

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2044

By Committee on Corrections and Juvenile Justice

1-19

1 AN ACT concerning motor vehicles; relating to requirements after a
2 collision; amending K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602,
3 8-1605 and section 292 of chapter 136 of the 2010 Session Laws of
4 Kansas and repealing the existing sections; also repealing K.S.A.
5 2010 Supp. 8-1603 and 8-1606.
6

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

8 Section 1. K.S.A. 2010 Supp. 8-1602 is hereby amended to read as
9 follows: 8-1602. (a) The driver of any vehicle involved in an accident
10 resulting in injury to, great bodily harm to or death of any person *or*
11 *damage to any attended vehicle or property* shall immediately stop
12 such vehicle at the scene of such accident, or as close thereto as
13 possible, but shall then ~~forthwith~~ *immediately* return to and in every
14 event shall remain at the scene of the accident until the driver has
15 fulfilled the requirements of K.S.A. 8-1604, and amendments thereto.
16 ~~Every such stop shall be made without obstructing traffic more than is~~
17 ~~necessary.~~

18 (b) A person who violates ~~this section which~~ **subsection (a) when**
19 **an accident** results in:

20 (1) ~~Total property damages under of less than \$1,000 shall be~~
21 ~~guilty of a misdemeanor and, upon conviction, shall be punished as~~
22 ~~provided in K.S.A. 8-2116, and amendments thereto.~~

23 ~~(+)(2)~~ (2) Injury to any person *or total property damages in excess of*
24 *\$1,000 or more* shall be guilty of a class A person misdemeanor.

25 ~~(-)(3)~~ (3) Great bodily harm to any person shall be guilty of a severity
26 level ~~+0~~ 8, person felony.

27 ~~(-)(4)~~ (4) The death of any person shall be guilty of a severity level ~~9~~
28 ~~5~~ 6, person felony.

29 (c) The director may revoke the license or permit to drive or any
30 nonresident operating privilege of any person so convicted.

31 (d) *The driver shall comply with the provisions of K.S.A. 2010*
32 *Supp. 8-15,107, and amendments thereto.*

33 Sec. 2. K.S.A. 8-1604 is hereby amended to read as follows: 8-

1 1604. (a)(1) The driver of any vehicle involved in an accident resulting
2 in injury to or death of any person, or damage to any *attended* vehicle
3 or other property ~~which is driven or attended by any person~~, shall give
4 such ~~person's~~ *driver's* name, address and the registration number of the
5 vehicle such ~~person~~ *driver* is driving, and upon request shall exhibit
6 such ~~person's~~ *driver's* license or permit to drive, the name of the
7 company with which there is in effect a policy of motor vehicle liability
8 insurance covering the vehicle involved in the accident and the policy
9 number of such policy to any person injured in such accident or to the
10 driver or occupant of or person attending any vehicle or other property
11 damaged in such accident, and shall give such information and upon
12 request exhibit such license or permit and the name of the insurer and
13 policy number; to any police officer at the scene of the accident or who
14 is investigating the accident. ~~and~~

15 (2) *Such driver, insofar as possible, shall immediately make*
16 **efforts to determine whether any person involved in such accident**
17 **was injured or killed, and** shall render to any person injured in such
18 accident reasonable assistance, including the carrying, or the making of
19 arrangements for the carrying of such person to a physician, surgeon or
20 hospital for medical or surgical treatment if it is apparent that such
21 treatment is necessary, or if such carrying is requested by the injured
22 person.

23 ~~(b) In the event that none of the persons specified are in condition~~
24 ~~or present to receive the information to which they otherwise would be~~
25 ~~entitled under subsection (a) of this section, and no police officer is~~
26 ~~present, the driver of any vehicle involved in such accident, after~~
27 ~~fulfilling all other requirements of K.S.A. 8-1602, and amendments~~
28 ~~thereto, and of subsection (a) of this section, insofar as possible on such~~
29 ~~person's part to be performed, shall forthwith immediately report such~~
30 ~~accident to the nearest office of a duly authorized police authority and~~
31 ~~submit thereto the information specified in subsection (a) of this~~
32 ~~section.~~

33 **(b) If no police officer is present, the driver of any vehicle**
34 **involved in such accident, or any occupant of such vehicle 18 years**
35 **of age or older, shall immediately report such accident, by the**
36 **quickest available means of communication, to the nearest office of**
37 **a duly authorized police authority if:**

- 38 (1) **There is apparently property damage of \$1000 or more;**
39 (2) **any person involved in the accident is injured or killed; or**

