Uniform Public Offense Code for Kansas Cities

33rd Edition

edited by Eric Smith
Deputy Legal Counsel

2016

NOTICE: Please see adopting Ordinance No. 3100 for additional information.

Ordinance Incorporated by Reference Under the Provisions of K.S.A. 12-3009 through 12-3012, and K.S.A. 12-3301 and 12-3302

by Ordinance No. 3100

City of Paola, Kansas

Uniform Public Offense Code for Kansas Cities

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UNIFORM PUBLIC OFFENSE CODE

FOR

KANSAS CITIES

The League of Kansas Municipalities has published the *Uniform Public Offense Code* since 1980. The *Uniform Public Offense Code* is designed to provide a comprehensive public offense ordinance for Kansas cities. It does not take effect in a city until the governing body has passed and published an ordinance incorporating it by reference under the authority of and by the procedure prescribed by K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302.

It is not necessary to publish the *Uniform Public Offense Code* in a newspaper if it is properly incorporated by reference. It is only necessary to publish the incorporating ordinance. The incorporating ordinance may delete articles or sections that the governing body considers unnecessary. The incorporating ordinance may also change sections. The League advises, however, that cities changing sections with a statutory citation should exercise care to ensure the changes do not conflict with state law.

The *Uniform Public Offense Code*, in large part, parallels the state criminal code. Additional provisions for local regulations, if any, may be included in the incorporating ordinance. Previous ordinances relating to public offenses in conflict with provisions of the *Uniform Public Offense Code* and ordinances incorporating earlier editions of the *Uniform Public Offense Code* should be repealed by the incorporating ordinance.

There must be at least one official copy of the *Uniform Public Offense Code* on file with the city clerk. Enforcing officers should also have copies. The blanks on the first page should be filled in on all copies.

There are several blank pages at the end of this book. Newspaper clippings of the incorporating ordinance and subsequent ordinances on public offenses may be pasted on these pages. Extra copies of the newspaper should be procured or reprints made so that copies may be pasted in all copies of the *Uniform Public Offense Code*.

A listing of changes in the *Uniform Public Offense Code*, 2015 edition, which appear in the 2016 edition of the *Uniform Public Offense Code*, can be found on page 137 of this edition.

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ARTICLE 1. GENERAL PROVISIONS

1.1 **DEFINITIONS.** The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

Act. Includes a failure or omission to take action.

Advance Voting Site. The central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 25-2812.

Air Gun or Air Rifle. Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any pellet or BB shot, and whether operating from and upon compressed air or mechanical or elastic spring work or otherwise.

Alcohol Concentration. The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Alcohol Without Liquid Machine. A device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes.

Alcoholic Liquor. Alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

Animal. Every living vertebrate except a human being.

Another. A person or persons as defined in this code other than the person whose act is claimed to be an offense.

Audiovisual Recording Function. The capability of a device to record or transmit a motion picture or any

part thereof by means of any technology now known or later developed.

Auction Motor Vehicle Dealer. Any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

Beer. A beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

Body Piercing. Puncturing the skin of a person by aid of needles designed or used to puncture the skin for the purpose of inserting removable jewelry through the human body, except puncturing the external part of the human earlobe shall not be included in this definition.

Cardholder. The person or entity to whom or for whose benefit a financial card is issued.

Caterer. An individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

Cereal Malt Beverage. Any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in K.S.A. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

Cigarette. Any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

City or this City. All land and water either within or outside the boundary of the city over which the city has either exclusive or concurrent jurisdiction, and the air space above such land and water.

City or County Correctional Officer or Employee. Any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility.

Club. A Class A or Class B club.

Class A Club. A premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

Class B Club. A premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

Conduct. An act or series of acts, and the accompanying mental state.

Conviction. A judgment of guilt entered upon a plea of guilt.

Cosmetic Tattooing. The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin, by use of a needle, so as to form indelible marks for cosmetic or figurative purposes.

Court Appointed Guardian. One who is appointed by a court and has legal authority and duty to care for

another person, especially because of the other's infancy, incapacity or disability.

Deception. Knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.

Deprive Permanently.

(a) Take from the owner the possession, use or benefit of property, without an intent to restore the same;

(b) Retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

(c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

Distribute. The actual or constructive transfer from one person to another of some item whether or not there is an agency relationship. **Distribute** includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one person to another. **Distribute** does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law.

Domestic Pet. Any domesticated animal which is kept for pleasure rather than utility.

Drinking Establishment. Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. **Drinking establishment** includes a railway car.

Dwelling. A building or portion thereof, a tent, a vehicle, or other enclosed space which is used or intended for use as a human habitation, home or residence.

Dwelling Unit. A single-family residence, multiple-family residence and each living unit in a mixed-use building.

Electronic Cigarette. A battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

Equine. A horse, pony, mule, jenny, donkey or hinny.

Farm Animal. An animal raised on a farm or ranch and used or intended for use as food or fiber.

Fighting Words. Words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of the peace.

Financial Card. An identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions;

Firearm. Any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.

Fish. As a verb, means take, in any manner, any fish.

Fire Department. A public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

Funeral. The ceremonies, processions, and memorial services held in connection with the burial or cremation of a person.

Furbearing Animal. Any badger, beaver, bobcat, grey fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, red fox, spotted skunk, striped skunk, swift fox or weasel.

Furharvest.

(a) Take, in any manner, any furbearing animal; or

(b) Trap or attempt to trap any coyote.

Game Animal. Any big game animal, wild turkey or small game animal.

Gamecock. A domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

Health Care Facility. Any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

Health Care Provider. Any person:

(a) Licensed to practice a branch of the healing arts;
(b) Licensed to practice psychology;
(c) Licensed to practice professional or practical nursing;
(d) Licensed to practice dentistry;
(e) Licensed to practice optometry;
(f) Licensed to practice pharmacy;
(g) Registered to practice podiatry;
(h) Licensed as a social worker; or
(i) Registered to practice physical therapy

Hunt.

(a) Take, in any manner, any wildlife other than a fish, bullfrog, furbearing animal or coyote; or

(b) Take, in any manner other than by trapping, any coyote.

Intent to Defraud. An intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

Juvenile Detention Facility Officer or Employee. Any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto.

Law Enforcement Officer.

(a) Any person who by virtue of such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

(b) Any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

Maliciously. A state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Motion Picture Theater. A movie theater, screening room or other venue when used primarily for the exhibition of a motion picture.

Motorboat. Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

Motor Vehicle. Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

Needle. A sharp, pointed implement used for the purpose of tattooing, cosmetic tattooing or body piercing. The term **needle** does not include any implements or object altered to be used as needles.

Nonferrous Metal. A metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

Obtain. To bring about a transfer of interest in or possession of property, whether to the offender or to another.

Obtains or Exerts Control Over Property. Includes but is not limited to, the taking, carrying away, sale, conveyance, transfer of title to, interest in, or possession of property.

Ordinance Cigarette or Tobacco Infraction. A violation of an ordinance that proscribes the same behavior as proscribed by subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

Owner. A person who has any interest in property.

Paint Ball Gun. Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any paint ball, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

Person. An individual, public or private corporation, government, partnership or unincorporated association.

Personal Property. Goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

Police Dog. Any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

Possession. Having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

Private Place. A place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

Property. Anything of value, tangible or intangible, real or personal.

Prosecution. All legal proceedings by which a person's liability for an offense is determined.

Public Demonstration.

(a) Any picketing or similar conduct, or

(b) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral.

Public Employee. A person employed by or acting for the city and who is not a public officer.

Public Offense or Offense. An act or omission defined by this code which, upon conviction, is punishable by fine, confinement or both fine and confinement.

Public Officer. Includes the following, whether elected or appointed.

(a) An executive or administrative officer of the city;

(b) A member of the governing body of the city;

(c) A judicial officer, which shall include a judge, municipal judge, magistrate, juror, master or any other person appointed by a judge or court to hear or determine a cause of controversy;

(d) A hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer;

(e) A law enforcement officer; and

(f) Any other person exercising the functions of a public officer under color of right.

Railroad Property. Includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle,

right-of-way or other property that is owned, leased, operated or possessed by a railroad company.

Real Property or Real Estate. Every estate, interest and right in lands, tenements and hereditaments.

Retail Dealer. A person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer.

Rebuilder. A person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amendments thereto, and selling such rebuilt salvage vehicles.

Runaway. A child under 18 years of age who is voluntarily absent from:

(a) The child's home without the consent of the child's parent or other custodian; or

(b) A court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

Sail Board. A surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

Sailboat. Any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

Salvage Vehicle Dealer. Any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

Salvage Vehicle Pool. Any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

Sample. Cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

School Employee. Any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12.

Scrap Metal Recycler. A person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

Sexual Intercourse. Any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. **Sexual Intercourse** does not include penetration of the female sex organ by a finger or object in the course of the performance of:

(a) Generally recognized health care practices; or

(b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

Smoking; Definitions.

(a) Access Point means the area within a 10 foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of section 10.24.

(b) Bar means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-premises consumption.

(c) Employee means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers their services for a nonprofit entity.

(d) Employer means any person, partnership, corporation, association or organization, including municipal or nonprofit entities, which employs one or more individual persons.

(e) Enclosed Area means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an enclosed area:

(1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and

(2) Rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.

(f) Food Service Establishment means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(g) Gaming Floor means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.

(h) Medical Care Facility means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto.

(i) Outdoor Recreational Facility means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.

(j) Place of Employment means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a place of employment unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

(k) Private Club means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.

(l) Public Building means any building owned or operated by:

(1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof;
(2) Any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or
(3) Any other separate corporate instrumentality or unit of the state or any municipality.

(m) Public Meeting means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.

(n) Public Place means any enclosed areas open to the public or used by the general public including, but not limited to: Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a public place unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

(o) Smoking means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

(p) Tobacco Shop means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories,

and which derives not less than 65% of its gross receipts from the sale of tobacco.

(q) Substantial Dues or Membership Fee Requirements means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.

Smoke Detector. A device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory.

Sodomy. Oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. **Sodomy** does not include penetration of the anal opening by a finger or object in the course of the performance of:

(a) Generally recognized health care practices; or

(b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

Solicit or Solicitation. To command, authorize, urge, incite, request or advise another to commit an offense.

State or This State. Means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction or the air space above such land and water.

State Correctional Officer or Employee. Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution.

Spirits. Any beverage which contains alcohol obtained by distillation, mixed with water or other

substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

Spouse. A lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act.

Stolen Property. Property over which control has been obtained by theft.

Tattooing. The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments by use of a needle into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

Telecommunications Device. Includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto.

