police
23 bicycle.

24 (b) Any driver of a motor vehicle who ~~willfully~~ **knowingly** fails or
25 refuses to bring such driver's vehicle to a stop, or who otherwise flees or
26 attempts to elude a pursuing police vehicle or police bicycle, when given
27 visual or audible signal to bring the vehicle to a stop, and who:

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

- 30 (A) Fails to stop for a police road block;
31 (B) drives around tire deflating devices placed by a police officer;
32 (C) engages in reckless driving as defined by K.S.A. 8-1566, and
33 amendments thereto;
34 (D) is involved in any motor vehicle accident or intentionally causes

1 damage to property; ~~or~~

2 (E) commits five or more moving violations; *or*

3 (F) *is operating a stolen motor vehicle*; ~~or~~

4 (2) is attempting to elude capture for the commission of any felony,
5 shall be guilty as provided in subsection (c)(2); **or**

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

14 (c) (1) Violation of subsection (a), ~~upon is a:~~

15 (A) ~~First conviction is a~~ **Class B nonperson misdemeanor when the**
16 **person being sentenced has no prior convictions for a violation of**
17 **subsection (a) or (b);**

18 (B) ~~second conviction is a~~ **class A nonperson misdemeanor when the**
19 **person being sentenced has one prior conviction for a violation of**
20 **subsection (a) or (b); or**

21 (C) ~~third or subsequent conviction is a~~ **severity level 9, person felony**
22 **when the person being sentenced has two or more prior convictions**
23 **for a violation of subsection (a) or (b).**

24 (2) Violation of subsection (b)(1) **or (b)(2)** is a severity level 9,
25 person felony.

26 ~~(d)—(3)~~ **Violation of subsection (b)(3) is a severity level 7, person**
27 **felony.**

28 (4) *In addition to the penalty described in paragraph (2), the court*
29 *shall impose a fine of not less than \$500 when the driver is operating a*
30 *stolen motor vehicle during the commission of the offense.*

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

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

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

41 (e) For the purpose of this section:

42 (1) "Conviction" means a final conviction without regard to whether
43 sentence was suspended or probation granted after such conviction.

1 Forfeiture of bail, bond or collateral deposited to secure a defendant's
2 appearance in court, which forfeiture has not been vacated, shall be
3 equivalent to a conviction. For the purpose of determining whether a
4 conviction is a first, second, third or subsequent conviction in sentencing
5 under this section, it is irrelevant whether an offense occurred before or
6 after conviction for a previous offense.

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

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

15 Sec. 2. K.S.A. 2020 Supp. 21-5804 is hereby amended to read as
16 follows: 21-5804. (a) In any prosecution under K.S.A. 2020 Supp. 21-5801
17 through 21-5839, and amendments thereto, the following shall be prima
18 facie evidence of intent to permanently deprive the owner or lessor of
19 property of the possession, use or benefit thereof:

20 (1) The giving of a false identification or fictitious name, address or
21 place of employment at the time of buying, selling, leasing, trading,
22 gathering, collecting, soliciting, procuring, receiving, dealing or otherwise
23 obtaining or exerting control over the property;

24 (2) the failure of a person who leases or rents personal property to
25 return the same within 10 days after the date set forth in the lease or rental
26 agreement for the return of the property, if notice is given to the person
27 renting or leasing the property to return the property within seven days
28 after receipt of the notice, in which case the subsequent return of the
29 property within the seven-day period shall exempt such transaction from
30 consideration as prima facie evidence as provided in this section;

31 (3) destroying, breaking or opening a lock, chain, key switch,
32 enclosure or other device used to secure the property in order to obtain
33 control over the property;

34 (4) destruction of or substantially damaging or altering the property
35 so as to make the property unusable or unrecognizable in order to obtain
36 control over the property;

37 (5) the failure of a person who leases or rents from a commercial
38 renter a motor vehicle under a written agreement that provides for the
39 return of the motor vehicle to a particular place at a particular time, if
40 notice has been given to the person renting or leasing the motor vehicle to
41 return such vehicle within three calendar days from the date of the receipt
42 or refusal of the demand. In addition, if such vehicle has not been returned
43 after demand, the lessor may notify the local law enforcement agency of

1 the failure of the lessee to return such motor vehicle and the local law
2 enforcement agency shall cause such motor vehicle to be put into any
3 appropriate state and local computer system listing stolen motor vehicles;