1 **(3) the persons specified in subsection (a) are not present or in**
2 **condition to receive such information.**

3 (c) Unless the insurance company subsequently submits an
4 insurance verification form indicating that insurance was not in force,
5 no person charged with failing to provide the name of such person's
6 insurance company and policy number as required in subsection (a),
7 shall be convicted if such person produces in court, within 10 days of
8 the date of arrest or of issuance of the citation, evidence of financial
9 security for the motor vehicle operated, which was valid at the time of
10 arrest or of issuance of the citation. For the purpose of this subsection,
11 evidence of financial security shall be provided by a policy of motor
12 vehicle liability insurance, an identification card or certificate of
13 insurance issued to the policyholder by the insurer which provides the
14 name of the insurer, the policy number, make and year of the vehicle
15 and the effective and expiration dates of the policy, or a certificate of
16 self-insurance signed by the commissioner of insurance. Upon the
17 production in court of evidence of financial security, the court shall
18 record the information displayed thereon on the insurance verification
19 form prescribed by the secretary of revenue, immediately forward such
20 form to the department of revenue, and stay any further proceedings on
21 the matter pending a request from the prosecuting attorney that the
22 matter be set for trial. Upon receipt of such form the department shall
23 mail the form to the named insurance company for verification that
24 insurance was in force on the date indicated on the form. It shall be the
25 duty of insurance companies to notify the department within 30
26 calendar days of the receipt of such forms of any insurance that was not
27 in force on the date specified. Upon return of any form to the
28 department indicating that insurance was not in force on such date, the
29 department shall immediately forward a copy of such form to the office
30 of the prosecuting attorney or the city clerk of the municipality in
31 which such prosecution is pending when the prosecuting attorney is not
32 ascertainable. Receipt of any completed form indicating that insurance
33 was not in effect on the date specified shall be prima facie evidence of
34 failure to provide proof of financial security and violation of this
35 section. A request that the matter be set for trial shall be made
36 immediately following the receipt by the prosecuting attorney of a copy
37 of the form from the department of revenue indicating that insurance
38 was not in force. Any charge hereunder shall be dismissed if no request
39 for a trial setting has been made within 60 days of the date evidence of

1 financial security was produced in court.

2 Sec. 3. K.S.A. 2010 Supp. 8-1605 is hereby amended to read as
3 follows: 8-1605. (a) The driver of any vehicle which collides with or is
4 involved in an accident with any vehicle or other property which is
5 unattended, resulting in any damage to ~~such other~~ **anysuch other**
6 vehicle or property, ~~including such driver's vehicle~~, shall immediately
7 stop and shall then and there either locate and notify the operator or
8 owner of such vehicle or other property of such ~~person's~~ *driver's* name,
9 address and the registration number of the vehicle such ~~person~~ *driver*
10 was driving, or shall attach securely in a conspicuous place in or on
11 such vehicle or other property a written notice giving such ~~person's~~
12 *driver's* name, address and the registration number of the vehicle such
13 ~~person~~ *driver* was driving, and without unnecessary delay shall notify
14 the nearest office of a duly authorized police authority. ~~Every such stop~~
15 ~~shall be made without obstructing traffic more than is necessary.~~
16 Violation of this ~~section~~ **subsection** is a misdemeanor **and, upon**
17 **conviction shall be punished as provided in K.S.A. 8-2116, and**
18 **amendments thereto.**

19 (b) The driver under subsection (a), if possible, shall comply with
20 the provisions of K.S.A. 2010 Supp. 8-15,107, and amendments
21 thereto.

22 Sec. 4. Section 292 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 292. In addition
24 to the provisions of section 291 *of chapter 136 of the 2010*
25 *Session Laws of Kansas*, and amendments thereto, the
26 following shall apply in determining an offender's criminal
27 history classification as contained in the presumptive
28 sentencing guidelines grids:

29 (a) Every three prior adult convictions or juvenile adjudications of
30 class A and class B person misdemeanors in the offender's criminal
31 history, or any combination thereof, shall be rated as one adult
32 conviction or one juvenile adjudication of a person felony for criminal
33 history purposes. Every three prior adult convictions or juvenile
34 adjudications of assault as defined in subsection (a) of section 47 *of*
35 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
36 thereto, occurring within a period commencing three years prior to the
37 date of conviction for the current crime of conviction shall be rated as
38 one adult conviction or one juvenile adjudication of a person felony for

1 criminal history purposes.