Telefacsimile Communication. The use of electronic equipment to send or transmit a copy of a document via telephone line.

Temporary Permit. A temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Threat. A communicated intent to inflict physical or other harm on any person or on property.

Throwing Star. Any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape, manufactured for use as a weapon for throwing.

Tobacco Products. Cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of

tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

Toxic Vapors. The following substances or products containing such substances:

(a) Alcohols, including methyl, isopropyl, propyl, or butyl;
(b) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
(c) Acetone;
(d) Benzene;
(e) Carbon tetrachloride;
(f) Cyclohexane;
(g) Freons, including freon 11, freon 12, and other halogenated hydrocarbons;
(h) Hexane;
(i) Methyl ethyl ketone;
(j) Methyl isobutyl ketone;
(k) Naptha;
(l) Perchlorethylene;
(m) Toluene;
(n) Trichloroethane; or
(o) Xylene.

Unlawful Sexual Act. Any lewd and lascivious behavior or sexual battery as defined in this code.

Vehicle Crusher. Any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler.

Vehicle Dealer. Any person who:

(a) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or

(b) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an

interest in motor vehicles as an auction motor vehicle dealer as defined below; but does not include:

(1) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles;

(2) Public officers while performing their official duties;

(3) Employees of persons enumerated provisions (1) and (2), when engaged in the specific performance of their duties as such employees;

(4) Auctioneers conducting auctions for persons enumerated in provisions (1), (2), or (3); or

(5) Auctioneers who, while engaged in conducting an auction of tangible person property for others, offer for sale:

(A) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars;

(B) Vehicles which meet the statutory definition of antique vehicles; or

(C) Vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (5), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

Vehicle Recycler. A person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts.

Vessel. Any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

Wildlife. Any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. Wildlife does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl).

Wine. Any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

Written Instrument. Any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, tokens, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. (K.S.A. 8-126; K.S.A. 12-4113; K.S.A. 21-5111; K.S.A. 21-5413; K.S.A. 21-5603; K.S.A. 21-5809; K.S.A. 21-5918; K.S.A. 21-6101; K.S.A. 21-6109; K.S.A. 21-6301; K.S.A. 21-6321; K.S.A. 21-6416; K.S.A. 21-6417; K.S.A. 32-1102; K.S.A. 32-1130; K.S.A. 41-102; K.S.A. 41-601; K.S.A. 41-2701; K.S.A. 51-301; K.S.A. 79-3301, as amended)

1.2 **LIABILITY FOR OFFENSES OF ANOTHER.**

(a) A person is criminally responsible for an offense committed by another if such person, acting with the mental culpability required for the commission thereof, advises, hires, counsels or procures the other to commit the offense or

intentionally aids the other in committing the conduct constituting the offense.

(b) A person liable under subsection (a) is also liable for any other offense committed in pursuance of the intended offense if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the crime intended.

(c) A person liable under this section may be charged with and convicted of the offense although the person alleged to have directly committed the act constituting the offense.

(1) Lacked criminal or legal capacity;
(2) Has not been convicted;
(3) Has been acquitted; or
(4) Has been convicted of some other degree of the offense or of some other offense based on the same act. (K.S.A. Supp. 21-5210)

1.3 **CORPORATIONS: CRIMINAL RESPONSIBILITY; INDIVIDUAL LIABILITY.**

(a) **Corporations; Criminal Responsibility.**

(1) A corporation is criminally responsible for acts committed by its agents when acting within the scope of their authority.
(2) Agent means any director, officer, servant, employee or other person who is authorized to act on behalf of the corporation.

(b) **Individual Liability for Corporate Offenses.**

(1) An individual who performs public offenses, or causes such acts to be performed, in the name of or on behalf of a corporation is legally responsible to the same extent as if such acts were in the person's own name or on the person's own behalf.
(2) An individual who has been convicted of an offense based on conduct performed by such individual for and on behalf of

a corporation is subject to punishment as an individual upon conviction of such offense, although a lesser or different punishment is authorized for the corporation. (K.S.A. Supp. 21-5211:5212)

ARTICLE 2. ANTICIPATORY OFFENSES

2.1 ATTEMPT.

(a) An attempt is any overt act toward the perpetration of an offense done by a person who intends to commit such offense but fails in the perpetration thereof or is prevented or intercepted in executing such offense.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the offense was not possible. (K.S.A. Supp. 21-5301)

An attempt to commit a Class A violation is a Class B violation.

An attempt to commit a Class B or C violation is a Class C violation.

2.2 CONSPIRACY.

(a) A conspiracy is an agreement with another person to commit an offense or to assist in committing an offense. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

(b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator. (K.S.A. Supp. 21-5302)

A conspiracy to commit a violation is a Class C violation.

ARTICLE 3. OFFENSES AGAINST PERSONS

3.1 BATTERY.

Battery is:

(a) Knowingly or recklessly causing bodily harm to another person; or

(b) Knowingly causing physical contact with another person when done in a rude, insulting or angry manner. (K.S.A. Supp. 21-5413)

Battery is a Class B violation.

~~3.1.1 DOMESTIC BATTERY.~~

~~(a) Domestic battery is:~~

~~(1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or~~

~~(2) Knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.~~

~~(b) (1) Upon a first conviction of a violation of domestic battery, an offender shall be guilty of a Class B violation and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less~~

~~than $200, nor more than $500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;~~

~~(2) If, within five years immediately preceding commission of the crime, an offender is convicted of a violation of domestic battery a second time, the offender shall be guilty of a Class A violation and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $500 nor more than $1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such offender has served 48 consecutive hours' imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days' imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and~~

~~(c) As used in this section:~~

~~(1) **Family or household member** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing~~

~~together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. **Family or household member** also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and~~

~~(2) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:~~

~~(A) **Conviction** includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;~~

~~(B) **Conviction** includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;~~

~~(C) Only convictions occurring in the immediately preceding five years including prior to the effective date of this act shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offender, whichever is applicable; and~~

~~(D) It is irrelevant whether an offense occurred before or after conviction for a previous offense.~~

~~(E) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this~~

~~section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period. (K.S.A. Supp. 21-5414)~~

3.2 **BATTERY AGAINST A LAW ENFORCEMENT OFFICER.**

(a) Battery against a law enforcement officer is a battery, as defined in Section 3.1(b) of this article, committed against a:

(1) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
(2) Uniformed or properly identified state, county, or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;
(3) Judge, while such judge is engaged in the performance of such judge's duty;
(4) Attorney, while such attorney is engaged in the performance of such attorney's duty; or
(5) Community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(b) As used in this section:

(1) **Judge** means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;
(2) **Attorney** means a (A) City attorney, assistant city attorney, city prosecutor, assistant city prosecutor, county attorney, assistant county attorney, special assistant county attorney, district

attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated and amendments thereto;

(3) **Community Corrections Officer** means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs; and

(4) **Court Services Officer** means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court. (K.S.A. Supp. 21-5413)

Battery against a law enforcement officer is a Class A violation.

3.2.1 **SEXUAL BATTERY.** Sexual battery is the touching of a victim who is not the spouse of the offender, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another. (K.S.A. Supp. 21-5505)

Sexual battery is a Class A violation.

3.2.2 **BATTERY AGAINST A SCHOOL EMPLOYEE.** Battery against a school employee is a battery, as defined in Section 3.1, committed against a school employee in or on any school property or grounds upon which is located

a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty. (K.S.A. Supp. 21-5413)

Battery against a school employee is a Class A violation.

3.3 **ASSAULT AND ASSAULT OF A LAW ENFORCEMENT OFFICER.**

(a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm.

(b) Assault of a law enforcement officer is assault, as defined in subsection (a), committed against:

(1) A uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty; or

(2) A uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty. (K.S.A. Supp. 21-5412)

Assault is a Class C violation.

Assault of a law enforcement officer is a Class A violation.

3.4 **RESERVED FOR FUTURE USE.**

3.5 **UNLAWFUL INTERFERENCE WITH FIREFIGHTER.** Unlawful interference with a firefighter is knowingly:

(a) Interfering with any firefighter while engaged in the performance of such firefighter's duties; or

(b) Obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire or other emergency. (K.S.A. Supp. 21-6325)

Unlawful interference with a fire fighter is a Class B person violation.

A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery.

3.6 **UNLAWFUL RESTRAINT.**

(a) Unlawful restraint is knowingly and without legal authority restraining another person so as to interfere substantially with such person's liberty.

(b) This section shall not apply to acts done in the performance of duty by any law enforcement officer of the city.

(c) Any merchant, or a merchant's agent or employee, who has probable cause to believe that a person has actual possession of and has wrongfully taken, or is about to wrongfully take merchandise from a mercantile establishment, may detain such person on the premises or in the immediate vicinity thereof, in a reasonable manner and for a reasonable period of time for the purpose of investigating the circumstances of such possession. Such reasonable detention shall not constitute an arrest nor unlawful restraint. (K.S.A. Supp. 21-5411)

Unlawful restraint is a Class A violation.

3.7 **MISTREATMENT OF A CONFINED PERSON.** Mistreatment of a confined person is knowingly abusing, neglecting or ill-treating any person, who is detained or confined by any law enforcement officer or by any person in charge of or employed by the owner or operator of any correctional institution. (K.S.A. Supp. 21-5416)

Mistreatment of a confined person is a Class A violation.

3.8 **VIOLATION OF PROTECTION FROM ABUSE ORDER.**

(a) If a person enters or remains on premises or property violating an order issued pursuant to K.S.A. Supp. 60-3107(a)(2), and amendments

thereto, such violation shall constitute criminal trespass and violation of a protective order.

(b) If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to K.S.A. Supp. 60-3107(a)(1), and amendments thereto, such violation may constitute assault, battery, or domestic battery and violation of a protective order. (K.S.A. Supp. 60-3107)

3.8.1 **VIOLATION OF A PROTECTIVE ORDER.**

(a) Violation of a protective order is knowingly violating:

(1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto.

(2) A protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. Section 2265, and amendments thereto;

(3) A restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;

(4) An order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, post release supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;

(5) An order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person;

(6) A protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.

Order includes any order issued by a municipal or district court.

(b) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on the attorney's behalf, shall be identified in any such contact. (K.S.A. Supp. 21-5924)

Violation of a protective order is a Class A violation.

3.9 **CRIMINAL FALSE COMMUNICATION.**

(a) Criminal false communication is:

(1) Communicating to any person, by any means, information that the person communicating such information knows to be false will tend to:
(A) Expose another living person to public hatred, contempt or ridicule;
(B) Deprive such person of the benefits of public confidence and social acceptance; or
(C) Degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends; or

(2) Recklessly making, circulating or causing to be circulated any false report, statement or rumor with intent to injure the financial standing or reputation of any bank, financial or business institution or the financial standing of any individual in this state.

