2025 Kansas Statutes

8-1001. Tests for alcohol or drugs; request by officer, grounds; administration of tests, when; procedures; immunity from liability; duty to provide driver notice; refusal to comply or test result exceeding limit, license suspension; admissibility and availability of test result; remedial nature of law. (a) Any person who operates or attempts to operate a vehicle within this state may be requested, subject to the provisions of this article, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing shall include all quantitative and qualitative tests for alcohol and drugs. The test must be administered at the direction of a law enforcement officer, and the law enforcement officer shall determine which type of test is to be conducted or requested.

(b) (1) One or more tests may be required of a person when, at the time of the request, a law enforcement officer has probable cause to believe the person has committed a violation of K.S.A. 8-1567(a), and amendments thereto, or to believe the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, or to believe the person is under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution or city ordinance; or (B) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury or death.

(2) The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the investigation or arrest.

(c) When requesting a test or tests of breath or other bodily substance other than blood or urine, under this section, the person shall be given oral and written notice that:

(1) There is no right to consult with an attorney regarding whether to submit to testing, but, after the completion of the testing, the person may request and has the right to consult with an attorney and may secure additional testing;

(2) if the person refuses to submit to and complete the test or tests, the person's driving privileges will be suspended for a period of one year;

(3) if the person fails a test, the person's driving privileges will be suspended for a period of either 30 days or one year;

(4) refusal to submit to testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and

(5) the results of the testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.

(d) When requesting a test or tests of blood or urine, under this section, the person shall be given oral and written notice that:

(1) If the person refuses to submit to and complete the test or tests, the person's driving privileges will be suspended for a period of one year;

(2) if the person fails a test, the person's driving privileges will be suspended for a period of either 30 days or one year;

(3) the results of the testing may be used against the person at any trial or hearing on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both; and
(4) after the completion of the testing, the person may request and has the right to consult with an attorney and may secure additional testing.
(e) Nothing in this section shall be construed to limit the right of a law enforcement officer to conduct any search of a person's breath or other bodily substance, other than blood or urine, incident to a lawful arrest pursuant to the constitution of the United States, with or without providing the person the advisories authorized in subsection (c), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.
(f) Nothing in this section shall be construed to limit the right of a law enforcement officer to conduct or obtain a blood or urine test of a person pursuant to a warrant under K.S.A. 22-2502, and amendments thereto, the constitution of the United States or a judicially recognized exception to the search warrant requirement, with or without providing the person the advisories authorized in subsection (d), nor limit the admissibility at any trial or hearing of alcohol or drug concentration testing results obtained pursuant to such a search.
(g) A law enforcement officer may direct a medical professional, as described in subsection (h), to draw one or more samples of blood from a person to determine the blood's alcohol or drug concentration:
(1) If the person has given consent, with or without the advisories in subsection (d), and meets the requirements of subsection (b);
(2) if law enforcement has obtained a search warrant authorizing the collection of blood from the person; or
(3) if the person refuses or is unable to consent to submit to and complete a test, and another judicially recognized exception to the warrant requirement applies.
(h) If a law enforcement officer is authorized to collect one or more tests of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; (3) any qualified medical technician, including, but not limited to, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or (4) a phlebotomist.
(i) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample of blood as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person that is the subject of the test or tests to provide any additional consent or sign any waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of

informed consent.
Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document, if provided by law enforcement.
(j) If a person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.
(k) If a law enforcement officer is authorized to collect one or more tests of urine, the collection of the urine sample shall be supervised by: (1) A person licensed to practice medicine and surgery, licensed as a physician assistant, or a person acting under the direction of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) a law enforcement officer of the same sex as the person being tested. The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in subsections (g) and (i) shall apply to the collection of a urine sample.
(l) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.
(m) If a law enforcement officer has probable cause to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person shall also be provided the oral and written notice pursuant to K.S.A. 8-2,145, and amendments thereto. Any failure to give the notices required by K.S.A. 8-2,145, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section. If a law enforcement officer has probable cause to believe that the person has been operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system and such person was under 21 years of age, the person also shall be given the notices required by K.S.A. 8-1567a, and amendments thereto. Any failure to give the notices required by K.S.A. 8-1567a, and amendments thereto, shall not invalidate any action taken as a result of the requirements of this section.
(n) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.
(o) If a law enforcement officer had probable cause to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of 0.04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had probable cause to believe the person had been driving any motor vehicle, the person

fails a test, as defined in K.S.A. 8-1013(h), and amendments thereto, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

(p) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(q) It shall not be a defense that the person did not understand the written or oral notice authorized by this section.

(r) No test results shall be suppressed because of irregularities not affecting the substantial rights of the accused in the consent or notice authorized pursuant to this act. Failure to provide any or all of the notices set forth in subsection (c) or (d) shall not be an issue or defense in any action other than an administrative action regarding the subject's driving privileges.

(s) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant or other judicially recognized exception to the warrant requirement.

(t) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person when available.

(u) This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

History: L. 1955, ch. 61, § 1; L. 1967, ch. 60, § 1; L. 1973, ch. 41, § 1; L. 1977, ch. 38, § 4; L. 1978, ch. 36, § 1; L. 1982, ch. 144, § 3; L. 1985, ch. 48, § 3; L. 1985, ch. 50, § 1; L. 1986, ch. 40, § 2; L. 1988, ch. 47, § 13; L. 1990, ch. 47, § 1; L. 1991, ch. 36, § 18; L. 1993, ch. 259, § 1; L. 1993, ch. 275, § 1; L. 1994, ch. 353, § 9; L. 1999, ch. 169, § 1; L. 2001, ch. 200, § 12; L. 2005, ch. 172, § 2; L. 2006, ch. 173, § 1; L. 2007, ch. 181, § 3; L. 2008, ch. 170, § 1; L. 2010, ch. 119, § 13; L. 2011, ch. 105, § 9; L. 2012, ch. 172, § 12; L. 2013, ch. 122, § 2; L. 2014, ch. 131, § 1; L. 2018, ch. 106, § 7; L. 2019, ch. 13, § 1; July 1.