

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; relating to evidence of intent to deprive owner of
4 property; amending K.S.A. 2020 Supp. 8-1568 and 21-5804 and
5 repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

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

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

17 ~~(3)(2)~~ It shall be an affirmative defense to any prosecution under
18 subsection (a)(1) that the driver's conduct in violation of such ~~paragraph~~
19 *subsection* was caused by such driver's reasonable belief that the vehicle or
20 bicycle pursuing such driver's vehicle is not a police vehicle or police
21 bicycle.

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

26 (1) Commits any of the following during a police pursuit:

27 (A) Fails to stop for a police road block;

28 (B) drives around tire deflating devices placed by a police officer;

29 (C) engages in reckless driving as defined by K.S.A. 8-1566, and
30 amendments thereto;

31 (D) is involved in any motor vehicle accident or intentionally causes
32 damage to property; ~~or~~

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

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

35 (2) is attempting to elude capture for the commission of any felony,
36 shall be guilty as provided in subsection (c)(2).

- 1 (c) (1) Violation of subsection (a), upon a:
- 2 (A) First conviction is a class B nonperson misdemeanor;
- 3 (B) second conviction is a class A nonperson misdemeanor; or
- 4 (C) third or subsequent conviction is a severity level 9, person felony.
- 5 (2) Violation of subsection (b) is a severity level 9, person felony.
- 6 ~~(d)—(3)~~ *In addition to the penalty described in paragraph (2), the*
- 7 *court shall impose a fine of not less than \$500 when the driver is*
- 8 *operating a stolen motor vehicle during the commission of the offense.*
- 9 (d) The signal given by the police officer may be by hand, voice,
- 10 emergency light or siren:
 - 11 (1) If the officer giving such signal is within or upon an official police
 - 12 vehicle or police bicycle at the time the signal is given, the vehicle or
 - 13 bicycle shall be appropriately marked showing it to be an official police
 - 14 vehicle or police bicycle; or
 - 15 (2) if the officer giving such signal is not utilizing an official police
 - 16 vehicle or police bicycle at the time the signal is given, the officer shall be
 - 17 in uniform, prominently displaying such officer's badge of office at the
 - 18 time the signal is given.
- 19 (e) For the purpose of this section:
 - 20 (1) "Conviction" means a final conviction without regard to whether
 - 21 sentence was suspended or probation granted after such conviction.
 - 22 Forfeiture of bail, bond or collateral deposited to secure a defendant's
 - 23 appearance in court, which forfeiture has not been vacated, shall be
 - 24 equivalent to a conviction. For the purpose of determining whether a
 - 25 conviction is a first, second, third or subsequent conviction in sentencing
 - 26 under this section, it is irrelevant whether an offense occurred before or
 - 27 after conviction for a previous offense.
 - 28 (2) "Appropriately marked" official police vehicle or police bicycle
 - 29 shall include, but not be limited to, any police vehicle or bicycle equipped
 - 30 with functional emergency lights or siren or both and which the emergency
 - 31 lights or siren or both have been activated for the purpose of signaling a
 - 32 driver to stop a motor vehicle.
- 33 (f) The division of vehicles of the department of revenue shall
- 34 promote public awareness of the provisions of this section when persons
- 35 apply for or renew such person's driver's license.
- 36 Sec. 2. K.S.A. 2020 Supp. 21-5804 is hereby amended to read as
- 37 follows: 21-5804. (a) In any prosecution under K.S.A. 2020 Supp. 21-5801
- 38 through 21-5839, and amendments thereto, the following shall be prima
- 39 facie evidence of intent to permanently deprive the owner or lessor of
- 40 property of the possession, use or benefit thereof:
 - 41 (1) The giving of a false identification or fictitious name, address or
 - 42 place of employment at the time of buying, selling, leasing, trading,
 - 43 gathering, collecting, soliciting, procuring, receiving, dealing or otherwise

1 obtaining or exerting control over the property;

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

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

12 (4) destruction of or substantially damaging or altering the property
13 so as to make the property unusable or unrecognizable in order to obtain
14 control over the property;

15 (5) the failure of a person who leases or rents from a commercial
16 renter a motor vehicle under a written agreement that provides for the
17 return of the motor vehicle to a particular place at a particular time, if
18 notice has been given to the person renting or leasing the motor vehicle to
19 return such vehicle within three calendar days from the date of the receipt
20 or refusal of the demand. In addition, if such vehicle has not been returned
21 after demand, the lessor may notify the local law enforcement agency of
22 the failure of the lessee to return such motor vehicle and the local law
23 enforcement agency shall cause such motor vehicle to be put into any
24 appropriate state and local computer system listing stolen motor vehicles;