(b) In all prosecutions under this section the truth of the information communicated shall be admitted as evidence. It shall be a defense to a charge of criminal false communication if it is found that such matter was true. (K.S.A. Supp. 21-6103)

Criminal false communication is a Class A violation.

3.10 **RESERVED FOR FUTURE USE.**

3.11 **UNLAWFUL ADMINISTRATION OF A SUBSTANCE.**

(a) Unlawful administration of a substance is the administration of a substance to another person without consent with the intent to impair such other person's physical or mental ability to appraise or control such person's conduct.

(b) As used in this section, **administration of a substance** means any method of causing the ingestion by another person of a controlled substance, including gamma hydroxybutyric acid or any controlled substance analog, as defined in K.S.A. 65-4101, and amendments thereto, of gamma hydroxybutyric acid, including gamma butyrolactone; butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol, tetramethylene glycol; tetramethylene 1,4-diol.

(c) This section shall not prohibit administration of any substance described in subsection (b) for lawful medical or therapeutic treatment. (K.S.A. Supp. 21-5425)

Unlawful administration of a substance is a Class A violation.

3.12 **BREACH OF PRIVACY.**

(a) Breach of privacy is knowingly and without lawful authority:

(1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;

(2) Divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;

(3) Entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;

(4) Installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein; or

(5) Installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication. (K.S.A. Supp. 21-6101)

(b) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

(c) The provisions of this section shall not apply to: (1) an operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility; (2) a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person; (3) a

radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; and (4) a local exchange carrier or telecommunications carrier as defined in K.S. A. 66-1,187, and amendments thereto.

Breach of privacy, as defined in this section, is a Class A violation.

3.13 **STALKING.**

(a) Stalking is:

(1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;

(2) Engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; or

(b) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

(c) In a criminal proceeding under this section, a person claiming an exemption, exception, or exclusion has the burden of going forward with evidence of the claim.

(d) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.

(e) As used in this section:

(1) **Course of Conduct** means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

(A) Threatening the safety of the targeted person or a member of such person's immediate family.

(B) Following, approaching, or confronting the targeted person or a member of such person's immediate family.

(C) Appearing in close proximity to, or entering the targeted person's residence, place of employment, school, or other place where such person can be found, or the residence, place of employment, or school of a member of such person's immediate family.

(D) Causing damage to the targeted person's residence or property or that of a member of such person's immediate family.

(E) Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person.

(F) Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family.

(G) Any act of communication.

(2) **Communication** means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer.

(3) **Computer** means a programmable, electronic device capable of accepting and processing data.

(4) **Conviction** includes being convicted of a violation of this section or being convicted of a law of another state which prohibits the acts that this section prohibits.

(5) **Immediate Family** means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person. (K.S.A. Supp. 21-5427)

Upon a first conviction, stalking as described in subsection (a) is a Class A violation.

ARTICLE 4. SEX OFFENSES

4.1 **LEWD, LASCIVIOUS BEHAVIOR.** Lewd and lascivious behavior is:

(a) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or

(b) Publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another. (K.S.A. Supp. 21-5513)

Lewd and lascivious behavior if committed in the presence of a person 16 or more years of age is a Class B violation.

4.2 **RESERVED FOR FUTURE USE.**

4.3 **SELLING SEXUAL RELATIONS.** Selling Sexual Relations is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:

(a) Sexual intercourse;

(b) Sodomy; or

(c) Manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.

(d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. Supp. 21-6422, and amendments thereto. (K.S.A. Supp. 21-6419)

Selling Sexual Relations is a Class B violation.

4.4 **RESERVED FOR FUTURE USE.**

4.5 **BUYING SEXUAL RELATIONS.** Buying sexual relations is knowingly:

(a) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(b) hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or an unlawful sexual act. (K.S.A. Supp. 21-6421)

Buying Sexual Relations is a Class A violation on conviction of a first offense. In addition to any other sentence imposed, a person convicted under this section shall be fined $2,500. All fines collected pursuant to this subsection shall be remitted to the human trafficking victim assistance fund.

ARTICLE 5. OFFENSES AFFECTING CHILDREN

5.1 CONTRIBUTING TO A CHILD'S MISCONDUCT OR DEPRIVATION.

(a) Contributing to a child's misconduct or deprivation is:

(1) Knowingly causing or encouraging a child under 18 years of age to become or remain a child in need of care as defined by the revised Kansas code for care of children;

(2) Knowingly causing or encouraging a child under 18 years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto;

(3) Failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension;

(4) Knowingly causing or encouraging a child to violate the terms or conditions

of the child's probation or conditional release pursuant to subsection (a)(1) of K.S.A. 38-2361, and amendments thereto.

(b) A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced pursuant to the revised Kansas code for care of children, revised Kansas juvenile justice code or Kansas criminal code. (K.S.A. Supp. 21-5603)

Contributing to a child's misconduct or deprivation is a Class A violation.

5.2 **FURNISHING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE TO A MINOR.**

(a) Furnishing alcoholic liquor or cereal malt beverage to a minor is recklessly, directly or indirectly, buying for or distributing any alcoholic liquor or cereal malt beverage to any minor.

(b) This section shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes.

(c) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof;

(2) The defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and;

(3) To purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document,

that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.

(d) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward when such furnishing is permitted and supervised by the child's or ward's parent or legal guardian.

(e) As used in this section, **minor** means a person under 21 years of age. (K.S.A. Supp. 21-5607)

Furnishing alcoholic liquor or cereal malt beverage to a minor is a Class B violation for which the minimum fine is $200.

5.3 **UNLAWFULLY HOSTING MINORS CONSUMING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE.**

(a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is recklessly permitting a person's residence or any land, building, structure or room owned, occupied, or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the unlawful possession or consumption therein of alcoholic liquor or cereal malt beverages by a minor.

(b) As used in this section, **minor** means a person under 21 years of age.

(c) The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto. (K.S.A. Supp. 21-5608)

Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a Class A violation, for which the minimum fine is $1,000.

5.4 **ENDANGERING A CHILD.**

(a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be injured or endangered.

(b) Nothing in this section shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. (K.S.A. Supp. 21-5601)

Endangering a child is a Class A violation.

5.5 **WATERCRAFT; LIFESAVING DEVICES REQUIRED.**

(a) The operator of every vessel shall require every person 12 years of age or under to wear a United States Coast Guard approved type I, type II or type III personal flotation device while aboard or being towed by such vessel. A life belt or ring shall not satisfy the requirement of this section.

(b) As used in this section, **operator** means the person who operates or has charge of the navigation or use of a motorboat or a vessel. (K.S.A. 32-1129)

Violation of this section shall constitute a Class C violation.

5.6 **PURCHASE OR POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS BY A MINOR.** It shall be unlawful for any person:

(a) Who is under 18 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, or tobacco products; or

(b) Who is under 18 years of age to possess or attempt to possess cigarettes, electronic cigarettes, or tobacco products. (K.S.A. Supp. 79-3321:3322)

Violation of this section shall be an ordinance cigarette or tobacco infraction for which the fine shall be $25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

5.7 **SELLING, GIVING OR FURNISHING CIGARETTES OR TOBACCO PRODUCTS TO A MINOR.**

(a) It shall be unlawful for any person to:

(1) Sell, furnish or distribute cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age; or

(2) Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 18 years of age.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;

(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and

(3) To purchase or receive the cigarettes, electronic cigarettes, or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive

cigarettes, electronic cigarettes, or tobacco products.

(4) For purposes of this section the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(c) It shall be a defense to a prosecution under this subsection if:

(1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and

(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 18 or more years of age.

(d) As used in this section, **sale** means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.
(K.S.A. Supp. 79-3302, 79-3321:79-3322)

Violation of this section shall constitute a Class B violation punishable by a minimum fine of $200.

5.8 **PURCHASE, CONSUMPTION OR POSSESSION OF ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE BY A MINOR; 18-21.**

(a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704, and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall

possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) In addition to any other penalty provided for a violation of this section:

(1) The court may order the offender to do either or both of the following:
(A) Perform 40 hours of public service; or
(B) Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(c) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of

cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(d) (1) A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this section, if such person:

(A) (i) Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and

(ii) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance;

(B) (i) Initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;

(ii) Provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;

(iii) Remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and

(iv) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or

(C) (i) Was the person who reasonably appeared to be in need of medical assistance as described in subsection (d)(1)(B), but did not initiate contact with law enforcement or emergency medical services; and

(ii) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.

(2) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection. (K.S.A. Supp. 41-727)

Violation of this section by a person 18 or more years of age but less than 21 years of age is a Class C violation for which the minimum fine is $200.

ARTICLE 6. OFFENSES AGAINST PROPERTY

6.1 THEFT.

(a) Theft is any of the following acts done with the intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services.

(1) Obtaining or exerting unauthorized control over property or services;
(2) Obtaining control over property or services by deception;
(3) Obtaining control over property or services by threat;
(4) Obtaining control over stolen property or services knowing the property or services to have been stolen by another; or
(5) Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.

(b) Theft of property or services of the value of less than $1,500 is a Class A violation, except as provided below.

(1) Property of the value of less than $1,500 from three separate mercantile

establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony;

(2) Property of the value of at least $50 but less than $1,500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two or more times; and

(3) Property which is a firearm of the value of less than $25,000 is a severity level 9, nonperson felony. (K.S.A. Supp. 21-5801)

(c) As used in this section:

(1) **Conviction** or **convicted** includes being convicted of a violation of K.S.A 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;

(2) **Regulated scrap metal** means the same as in K.S.A. 50-6,109, and amendments thereto; and

(3) **Value** means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.

6.2 **INTENT; PERMANENTLY DEPRIVE.**

(a) In any prosecution under this article, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of

employment at the time of buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property.

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

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

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

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

(6) The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying:

(A) The time and place to return the vehicle; and

(B) That failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into appropriate state and local computer system listing stolen motor vehicles;

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

(8) Under the provisions of subsection (a)(5) of section 6.1 the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In prosecution for theft as defined in Section 6.1, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(d) In prosecution for theft as defined in Section 6.1, and such theft is of regulated scrap metal as defined in K.S.A. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

(e) As used in this section:

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

(2) **Tampering** includes, but is not limited to:

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

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

(C) Preventing any such meters from properly measuring or registering;

(D) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(E) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts. (K.S.A. Supp. 21-5804)

6.3 THEFT OF PROPERTY LOST, MISLAID OR DELIVERED BY MISTAKE.

(a) Theft of property lost, mislaid or delivered by mistake is obtaining control of property of another by a person who:

(1) Knows or learns the identity of the owner thereof;

(2) Fails to take reasonable measures to restore to the owner lost property, mislaid property or property delivered by a mistake; and

(3) Intends to permanently deprive the owner of the possession, use or benefit of the property.