2 (b) A conviction of criminal use of weapons as defined in
3 subsection (a)(8) or (a)(13) of section 186 *of chapter 136 of the 2010*
4 *Session Laws of Kansas*, and amendments thereto, or possession of a
5 firearm on the grounds or in the state capitol building as defined in
6 section 194 *of chapter 136 of the 2010 Session Laws of Kansas*, and
7 amendments thereto, will be scored as a select class B nonperson
8 misdemeanor conviction or adjudication and shall not be scored as a
9 person misdemeanor for criminal history purposes.

10 (c) (1) If the current crime of conviction was committed before
11 July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect
12 on June 30, 1996, involuntary manslaughter in the commission of
13 driving under the influence, then, each prior adult conviction or
14 juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall
15 count as one person felony for criminal history purposes.

16 (2) If the current crime of conviction was committed on or after
17 July 1, 1996, and is for a violation of subsection (a)(3) of section 40,
18 and amendments thereto, *or if the current crime of conviction was*
19 *committed on or after July 1, 2011 and is for a violation of K.S.A. 8-*
20 *1602, and amendments thereto*, each prior adult conviction, diversion in
21 lieu of criminal prosecution or juvenile adjudication for: (A) An act
22 described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of
23 a law of another state or an ordinance of any city, or resolution of
24 any county, which prohibits the act described in K.S.A. 8-1567, and
25 amendments thereto, shall count as one person felony for criminal
26 history purposes.

27 (d) Prior burglary adult convictions and juvenile adjudications will
28 be scored for criminal history purposes as follows:

29 (1) As a prior person felony if the prior conviction or adjudication
30 was classified as a burglary as defined in subsection (a)(1) of section 93
31 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
32 thereto.

33 (2) As a prior nonperson felony if the prior conviction or
34 adjudication was classified as a burglary as defined in subsection (a)(2)
35 or (a)(3) of section 93 *of chapter 136 of the 2010 Session Laws of*
36 *Kansas*, and amendments thereto.

37 The facts required to classify prior burglary adult convictions and
38 juvenile adjudications shall be established by the state by a
39 preponderance of the evidence.

1 (e) Out-of-state convictions and juvenile adjudications shall be
2 used in classifying the offender's criminal history. An out-of-state crime
3 will be classified as either a felony or a misdemeanor according to the
4 convicting jurisdiction. If a crime is a felony in another state, it will be
5 counted as a felony in Kansas. The state of Kansas shall classify the
6 crime as person or nonperson. In designating a crime as person or
7 nonperson comparable offenses shall be referred to. If the state of
8 Kansas does not have a comparable offense, the out-of-state conviction
9 shall be classified as a nonperson crime. Convictions or adjudications
10 occurring within the federal system, other state systems, the District of
11 Columbia, foreign, tribal or military courts are considered out-of-state
12 convictions or adjudications. The facts required to classify out-of-state
13 adult convictions and juvenile adjudications shall be established by the
14 state by a preponderance of the evidence.

15 (f) Except as provided in subsections (d)(3)(B), (d)(3)(C), (d)(3)
16 (D) and (d)(4) of section 291 of chapter 136 of the 2010 Session Laws
17 of Kansas, and amendments thereto, juvenile adjudications will be
18 applied in the same manner as adult convictions. Out-of-state juvenile
19 adjudications will be treated as juvenile adjudications in Kansas.

20 (g) A prior felony conviction of an attempt, a conspiracy or a
21 solicitation as provided in section 33, 34 or 35 of chapter 136 of the
22 2010 Session Laws of Kansas, and amendments thereto, to commit a
23 crime shall be treated as a person or nonperson crime in accordance
24 with the designation assigned to the underlying crime.

25 (h) Drug crimes are designated as nonperson crimes for criminal
26 history scoring.

27 (i) *If the current crime of conviction is for a violation of*
28 *subsections (b)(2) through (b)(4) of K.S.A. 8-1602, and amendments*
29 *thereto, each of the following prior convictions committed on or after*
30 *July 1, 2011 shall count as a person felony for criminal history*
31 *purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, **8-1567**, 8-1568,*
32 *8-1602, **8-1605** and 40-3104, and amendments thereto, and subsection*
33 *(a)(3) of section 40 and section 41 of chapter 136 of the 2010 Session*
34 *Laws of Kansas, and amendments thereto, or a violation of a city*
35 **ordinance or law of another state which would also constitute a**
36 **violation of such sections.**

37 Sec. 5. K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602, 8-1603, 8-
38 1605, 8-1606 and section 292 of chapter 136 of the 2010 Session Laws
39 of Kansas are hereby repealed.

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