25 (6) the failure of a person who is provided with a use of a vehicle by
26 the owner of the vehicle to return it to the owner pursuant to a written
27 instruction specifying: (A) The time and place to return the vehicle; and
28 (B) that failure to comply may be prosecuted as theft, and such instructions
29 are delivered to the person by the owner at the time the person is provided
30 with possession of the vehicle. In addition, if such vehicle has not been
31 returned pursuant to the specifications in such instructions, the owner may
32 notify the local law enforcement agency of the failure of the person to
33 return such motor vehicle and the local law enforcement agency shall
34 cause such motor vehicle to be put into any appropriate state and local
35 computer system listing stolen motor vehicles;

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

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

42 (b) In any prosecution for a misdemeanor under K.S.A. 2020 Supp.
43 21-5801, and amendments thereto, in which the object of the alleged theft

1 is a book or other material borrowed from a library, it shall be prima facie
2 evidence of intent to permanently deprive the owner of the possession, use
3 or benefit thereof if the defendant failed to return such book or material
4 within 30 days after receiving notice from the library requesting its return,
5 in which case the subsequent return of the book or material within the 30-
6 day period shall exempt such transaction from consideration as prima facie
7 evidence as provided in this section.

8 (c) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-
9 5801, and amendments thereto, and such theft is of services, the existence
10 of any of the connections of meters, alterations or use of unauthorized or
11 unmeasured electricity, natural gas, water, telephone service or cable
12 television service, caused by tampering, shall be prima facie evidence of
13 intent to commit theft of services by the person or persons using or
14 receiving the direct benefits from the use of the electricity, natural gas,
15 water, telephone service or cable television service passing through such
16 connections or meters, or using the electricity, natural gas, water,
17 telephone service or cable television service which has not been authorized
18 or measured.

19 (d) In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-
20 5801, and amendments thereto, and such theft is of regulated scrap metal
21 as defined in K.S.A. 2020 Supp. 50-6,109, and amendments thereto, either
22 in whole or in part, the failure to give information or the giving of false
23 information to a scrap metal dealer pursuant to the requirements of the
24 scrap metal theft reduction act, the transportation of regulated scrap metal
25 outside the county from where it was obtained, the transportation of
26 regulated scrap metal across state lines or the alteration of any regulated
27 scrap metal prior to any transaction with a scrap metal dealer shall be
28 prima facie evidence of intent to permanently deprive the owner of the
29 regulated scrap metal of the possession, use or benefit thereof.

30 (e) *In a prosecution for theft as defined in K.S.A. 2020 Supp. 21-
31 5801, and amendments thereto, and such theft is of a motor vehicle as
32 defined in K.S.A. 8-126, and amendments thereto, fleeing or attempting to
33 elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), and
34 amendments thereto, shall be prima facie evidence of intent to
35 permanently deprive the owner of the motor vehicle of the possession, use
36 or benefit thereof.*

37 (f) As used in this section:

38 (1) "Notice" means notice in writing and such notice in writing will
39 be presumed to have been given three days following deposit of the notice
40 as registered or certified matter in the United States mail, addressed to
41 such person who has leased or rented the personal property or borrowed
42 the library material at the address as it appears in the information supplied
43 by such person at the time of such leasing, renting or borrowing, or to such

- 1 person's last known address; and
- 2 (2) "tampering" includes, but is not limited to:
 - 3 (A) Making a connection of any wire, conduit or device, to any
 - 4 service or transmission line owned by a public or municipal utility, or by a
 - 5 cable television service provider;
 - 6 (B) defacing, puncturing, removing, reversing or altering any meter
 - 7 or any connections, for the purpose of securing unauthorized or
 - 8 unmeasured electricity, natural gas, water, telephone service or cable
 - 9 television service;
 - 10 (C) preventing any such meters from properly measuring or
 - 11 registering;
 - 12 (D) knowingly taking, receiving, using or converting to such person's
 - 13 own use, or the use of another;
 - 14 (i) any electricity, water or natural gas ~~which~~ *that* has not been
 - 15 measured; or
 - 16 (ii) any telephone or cable television service ~~which~~ *that* has not been
 - 17 authorized; or
 - 18 (E) causing, procuring, permitting, aiding or abetting any person to
 - 19 do any of the ~~preceding~~ acts *described in subparagraphs (A) through (D)*.
- 20 Sec. 3. K.S.A. 2020 Supp. 8-1568 and 21-5804 are hereby repealed.
- 21 Sec. 4. This act shall take effect and be in force from and after its
- 22 publication in the statute book.