(b) As used in this section, **property delivered by mistake** includes, but is not limited to, a mistake as to the:

(1) Nature or amount of the property; or
(2) Identity of the recipient of the property. (K.S.A. Supp. 21-5802)

Theft of property lost, mislaid or delivered by mistake of the value of less than $1,000 is a Class A violation.

6.4 **RESERVED FOR FUTURE USE.**

6.5 **CRIMINAL DEPRIVATION OF PROPERTY**

Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of such owner's property. (K.S.A. Supp. 21-5803)

Criminal deprivation of property that is a motor vehicle upon a first or second conviction is a Class A violation. Upon a first conviction of this paragraph, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than $100. Upon a second conviction of this paragraph, a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and fined not less than $200. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

Criminal deprivation of property other than a motor vehicle or a firearm is a Class A violation. Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than 30 days imprisonment and fined not less than $100, except that the provisions of this subsection relating to a second or subsequent conviction shall not apply to any person where such application would result in a manifest injustice.

6.6 **CRIMINAL DAMAGE TO PROPERTY.** Criminal damage to property is by means other than by fire or explosive:

(a) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(b) Damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder. (K.S.A. Supp. 21-5813)

Criminal damage to property is a Class B violation if the property damaged is of the value of less than $1,000 or is of the value of $1,000 or more and is damaged to the extent of less than $1,000.

6.7 **CRIMINAL TRESPASS.**

(a) Criminal trespass is entering or remaining upon or in any:

(1) Land, non-navigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

(B) Such premises or property are posted as provided in K.S.A. 32-1013, and amendments thereto, or in any other manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) Such person enters or remains therein in defiance of a restraining order issued by a court of competent jurisdiction and the restraining order has been personally served upon the person so restrained.

(2) Public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person. (K.S.A. Supp. 21-5808)

(b) (1) This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters, and other premises in the making of a survey.

(2) Railroad Property as defined in K.S.A. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 66-2302 and amendments thereto.

Criminal trespass is a Class B violation.

Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

6.7.1 **TRESPASSING ON RAILROAD PROPERTY.**

(a) Trespassing on railroad property is:

(1) Entering or remaining on railroad property, without consent of the owner or the owner's agent, knowing that it is railroad property; or

(2) Recklessly causing in any manner the derailment of a train, railroad car or rail-mounted work equipment.

(b) Subsection (a) shall not be construed to interfere with the lawful use of a public or private crossing.

(c) Nothing in this section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the railway labor act (45 U.S.C. § 151 et seq.) and other federal labor laws. (K.S.A. 21-5809)

Trespassing on railroad property that results in a demonstrable monetary loss, damage, or destruction less than $1,500 is a Class A violation.

6.8 **RESERVED FOR FUTURE USE.**

6.9 **TAMPERING WITH A LANDMARK.** Tampering with a landmark is doing any of the following acts with intent to fraudulently alter a boundary:

(a) Removing any monument of stone or other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land, or of the state, or any legal subdivision thereof;

(b) Defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary;

(c) Cutting down or removing any tree, post or other monument upon which any such marks have been made for such purpose, with intent to destroy such marks;

(d) Defacing or altering any inscription on any such marker or monument; or

(e) Altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of K.S.A. 58-2011. (K.S.A. Supp. 21-5816)

Tampering with a landmark is a Class C violation.

6.10 **TAMPERING WITH A TRAFFIC SIGNAL.** Tampering with a traffic signal is knowingly manipulating, altering, destroying or removing any light, sign, marker, railroad switching device, or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.

A person who violates the provisions of the section may also be prosecuted for, convicted of, and punished for violating sections 6.1 (Theft) and 6.3 (Theft of Property Lost, Mislaid, or Delivered by Mistake). (K.S.A. Supp. 21-5817)

Tampering with a traffic signal is a Class C violation.

6.11 **UNLAWFUL MANUFACTURE OR DISPOSAL OF FALSE TOKENS.**

(a) Unlawful manufacture or disposal of false tokens is manufacturing for sale, offering for sale or giving away any false token, slug, substance, false or spurious coin or other device intended or calculated to be placed or deposited in any automatic vending machine, coin-operated telephone, parking meter or other such receptacle with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of such automatic vending machine, coin-operated telephone, parking meter or other receptacle designed to receive coins or currency of the United States of America in connection with the sale, use or enjoyment of property or services.

(b) The manufacture for sale, advertising, offering for sale or distribution of any such false token, slug, substance, false or spurious coin or other device shall be prima facie evidence of an intent to cheat or defraud within the meaning of this section. (K.S.A. Supp. 21-5829)

Unlawful manufacture or disposal of false tokens is a Class B violation.

6.12 **SERIAL NUMBERS.**

(a) It shall be unlawful for any person to willfully change, cover, alter, remove, obliterate or deface any serial number or other manufacturer's number or any identification letters, words, or numbers of any machine, apparatus, or article that carries a manufacturer's serial number or any other identification letters, words or numbers, with the intent to conceal the identify of such machine, apparatus, or article from the rightful owner thereof or from law enforcement personnel.

(b) It shall be unlawful for any person to knowingly buy, sell, receive, barter, trade, dispose of or have in his or her possession any articles, devices, apparatuses, or machines from which the manufacturer's number or identification letters, words or numbers have been changed, covered, altered, removed, obliterated, defaced or destroyed with the intent to conceal the identity thereof from the rightful owner or from law enforcement personnel.

(c) Possession of any of the a forenamed manufacturer's articles, devices, apparatuses or machines from which the manufacturer's serial number of other manufacturer's number or identification mark, or the name of the manufacturer or make or model, or any other identification letters, words or numbers have been changed, covered, altered, removed, obliterated, defaced, or destroyed shall be prima facie evidence that the possessor has changed, covered, altered, removed, obliterated, defaced, or destroyed the same with the intent to cancel, destroy or misrepresent the identity or type, or ownership of such machine, apparatus, or article.

Violation of this section is a Class C violation.

6.13 **WITHHOLDING POSSESSION OF PUBLIC PROPERTY.** It shall be unlawful for any person to unlawfully take possession of any property, real or personal belonging to the city, or to the possession of which the city shall be entitled or to commit any trespass

thereon or to unlawfully withhold any property from the city. The unlawful withholding of the possession of any property belonging to the city after demand therefor has been made under the direction of the governing body of the city shall be deemed a new and separate offense for each day the possession is withheld after such demand.

Withholding possession of public property is a Class C violation.

6.14 **UNLAWFUL DEPOSITS IN SEWERS.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

(b) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;

(c) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(d) Any garbage that has not been properly shredded;

(e) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction of the flow in sewers or other interference with the proper operation of the sewage works;

(f) Any waters or wastes having a pH lower than 5.5 or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

(g) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(h) Any waters or wastes containing suspended

solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(i) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Unlawful deposits in sewers is a Class C violation.

6.15 **DAMAGING SEWERS.** It shall be unlawful for any person willfully to injure or destroy, or attempt to injure or destroy any public sewer, or to molest any sewer or any part thereof by removing the cover of any flush tank, manhole or any part of the public sewer system of the city without authority.

Violation of this section is a Class C violation.

~~6.16~~ ~~**GIVING A WORTHLESS CHECK.**~~

~~(a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check on any financial institution for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check that the maker or drawer has no deposit in or credits with the financial institution or has not sufficient funds in, or credits with, the financial institution for the payment of such check in full upon its presentation.~~

~~(b) As used in this section:~~

~~(1) **Check** is any check, order or draft on a financial institution;~~

~~(2) **Financial institution** means any bank, credit union, savings and loan association or depository; and~~

~~(3) **Notice** includes oral or written notice to the person entitled thereto.~~

~~(c) In any prosecution against the maker or drawer of a check, payment of which has been refused by the financial institution on account of insufficient funds, the making, drawing, issuing~~

~~or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the financial institution:~~

~~(1) Unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding $30 for each check, within seven days after notice has been given to the maker or drawer that such check has not been paid by the financial institution. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check; or~~

~~(2) If a postdated date is placed on the check without the knowledge or consent of the payee.~~

~~(d) It shall not be a defense to a prosecution under this section that the check upon which such prosecution is based was:~~

~~(1) Postdated, unless such check was presented for payment prior to the postdated date; or~~

~~(2) Given to a payee who had knowledge or had been informed, when the payee accepted such check that the maker did not have sufficient funds in the hands of the financial institution to pay such check upon presentation, unless such check was presented for payment prior to the date the maker informed the payee there would be sufficient funds.~~

~~(e) In addition to all other costs and fees allowed by law, each prosecutor who takes any action under the provisions of this section may collect from the issuer in such action an administrative handling cost, except in cases filed in a court of appropriate jurisdiction. The cost shall not exceed $10 for each check. (K.S.A. Supp. 21-5821)~~

~~Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than $1,000 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute.~~

6.17 **CRIMINAL USE OF A FINANCIAL CARD.**

(a) Criminal use of a financial card is any of the following acts done with intent to defraud and to obtain money, goods, property or services:

(1) Using a financial card without the consent of the cardholder;
(2) Using a financial card, or the number or description thereof, which has been revoked or canceled; or
(3) Using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(b) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company. (K.S.A. Supp. 21-5828)

Criminal use of a financial card is a Class A violation if the money, goods, property or services obtained within a seven-day period is of the value of less than $1,000.

6.18 **MOTOR VEHICLE DEALERS; SELLING MOTOR VEHICLES WITHOUT A LICENSE.**

(a) It shall be unlawful for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool or salesperson without a license issued by the director of vehicles. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.

(b) As used in this section:

(1) **Vehicle** means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(2) **Motor vehicle** means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto. (K.S.A. Supp. 8-2434)

Violation of this section shall be punishable by a fine not to exceed $2,500.