4 (6) the failure of a person who is provided with a use of a vehicle by
5 the owner of the vehicle to return it to the owner pursuant to a written
6 instruction specifying: (A) The time and place to return the vehicle; and
7 (B) that failure to comply may be prosecuted as theft, and such instructions
8 are delivered to the person by the owner at the time the person is provided
9 with possession of the vehicle. In addition, if such vehicle has not been
10 returned pursuant to the specifications in such instructions, the owner may
11 notify the local law enforcement agency of the failure of the person to
12 return such motor vehicle and the local law enforcement agency shall
13 cause such motor vehicle to be put into any appropriate state and local
14 computer system listing stolen motor vehicles;

15 (7) removing a theft detection device, without authority, from
16 merchandise or disabling such device prior to purchase; or

17 (8) under the provisions of K.S.A. 2020 Supp. 21-5801(a)(5), and
18 amendments thereto, the failure to replace or reattach the nozzle and hose
19 of the pump used for the dispensing of motor fuels or placing such nozzle
20 and hose on the ground or pavement.

21 (b) In any prosecution for a misdemeanor under K.S.A. 2020 Supp.
22 21-5801, and amendments thereto, in which the object of the alleged theft
23 is a book or other material borrowed from a library, it shall be prima facie
24 evidence of intent to permanently deprive the owner of the possession, use
25 or benefit thereof if the defendant failed to return such book or material
26 within 30 days after receiving notice from the library requesting its return,
27 in which case the subsequent return of the book or material within the 30-
28 day period shall exempt such transaction from consideration as prima facie
29 evidence as provided in this section.

30 (c) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-
31 5801, and amendments thereto, and such theft is of services, the existence
32 of any of the connections of meters, alterations or use of unauthorized or
33 unmeasured electricity, natural gas, water, telephone service or cable
34 television service, caused by tampering, shall be prima facie evidence of
35 intent to commit theft of services by the person or persons using or
36 receiving the direct benefits from the use of the electricity, natural gas,
37 water, telephone service or cable television service passing through such
38 connections or meters, or using the electricity, natural gas, water,
39 telephone service or cable television service which has not been authorized
40 or measured.

41 (d) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-
42 5801, and amendments thereto, and such theft is of regulated scrap metal
43 as defined in K.S.A. 2020 Supp. 50-6,109, and amendments thereto, either

1 in whole or in part, the failure to give information or the giving of false
2 information to a scrap metal dealer pursuant to the requirements of the
3 scrap metal theft reduction act, the transportation of regulated scrap metal
4 outside the county from where it was obtained, the transportation of
5 regulated scrap metal across state lines or the alteration of any regulated
6 scrap metal prior to any transaction with a scrap metal dealer shall be
7 prima facie evidence of intent to permanently deprive the owner of the
8 regulated scrap metal of the possession, use or benefit thereof.

9 (e) *In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-*
10 *5801, and amendments thereto, and such theft is of a motor vehicle as*
11 *defined in K.S.A. 8-126, and amendments thereto, fleeing or attempting to*
12 *elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), and*
13 *amendments thereto, shall be prima facie evidence of intent to*
14 *permanently deprive the owner of the motor vehicle of the possession, use*
15 *or benefit thereof.*

16 (f) As used in this section:

17 (1) "Notice" means notice in writing and such notice in writing will
18 be presumed to have been given three days following deposit of the notice
19 as registered or certified matter in the United States mail, addressed to
20 such person who has leased or rented the personal property or borrowed
21 the library material at the address as it appears in the information supplied
22 by such person at the time of such leasing, renting or borrowing, or to such
23 person's last known address; and

24 (2) "tampering" includes, but is not limited to:

25 (A) Making a connection of any wire, conduit or device, to any
26 service or transmission line owned by a public or municipal utility, or by a
27 cable television service provider;

28 (B) defacing, puncturing, removing, reversing or altering any meter
29 or any connections, for the purpose of securing unauthorized or
30 unmeasured electricity, natural gas, water, telephone service or cable
31 television service;

32 (C) preventing any such meters from properly measuring or
33 registering;

34 (D) knowingly taking, receiving, using or converting to such person's
35 own use, or the use of another;

36 (i) any electricity, water or natural gas ~~which~~ *that* has not been
37 measured; or

38 (ii) any telephone or cable television service ~~which~~ *that* has not been
39 authorized; or

40 (E) causing, procuring, permitting, aiding or abetting any person to
41 do any of the ~~preceding~~ *acts described in subparagraphs (A) through (D).*

42 Sec. 3. K.S.A. 2020 Supp. 8-1568 and 21-5804 are hereby repealed.

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the statute book.