~~6.19~~ ~~**EQUITY SKIMMING.** Equity skimming is, with the intent to defraud, intentionally engaging in a pattern or practice of:~~

~~(a) Purchasing one family to four family dwellings, including condominiums and cooperatives or acquiring any right, title or interest therein, including, but not limited to, an equity of redemption interest, which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage;~~

~~(b) Failing to deliver to the holder of the mortgage before a sheriff's sale or holder of the certificate of purchase during the period of redemption all rent proceeds received from rental of the~~

~~property, not to exceed the monthly payment of principal and interest required by the note and mortgage; and~~

~~(c) Applying or authorizing the application of rents from such dwellings for such person's own use. (K.S.A. Supp. 21-6504)~~

~~Violation of this section is a Class A violation. Each purchase of a dwelling pursuant to this section shall be deemed a separate offense.~~

6.20 **UNLAWFUL ACTS CONCERNING COMPUTERS.**

(a) It is unlawful for any person to:

(1) Knowingly and without authorization, disclose a number, code, password or other means of access to a computer, computer network, social networking website or personal electronic content; or

(2) Knowingly and without authorization, access or attempt to access any computer, computer system, social networking website, computer network or computer software, program, documentation, data or property contained in any computer, computer system or computer network.

(b) As used in this section:

(1) **Access** means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.

(2) **Computer** means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(3) **Computer Network** means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(4) **Computer Program** means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) **Computer Software** means computer programs, procedures and associated documentation concerned with the operation of a computer system.

(6) **Computer System** means a set of related computer equipment or devices and computer software which may be connected or unconnected.

(7) **Financial Instrument** means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

(8) **Personal Electronic Content** means the electronically stored content of an individual including, but not limited to, pictures, videos, emails, and other data files.

(9) **Property** includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form.

(10) **Services** includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work.

(11) **Social Networking Website** means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the

system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system.

(12) **Supporting Documentation** includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data. (K.S.A. Supp. 21-5839)

Unlawful acts concerning computers is a Class A violation.

6.21 **TAKING WILDLIFE WITHOUT PERMISSION ON LAND POSTED "BY WRITTEN PERMISSION ONLY."**

(a) Any landowner or person in lawful possession of any land may post such land with signs stating that hunting, trapping, or fishing on such land shall be by written permission only. It is unlawful for any person to take wildlife on land which is posted as provided in this subsection, without having in the person's possession the written permission of the owner or person in lawful possession thereof.

(b) Instead of posting land as provided in subsection (a), any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length and the bottom of the mark shall be not less than three feet nor more than five feet high. Such paint marks shall be readily visible to any person approaching the land. Land posted as provided in this subsection shall be considered to be posted by written permission only as provided in subsection (a).

(c) A person licensed to hunt or fur harvest who is following or pursuing a wounded animal on land as provided in this section posted without written permission of the landowner or person in lawful possession thereof shall not be in violation of this section while in such pursuit, except that the provisions of this subsection

shall not authorize a person to remain on such land if instructed to leave by the owner or person in lawful possession of the land. Any person who fails to leave such land when instructed is subject to the provisions of subsection (b) of Section 6.22. (K.S.A. Supp. 32-1013)

Violation of this section is a Class C violation. A second conviction of this section is a Class C violation in which the minimum fine is $250. A third conviction of this section is a Class C violation in which the minimum fine is $300. A fourth or subsequent conviction of this section is a Class C violation in which a minimum fine of $400 shall be imposed and a minimum of 7 days' imprisonment shall be served. Any conviction of this section that occurred before July 1, 2005, shall not be considered for purposes of this section.

{Editor's note: The editor has chosen to not include penalties for violating the Kansas wildlife parks and tourism laws of this state or rules and regulations regarding big game and wild turkey.**}**

6.22 **CRIMINAL HUNTING.**

(a) Criminal hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing:

(1) Upon any land or non-navigable body of water of another, without having first obtained permission of the owner or person in possession of such premises; or

(2) Upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.

(3) Upon any land or non-navigable body of water of another person who knows such person is not authorized or privileged to do so, and:

(A) Such person remains therein and continues to hunt, shoot, fur harvest, pursue any bird or animal or fish in defiance of an order not to

enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) Such premises or property are posted in a manner consistent with K.S.A. 32-1013 and amendments thereto.

(b) Criminal hunting as defined in:

(1) Subsection (a)(1) or (a)(2), is a Class C violation. Upon the first conviction thereof and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting, fishing, or fur harvesting, or all, for up to one year from the date of such conviction. Upon any second or subsequent conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting, fishing, or fur harvesting, or all, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, except that this provision shall not authorize a person to remain on such land if

instructed to leave by the owner thereof or other authorized person.

For the purpose of determining whether a conviction is a first, second or subsequent conviction of subsection (a)(1) or (a)(2), **conviction** or **convicted** includes being convicted of a violation of subsection (a) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(1) or (a)(2); and

(2) Subsection (a)(3) is a Class B violation. Upon the first conviction or a diversion agreement of subsection (a)(3), in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for one year. Upon the third or subsequent conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require forfeiture of convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction of subsection (a)(3), conviction or convicted includes being convicted of a violation of subsection (b) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(3).

(c) The court shall notify the department of wildlife and parks of any conviction or diversion for criminal hunting. (K.S.A. Supp. 21-5810)

6.23 **UNLAWFUL USE OF A RECORDING DEVICE.**

(a) Unlawful use of a recording device is knowingly operating, in a motion picture theater, while a motion picture is being exhibited, an audiovisual recording function of a device without the consent of the owner or lessee of such theater.

(b) This section shall not apply to a person operating an audiovisual recording device as part of such person's lawfully authorized investigative, law enforcement, protective or intelligence gathering duties as a lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of the state or federal government.

(c) The owner or lessee of a motion picture theater where a motion picture is being exhibited, or the authorized agent or employee thereof, who alerts law enforcement authorities of an alleged violation of subsection (a), and amendments thereto, shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person that the owner, lessee, agent, or employee in good faith believed to have violated subsection (a), and amendments thereto, while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was unreasonably long. (K.S.A. 51-301:302)

Unlawful use of a recording device is a Class A violation on conviction of the first offense.

6.24 **RESERVED FOR FUTURE USE.**

6.25 **RESERVED FOR FUTURE USE.**

ARTICLE 7. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

7.1 RESERVED FOR FUTURE USE.

7.2 INTERFERENCE WITH LAW ENFORCEMENT.

Interference with law enforcement is:

(a) Falsely reporting to a law enforcement officer, law enforcement agency, or state investigative agency:

(1) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

(2) That a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or

(3) Any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or

(b) Concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or

(c) Knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty. (K.S.A. Supp. 21-5904)

Interference with law enforcement is a Class A violation

7.3 ESCAPE FROM CUSTODY.

(a) Escape from custody is escaping while held in custody on a:

(1) Charge, conviction of or arrest for a misdemeanor or a code violation;

(2) Charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a misdemeanor or a code violation; or

(3) Commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a misdemeanor or by a person 18 years of age or over who is being held in custody on an adjudication of a misdemeanor or a code violation.

(b) As used in this section:

(1) **Custody** means arrest; detention in a facility for holding persons charged with or convicted of offenses or charged or adjudicated as a juvenile offender; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other detention for law enforcement purposes. **Custody** does not include general supervision of a person or probation on parole or constraint incidental to release on bail.

(2) **Escape** means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law or order of a court. (K.S.A. Supp. 21-5911)

(3) **Juvenile Offender** means the same as in K.S.A. 38-2302, and amendments thereto; and

(4) **State Correctional Institution** means the same as in K.S.A. 75-5202, and amendments thereto.

(c) As used in this section, the term **charge** shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.

Escape from custody is a Class A violation.

7.4 **INTERFERENCE WITH THE JUDICIAL PROCESS.**

(a) Interference with the judicial process is:

(1) Committing any of the following acts, with intent to influence, impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor:
(A) Communicating in any manner a threat of violence to any judicial officer or any prosecutor;
(B) Harassing a judicial officer or a prosecutor by repeated vituperative communication; or
(C) Picketing, parading or demonstrating near such officer's or prosecutor's residence or place of abode;

(2) Picketing parading or demonstrating in or near a building housing a judicial officer or a prosecutor with intent to impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor;

(3) Knowingly accepting or agreeing to accept anything of value as consideration for a promise:
(A) Not to initiate or aid in the prosecution of a person who has committed a crime; or
(B) To conceal or destroy evidence of a crime;

(4) Knowingly or intentionally in any criminal proceeding or investigation:

(A) Inducing a witness or informant to withhold or unreasonably delay in producing any testimony, information, document or thing;

(B) Withholding or unreasonably delaying in producing any testimony, information, document or thing after a court orders the production of such testimony, information, document or thing;

(C) Altering, damaging, removing or destroying any record, document or thing, with the intent to prevent it from being produced or used as evidence; or

(D) Making, presenting or using a false record, document or thing with the intent that the record, document or thing, material to such criminal proceeding or investigation, appear in evidence to mislead a justice, judge, magistrate, master or law enforcement officer; or

(5) Knowingly making available by any means personal information about a judge or the judge's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat.

(b) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.

(c) As used in this section:

(1) **Immediate family member** means a judge's spouse, child, parent or any other blood relative who lives in the same residence as such judge.

(2) **Judge** means any duly elected or appointed justice of the supreme court, judge of the court of appeals,

judge of any district court of Kansas, district magistrate judge or municipal court judge.

(3) **Personal information** means a judge's home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, immediate family member photograph, photograph of the judge's home, and information about the judge's motor vehicle, any immediate family member's motor vehicle, any immediate family member's place of employment, any immediate family member's child care or day care facility and any immediate family member's public or private school that offers instruction in any or all of the grades kindergarten through 12. (K.S.A. Supp. 21-5905)

Interference with the judicial process is a Class A violation, except that a second or subsequent conviction of section (a)(5) is a severity level 9, person felony.

7.5 **RESERVED FOR FUTURE USE.**

7.6 **PERFORMANCE OF UNAUTHORIZED OFFICIAL ACT.** Performance of an unauthorized official act is knowingly and without lawful authority:

(a) Conducting a marriage ceremony; or

(b) Certifying an acknowledgment of the execution of any document which by law may be recorded. (K.S.A. Supp. 21-5919)

Performance of an unauthorized official act is a Class B violation.

7.7 **SIMULATING LEGAL PROCESS.** Simulating legal process is:

(a) Distributing to another any document which simulates or purports to be, or is designed to cause others to believe it to be, a summons,

petition, complaint or other legal process, with the intent to mislead the recipient and cause the recipient to take action in reliance thereon; or

(b) Printing or distributing any such document, knowing that it shall be so used.

This section shall not apply to the printing or distribution of blank forms of legal documents intended for actual use in judicial proceedings. (K.S.A. Supp. 21-5907)

Simulating legal process is a Class A violation.

7.8 **TAMPERING WITH PUBLIC RECORD.** Tampering with a public record is knowingly and without lawful authority altering, destroying, defacing, removing or concealing any public record. (K.S.A. Supp. 21-5920)

Tampering with a public record is a Class A violation.

7.9 **TAMPERING WITH PUBLIC NOTICE.** Tampering with public notice is knowingly and without lawful authority altering, defacing, destroying, removing or concealing any public notice posted according to law, during the time such notice is required or authorized to remain posted. (K.S.A. Supp. 21-5921)

Tampering with a public notice is a Class C violation.

7.10 **FALSE SIGNING OF PETITION.** False signing of a petition is knowingly affixing any fictitious or unauthorized signature to any petition, memorial or remonstrance, intended to be presented to the legislature, or either house thereof, or to any agency or officer of the State of Kansas or any of its political subdivisions. (K.S.A. Supp. 21-5916)

False signing of a petition is a Class C violation.

7.11 **FALSE IMPERSONATION.** False impersonation is representing oneself to be a public officer or public employee or a person licensed to practice or engage in any profession or vocation for which a license is required by the laws of the State of Kansas, with knowledge that such representation is false. (K.S.A. Supp. 21-5917)

False impersonation is a Class B violation.

7.12 **INTERFERENCE; CONDUCT, PUBLIC BUSINESS IN PUBLIC BUILDING.** Interference with the conduct of public business in public buildings is:

(a) Conduct at or in any public building owned, operated or controlled by the state or any of its political subdivisions so as to knowingly deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use the facilities or to leave any such public building;

(b) Knowingly impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof;

(c) Knowingly refusing or failing to leave any such public building upon being requested to do so by the chief administrative officer, or such officer's designee, charged with maintaining order in such public building, if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures or functions being carried on in such public building;

(d) Knowingly impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session; or

(e) Knowingly impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive

body or official, the normal proceedings of such body or official. (K.S.A. Supp. 21-5922)

Interference with the conduct of public business in public buildings is a Class A violation.

7.13 **INTERFERENCE WITH POLICE DOGS.**

(a) It shall be unlawful for any person to strike, abuse, tease, harass, or assault any dog being used by the city for the purpose of performing the duties of a police dog regardless of whether the dog is on duty or off.

(b) It shall be unlawful for any person to interfere with a dog being used by the police department or attempt to interfere with the handler of the dog in such a manner as to inhibit, restrict or deprive the handler of his or her control of the dog.

Violation of this section is a Class C violation.

7.14 **ELECTIONEERING.** Electioneering is knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicates support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof. Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting. (K.S.A. Supp. 25-2430)

Electioneering is a Class C violation.

ARTICLE 8. DENIAL OF CIVIL RIGHTS

8.1 **DENIAL OF CIVIL RIGHTS.** Denial of civil rights is intentionally denying to another, on account of the race, color, ancestry, national origin, age, sex, physical handicap or religion of such other:

(a) The full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof;

(b) The full and equal use and enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any establishment which provides lodging to transient guests for hire; of any establishment which is engaged in selling food or beverage to the public for consumption upon the premises; or of any place of recreation, amusement, exhibition or entertainment which is open to members of the public;

(c) The full and equal use and enjoyment of the services, privileges and advantages of any facility for the public transportation of persons or goods;

(d) The full and equal use and enjoyment of the services, facilities, privileges, and advantages of any establishment which offers personal or professional services to members of the public; or

(e) The full and equal exercise of the right to vote in any election held pursuant to the laws of Kansas.
(K.S.A. Supp. 21-6102)

Denial of civil rights is a Class A violation.

ARTICLE 9. OFFENSES AGAINST PUBLIC PEACE

9.1 **DISORDERLY CONDUCT.** Disorderly conduct is one or more of the following acts that the person knows or

should know will alarm, anger or disturb others or provoke an assault or other breach of the peace:

(a) Brawling or fighting;

(b) Disturbing an assembly, meeting or procession, not unlawful in its character; or

(c) Using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others. (K.S.A. Supp. 21-6203)

Disorderly conduct is a Class C violation.

9.2 **UNLAWFUL ASSEMBLY; REMAINING AT AN UNLAWFUL ASSEMBLY.**

(a) Unlawful assembly is:

(1) The meeting or coming together of not less than five persons with the intent to engage in conduct constituting;
(A) Disorderly conduct, as defined by Section 9.1 of this article; or
(B) A riot, as defined by Section 9.4 of this article; or

(2) When a lawful assembly of not less than five persons, agreeing to engage in conduct constituting disorderly conduct or riot.

(b) Remaining at an unlawful assembly is intentionally failing to depart from the place of an unlawful assembly after being directed to leave by a law enforcement officer. (K.S.A. Supp. 21-6202)

Unlawful assembly is a Class B violation.

Remaining at an unlawful assembly is a Class A violation.

9.3 **RESERVED FOR FUTURE USE.**

9.4 **RIOT.** Riot is five or more persons acting together and without lawful authority engaging in any:

(a) Use of force or violence which produces a breach of the public peace; or

(b) Threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution. (K.S.A. Supp. 21-6201)

Riot is a Class A violation.

9.5 **MAINTAINING OR PERMITTING A PUBLIC NUISANCE.**

(a) Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.

(b) Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in Subsection (a). (K.S.A. Supp. 21-6204)

Maintaining or permitting a public nuisance is a Class C violation.

9.6 **RESERVED FOR FUTURE USE.**

9.7 **GIVING A FALSE ALARM.** Giving a false alarm is:

(a) Transmitting in any manner to the fire department of any city, township or other municipality, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(b) Making a call in any manner for emergency service assistance including police, fire, medical or other emergency service provided under K.S.A. 12-5362 *et seq.*, and amendments thereto, knowing at the time of such call that there is no reasonable ground for believing such assistance is needed. (K.S.A. 21-6207)

(c) An offender who violates the provisions of this section may also be prosecuted for, convicted

of, and punished for interference with law enforcement. (Section 7.2)

{Editor's Note: The 2014 Kansas Legislature amended K.S.A. 21-6207 in HB 2655. The amendment makes it a felony when a person uses an electronic device or software to alter, conceal or disguise the identity of the person making such transmission or such call. It is also a felony under subsection (b) if the request for emergency service assistance made by the person includes false information that violent criminal activity or immediate threat to a person's life or safety is taking place.**}**

Giving a false alarm is a Class A violation.

9.8 **CRIMINAL DESECRATION.**

Criminal desecration is:

(a) Knowingly obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being;

(b) Recklessly by means other than by fire or explosive:
   (1) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or this state in which another has a property interest without the consent of such other person;
   (2) Damaging, defacing or destroying any public monument or structure;
   (3) Damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or
   (4) Damaging, defacing or destroying any place of worship. (K.S.A. 21-6205)

Criminal desecration as described in subsections (b)(2), (b)(3) and (b)(4) is a Class A violation if the property is damaged to the extent of less than $1,000.

Criminal desecration as described in subsections (a) and (b)(1) is a Class A violation.

9.9 **UNLAWFUL ABUSE OF TOXIC VAPORS.**

(a) Unlawful abuse of toxic vapors is possessing, buying, using, smelling, or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system.

(b) This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(c) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances which are defined as a toxic vapors in K.S.A. Supp. 21-5712(e) as one of its ingredients shall be *prima facie* evidence that the substance in such container contains toxic vapors. (K.S.A. Supp. 21-5712)

Unlawful abuse of toxic vapors is a Class B violation. In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program, treatment program or both such programs as provided in K.S.A. 8-1008, and amendments thereto.

9.10 **HARASSMENT BY TELECOMMUNICATIONS DEVICE.**

(a) Harassment by telecommunication device is the use of:

(1) A telecommunications device to:

(A) Knowingly make or transmit any comment, request, suggestion, proposal, image or text which is obscene, lewd, lascivious, or indecent;

(B) Make or transmit a call, whether or not conversation ensues, with intent to abuse, threaten or harass a person at the receiving end;

(C) Make or transmit any comment, request, suggestion, proposal,

image or text with intent to abuse, threaten or harass any person at the receiving end;

(D) Make or cause a telecommunications device to repeatedly ring or activate with intent to harass any person at the receiving end;

(E) Knowingly play any recording on a telephone, except recordings such as weather information or sports information when the number thereof is dialed, unless the person or group playing the recording shall be identified and state that it is a recording; or

(F) Knowingly permit any telecommunications device under one's control to be used in violation of this paragraph.

(2) Telefacsimile communication to send or transmit such communication to a court in the State of Kansas for a use other than court business, with no requirement of culpable mental state.
(K.S.A. Supp. 21-6206)

(b) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in sections 11.1 and 11.2.

Harassment by a telecommunication device is a Class A violation.

9.11 **UNLAWFUL PUBLIC DEMONSTRATION AT A FUNERAL.**

(a) Engaging in a public demonstration at any public location within 150 feet of any entrance to any cemetery, church, mortuary or other location where a funeral is held or conducted, within one hour prior to the scheduled commencement of a funeral, during a funeral or within two hours following the completion of a funeral;

(b) Knowingly obstructing, hindering, impeding or blocking another person's entry to or exit from a funeral; or

(c) Knowingly impeding vehicles which are part of a funeral procession. (K.S.A. Supp. 21-6106)

Violation of this section is a Class B violation. Each day on which a violation occurs shall constitute a separate offense.

9.12 **RESERVED FOR FUTURE USE.**

9.13 **UNLAWFUL POSTING OF POLITICAL PICTURES AND POLITICAL ADVERTISEMENTS.** Unlawful posting of political pictures and political advertisements is knowingly putting up, affixing or fastening of either or both, a political picture or a political advertisement to a telegraph, telephone, electric light or power pole. (K.S.A. Supp. 21-5820)

Unlawful posting of political pictures and political advertisements is a Class C violation.

ARTICLE 10. OFFENSES AGAINST PUBLIC SAFETY

10.1 **CRIMINAL USE OF WEAPONS.**

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, metal knuckles or throwing star;
(2) Possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, or any other dangerous or deadly weapon of instrument or like character;
(3) Setting a spring gun;
(4) Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;
(5) Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;
(6) Selling, giving or otherwise transferring any firearm to any person who is or

has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;

(7) Possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(8) Possessing any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;

(9) Refusing to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;

(10) Possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age.

(b) Criminal use of weapons as defined in:

(1) Subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) or (a)(9) is a Class A violation;

(2) Subsection (a)(7) or (a)(8) is a Class B violation;

(3) Subsection (a)(10) is a Class A violation on a first offense.

(c) Subsections (a)(1), (a)(2) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
(3) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or
(4) The manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(8) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;
(2) Possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;
(3) Possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student;
(4) Possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) Possession of a concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law.

(e) Subsection (a)(6) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. Supp. 75-7c26, and amendments thereto.

(f) Subsection (a)(10) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;
(2) Engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, or at another private range with permission of such person's parent or legal guardian;
(3) Engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;
(4) Hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
(5) Traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (f)(1) through (f)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;
(6) On real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or
(7) At such person's residence and who, with

the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto. (K.S.A. Supp. 21-6301)

10.1.1 **CRIMINAL CARRYING OF A WEAPON.**

(a) Criminal carrying of a weapon is knowingly carrying:

(1) Any bludgeon, sandclub, metal knuckles or throwing star;
(2) Concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;
(3) On one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance; or
(4) Any pistol, revolver or other firearm concealed on one's person if such person is under 21 years of age, except when on such person's land or in such person's abode or fixed place of business.

(b) Subsection (a) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
(3) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) The manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (b)(2) and (b)(3) to possess such weapons.

(c) It shall not be a violation of this section if a person violates the provisions of K.S.A. Supp. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state. (K.S.A. Supp. 21-6302)

Criminal carrying of a weapon is a Class A violation.

10.2 **DRAWING A WEAPON UPON ANOTHER.**

(a) Drawing a weapon upon another person is the drawing of a pistol, revolver, knife or other deadly weapon upon another person by a person not an officer of the law in execution of his or her duty.

(b) It shall be a defense that the defendant was acting within the scope of K.S.A. Supp. 21-5222; K.S.A. Supp. 21-5223; K.S.A Supp. 21-5225; K.S.A. Supp. 21-5227; K.S.A. Supp. 21-5228.

Drawing a weapon upon another person is a Class A violation.

10.3 **CRIMINAL DISTRIBUTION OF FIREARMS TO A FELON.**

(a) Criminal distribution of firearms to a felon is knowingly:

(1) Selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in the subsection (b), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was not found to have been in possession of a firearm at the time of the commission of the felony;

(2) Selling, giving or otherwise transferring any firearm to any person who, within the

preceding 10 years, has been convicted of felony to which this subsection applies, but was not found to have been in possession of a firearm at the time of the commission of the felony, or has been released from imprisonment for such a felony, and has not had the conviction of such felony expunged or been pardoned for such felony; or

(3) Selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the felony.

(b) Subsection (a)(2) shall apply to a felony under K.S.A. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of 21-5413, subsection (a) or (b) of 21-5415, subsection (b) of 21-5420, 21-5503, subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of 21-5807, and amendments thereto, K.S.A. 21-5705 or 21-5706, and amendments thereto, or K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b or 65-4160 through 65-4165, prior to their repeal, or a crime under a law of another jurisdiction which is substantially the same as such felony.

(c) It is not a defense that the distributor did not know or have reason to know:

(1) The precise felony the recipient committed;

(2) That the recipient was in possession of a firearm at the time of the commission of the recipient's prior felony; or

(3) That the convictions for such felony have not been expunged or pardoned. (K.S.A. Supp. 21-6303)

Criminal distribution of firearms to a felon is a Class A violation.

10.3.1 **RESERVED FOR FUTURE USE.**

10.4 **RESERVED FOR FUTURE USE.**

10.5 **UNLAWFUL DISCHARGE OF A FIREARM.**

(a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.

(b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:

(1) The firearm is discharged in the lawful defense of one's person, another person or one's property;
(2) The firearm is discharged at a private or public shooting range;
(3) The firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;
(4) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;
(5) The firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;
(6) The firearm is discharged using blanks; or
(7) The firearm is discharged in lawful self-defense or defense of another person against an animal attack. (K.S.A. Supp. 21-6308a)

Unlawful discharge of firearms is a Class B violation.

10.6 **AIR GUN, AIR RIFLE, BOW AND ARROW, SLINGSHOT, BB GUN OR PAINTBALL GUN.** The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun, within the city,

except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is a Class C violation.

10.7 **SEIZURE OF WEAPON.** The chief of police of the city or his or her duly authorized representative is hereby empowered to seize and hold any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of section 10.6 of this article, and is further empowered to seize and hold as evidence pending a hearing before a court of competent jurisdiction any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of Section 10.6.

10.8 **UNLAWFUL AIDING, ABETTING.** It shall be unlawful for any person to conspire to or aid and abet in the operation or discharging or causing to be operated or discharged any air gun, air rifle, bow and arrow, BB gun or slingshot except as provided in Section 10.6 within the city, whether individually or in connection with one or more persons or as principal, agent or accessory, and it is further unlawful for every parent or guardian of a minor child who willfully or knowingly permits or directs the operation or discharge of any air gun, air rifle, bow and arrow, BB gun or slingshot by such minor child within the city except as provided in Section 10.6 of this article.

Violation of this section is a Class C violation.

10.9 **CARRYING CONCEALED EXPLOSIVES.** Carrying concealed explosives is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner. (K.S.A. Supp. 21-6312)

Carrying concealed explosives is a Class A violation.

10.10 **ENDANGERMENT.** Endangerment is recklessly exposing another person to a danger of great bodily harm or death. (K.S.A. Supp. 21-5429)

Endangerment is a Class A violation.

10.11 **CREATING A HAZARD.** Creating a hazard is recklessly:

(a) Storing or abandoning, in any place accessible to children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, and failing to remove the door, lock, lid or fastening device on such container;

(b) Being the owner or otherwise having possession of property upon which a cistern, well or cesspool is located and failing to cover the same with protective covering of sufficient strength and quality to exclude human beings and domestic animals therefrom; or

(c) Exposing, abandoning or otherwise leaving any explosive or dangerous substance in a place accessible to children. (K.S.A. Supp. 21-6318)

Creating a hazard is a Class B violation.

10.12 **UNLAWFUL FAILURE TO REPORT A WOUND.** Unlawful failure to report a wound is, with no requirement of a culpable mental state, the failure by an attending physician or other person to report such person's treatment of any of the following wounds, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:

(a) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(b) Any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument. (K.S.A. Supp. 21-6319)

Unlawful failure to report a wound is a Class C violation.

10.13 **BARBED WIRE.** It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the city.

Violation of this section is a Class C violation.

10.14 OPERATION OF A MOTORBOAT OR SAILBOAT.

(a) (1) No person born on or after January 1, 1989, shall operate on public waters of this city any motorboat or sailboat unless the person possesses a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person as provided by K.S.A. 32-1101 *et seq*.

(2) No owner or person in possession of any motorboat or sailboat shall permit another person, who is subject to the requirements in subsection (a)(1), to operate such motorboat or sailboat unless such other person either:

(A) Has been lawfully issued a certificate of completion of an approved boater safety education course of instruction as provided by K.S.A. 32-1101 *et seq*.; or

(B) Is legally exempt from the requirements of subsection (a)(1).

(3) The requirement in subsection (a)(1), shall not apply to a person 21 years of age or older.

(4) The requirement in subsection (a)(1), shall not apply to a person operating a sailboat that does not have a motor and has an overall length of 16 feet, seven inches or less, while such person is enrolled in an instructor-led class.

(b) The requirement in subsection (a)(1) shall not apply to a person operating a motorboat or sailboat accompanied by and under the direct and audible supervision of a person over 17 years of age who either:

(1) Possesses a certificate of completion of an approved boater safety education course; or

(2) Is legally exempt from the requirements of subsection (a)(1).

(c) No person who is charged with a violation of subsection (a)(1) shall be convicted of the

violation if such person produces in court or in the office of the arresting officer a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person and valid at the time of such person's arrest. (K.S.A. 32-1139)

(d) As used in this section:

(1) **Owner** means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(2) **Operate** means to navigate or otherwise use a motorboat or a vessel.

10.15 **OPERATING A VESSEL UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PENALTIES.**

(a) No person shall operate or attempt to operate any vessel within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more;

(2) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .08 or more;

(3) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;

(4) Under the influence of alcohol to a degree

that renders the person incapable of safely operating a vessel;

(5) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(6) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

(b) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

(d) Except as provided by subsection (e), violation of this section is a violation punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than $100 nor more than $500, or both; and

(2) On the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than $100 nor more than $500.

(e) Subsection (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132 and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

(f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction before such person subsequently operates or attempts to operate any vessel. (K.S.A. Supp. 32-1131)

(g) As used in this section, **operate** means to navigate or otherwise use a motorboat or a vessel.

10.16 **THROWING OBJECTS**. It is unlawful for any person to:

(a) Recklessly throw, push, pitch or otherwise cast any rock, stone or other object, matter or thing onto a street, road, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock thereon;

(b) Violate subsection (a) and damage any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock lawfully on the street, highway or railroad right-of-way by the thrown or cast rock, stone or other object. (K.S.A. Supp. 21-5819)

Violation of subsection (a) is a Class B violation.

Violation of subsection (b) is a Class A nonperson violation.

10.17 **TATTOOING OR BODY PIERCING; PERSONS UNDER AGE 18.** No person shall perform body piercing, cosmetic tattooing or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing, cosmetic tattooing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given by a guardian, shall be retained by the person administering such body piercing, cosmetic tattooing or tattooing for a period of five years. (K.S.A. 65-1953)

Violation of this section is a Class A violation.

10.18 FAILURE TO PLACE OR MAINTAIN A SMOKE DETECTOR.

(a) Every single-family residence shall have at least one smoke detector on every story of the dwelling unit.

(b) Every structure which:

(1) Contains more than one dwelling unit; or

(2) Contains at least one dwelling unit and is a mixed-use structure, shall contain at least one smoke detector at the uppermost ceiling of each interior stairwell and on every story in each dwelling unit.

(c) The owner of a structure shall supply and install all required smoke detectors. The owner of a structure shall test and maintain all smoke detectors except inside rental units, the occupant shall test and maintain all smoke detectors after taking possession of the dwelling unit.

(d) The smoke detectors required in dwelling units in existence on January 1, 1999, may either be battery-powered or wired into the structure's electrical system, and need not be interconnected. The smoke detectors required in dwelling units constructed after January 1, 1999, shall be wired permanently into the structure's electrical system.

(e) For purposes of this section, manufactured homes as defined in K.S.A. 58-4202, and amendments thereto, shall be subject to the federal, manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403 in lieu of the standards set forth herein. Owners and occupants of such manufactured homes shall be subject to the testing and maintenance standards for smoke detectors required under this section.

(f) Officials responsible for the enforcement of this section shall not enter a dwelling unit solely for the purpose of determining compliance with the provisions of this section except when:

(1) Conducting an inspection prior to the issuance of an occupancy permit or building permit;
(2) Responding to a report of a fire in a dwelling unit, except in cases of a false alarm; or
(3) Conducting, at the request of the owner or occupant, a home safety inspection. (K.S.A. 31-162:163)

Failure to place or maintain a smoke detector shall be an unclassified violation. Any fine imposed for a violation of this section shall not exceed $25.

10.19 **SALE OF MEDICINES AND DRUGS THROUGH VENDING MACHINES.**

(a) Any person, firm or corporation who offers for sale, sells or distributes any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison through or by means of any vending machine or other mechanical device, or who uses any vending machine in or for the sale or distribution of any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison, shall be guilty of illegal sale of medicines and drugs through a vending machine.

(b) No nonprescription drugs shall be offered for sale or sold through a vending machine in anything other than the manufacturer's original tamper-evident and expiration-dated packet. No more than 12 different nonprescription drug products shall be offered for sale or sold through any one vending machine. Any vending machine in which nonprescription drugs are offered for sale or sold shall be located so that the drugs stored in such vending machine are stored in accordance with drug manufacturer's

requirements. Drugs offered for sale or sold in such vending machine shall not be older than the manufacturer's expiration date. Each vending machine through which nonprescription drugs are offered for sale or sold shall have an obvious and legible statement on the machine that identifies the owner of the machine, a toll-free telephone number at which the consumer may contact the owner of the machine, a statement advising the consumer to check the expiration date of the product before using the product and the telephone number of the state board of pharmacy. As used in this subsection, **nonprescription drug** does not include any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison. (K.S.A. Supp. 65-650)

Any violation of this section constitutes an illegal sale of medicines and drugs through a vending machine and is a Class C violation and upon conviction, the violator shall be fined not less than $25 nor more than $500.

10.20 **UNLAWFULLY OBTAINING A PRESCRIPTION-ONLY DRUG.**

(a) Unlawfully obtaining a prescription-only drug is:

(1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;
(2) Distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
(3) Possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
(4) Possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

(5) Providing false information, with the intent to deceive, to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

(b) As used in this section:

(1) **Pharmacist, practitioner, mid-level practitioner and prescription-only drug** shall have the meanings ascribed thereto by K.S.A. 65-1626 and amendments thereto.

(2) **Prescription order** means an order transmitted in writing, orally, telephonically or by other means of communication for a prescription-only drug to be filled by a pharmacist. **Prescription order** does not mean a drug dispensed pursuant to such an order.

(3) **Distribute** means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. **Distribute** includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. **Distribute** does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.

(4) **Drug** means:

(A) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(C) Substances, other than food, intended to affect the structure

or any function of the body of man or animals; and

(D) Substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.

(c) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under K.S.A. 21-5705 or 21-5706 and amendments thereto. (K.S.A. Supp. 21-5708)

Unlawfully obtaining a prescription-only drug is a Class A violation for the first offense.

10.21 **RESERVED FOR FUTURE USE.**

10.22 **ALCOHOL WITHOUT LIQUID MACHINE.** It shall be unlawful for any person to knowingly:

(a) Use any alcohol without liquid machine to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or

(b) Purchase, sell, or offer for sale an alcohol without liquid machine. (K.S.A. Supp. 21-6321)

Violation of this section is a Class A violation.

10.23 **TRAFFICKING IN COUNTERFEIT DRUGS.** Trafficking in counterfeit drugs is intentionally manufacturing, distributing, dispensing, selling, or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug. (K.S.A. Supp. 65-4167)

Trafficking in counterfeit drugs which have a retail value of less than $500 is a Class A violation.

10.24 **SMOKING PROHIBITED.**

(a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:

(1) Public places;
(2) Taxicabs and limousines;
(3) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
(4) Restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
(5) Access points of all buildings and facilities not exempted pursuant to subsection (d); and
(6) Any place of employment.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this section, 10.25 or 10.26, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

(1) The outdoor areas of any building or facility beyond the access points of such building or facility;
(2) Private homes or residences, except when such home or residence is used

as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

(3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;

(4) The gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

(5) That portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) That portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) Tobacco shops;

(8) A Class A or Class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises; and

(9) A private club in designated areas where minors are prohibited.

(10) Any benefit cigar dinner or other cigar dinner of a substantially similar nature that:

(A) Is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to Section 501(c)

(3) of the federal internal revenue code of 1986;

(B) Is conducted no more than once per calendar year by such organization; and

(C) Has been held during each of the previous three years prior to January 1, 2011; and

(11) That portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue. (K.S.A. Supp. 21-6110)

10.25 **SMOKING; POSTING PREMISES.** The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law. (K.S.A. Supp. 21-6111)

10.26 **SMOKING PROHIBITED; PENALTIES.**

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of sections 10.24 through 10.26.

(b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person:

(1) Has knowledge that smoking is occurring; and

(2) Recklessly permits smoking under the totality of the circumstances.

(c) It shall be unlawful for any person, with no requirement of a culpable mental state, to smoke in any area where smoking is prohibited by the provisions of 10.24.

(d) Any person who violates any provision of sections 10.24 through 10.26, shall be guilty of a cigarette or tobacco infraction punishable by a fine:

(1) Not exceeding $100 for the first violation;
(2) Not exceeding $200 for a second violation within a one year period after the first violation; or
(3) Not exceeding $500 for a third or subsequent violation within a one year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

(e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).

(f) No employer shall discharge, refuse to hire or take any other adverse action against an employee, applicant for employment or customer with the intent to retaliate against that employee, applicant or customer for reporting or attempting to prosecute a violation of any of the provisions of sections 10.24 through 10.26. (K.S.A. Supp. 21-6112)

ARTICLE 11. OFFENSES AGAINST PUBLIC MORALS

11.1 PROMOTING OBSCENITY.

(a) Promoting obscenity is recklessly:

(1) Manufacturing, mailing, transmitting, publishing, distributing, presenting, exhibiting, or advertising any obscene material or obscene device;

(2) Possessing any obscene material or obscene device with intent to mail, transmit, publish, distribute, present, exhibit or advertise such material or device;

(3) Offering or agreeing to manufacture, mail, transmit, publish, distribute, present, exhibit, or advertise any obscene material or obscene device; or

(4) Producing, presenting, or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

(b) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a rebuttable presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:

(1) The materials or devices were promoted to emphasize their prurient appeal; or

(2) The person is not a wholesaler and promotes the materials or devices in the course of the person's business.

(c) (1) Any material or performance is **obscene** if:

(A) The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;

(B) The average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of (i) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy; or (ii)

masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the genitals; and

(C) Taken as a whole, a reasonable person would find that the material or performance lacks serious literary, educational, artistic, political, or scientific value.

(2) **Material**. Any tangible thing which is capable of being used or adapted to arouse interest, whether throughout the medium of reading, observation, sound or other manner.

(3) **Obscene Device.** A device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy.

(4) **Performance.** Any play, motion picture, dance or other exhibition performed before an audience.

(5) **Wholesaler.** A person who distributes or offers for distribution obscene materials or devices only for resale and not to the consumer and who does not manufacture publish or produce such materials or devices.

(d) It shall be a defense to a prosecution for promoting obscenity and promoting obscenity to minors that the:

(1) Persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;

(2) Defendant is an officer, director, trustee, or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or

(3) Allegedly obscene material or obscene device was purchased, leased, or otherwise acquired by a public, private or parochial school, college, or university, and that such material or device was either sold, leased, distributed, or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school.

(e) The provisions of this section prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public. (K.S.A. Supp. 21-6401)

Promoting obscenity is a Class A violation on conviction of a first offense.

Upon any conviction of promoting obscenity, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed $50,000, conditioned that, in the event the defendant is convicted, of a subsequent offense of promoting obscenity within two years after such conviction, the defendant shall forfeit the recognizance.

11.2 **PROMOTING OBSCENITY TO MINORS.**

(a) Promoting obscenity to minors is promoting obscenity, as defined in section 11.1, where a recipient of the obscene material or obscene device or a member of the audience of an

obscene performance is a child under the age of 18 years.

(b) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a rebuttable presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:

(1) The materials or devices were promoted to emphasize their prurient appeal; or
(2) The person is not a wholesaler and promotes the materials or devices in the course of the person's business.

(c) It shall be a defense to a prosecution for promoting obscenity to minors that the:

(1) Persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;
(2) Defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or
(3) Allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.

(d) Notwithstanding the provisions of K.S.A. 21-5204, and amendments thereto, to the

contrary, it shall be an affirmative defense to any prosecution for promoting obscenity to minors that:

(1) The defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more; or

(2) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.

(e) The provisions of this section and the provisions of ordinances of any city prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public. (K.S.A. Supp. 21-6401)

Promoting obscenity to minors is a Class A violation.

Upon any conviction of promoting obscenity to minors, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed $50,000, conditioned that, in the event the defendant is convicted of a subsequent offense of promoting obscenity to minors within two years after such conviction, the defendant shall forfeit the recognizance.

11.3 COMMERCIALIZATION OF WILDLIFE.

(a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing, or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;
(2) Selling, bartering, purchasing, or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;
(3) Shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported, or carried; or delivering or receiving for shipping, exporting, importing, transporting, or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or
(4) Purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, $1,000;
(2) Deer or antelope, $1,000;
(3) Elk or buffalo, $1,500;
(4) Furbearing animals, except bobcats, $25;
(5) Bobcats, $200;
(6) Wild turkey, $200;
(7) Owls, hawks, falcons, kites, harriers, or ospreys, $500;
(8) Game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, $50 unless a higher amount is specified above;
(9) Fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater

fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 30;

(10) Turtles, $25 each for unprocessed turtle or $16 per pound or fraction of a pound for processed turtle parts;

(11) Bullfrogs, $4, whether dressed or not dressed;

(12) Any wildlife classified as threatened or endangered, $500 unless a higher amount is specified above; and

(13) Any other wildlife not listed above, $25.

(c) Possession of wildlife, in whole or in part, captured, or killed in violation of law and having an aggregate value of $1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.

Commercialization of wildlife having an aggregate value of less than $1000, as specified in subsection (b), is a Class A violation. (K.S.A. Supp. 32-1005)

In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife, parks and tourism;

(2) Order restitution to be paid to the Kansas department of wildlife, parks and tourism for the wildlife taken, which restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(d) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

11.4:11.6 **RESERVED FOR FUTURE USE.**

11.7 **MATERIAL HARMFUL TO MINORS.**

(a) No person having custody, control or supervision of any commercial establishment shall knowingly:

(1) Display any material or device which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material or device;

(2) Present or distribute to a minor, or otherwise allow a minor to view, with or without consideration, any material which is harmful to minors; or

(3) Present to a minor, or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(b) Notwithstanding the provisions of K.S.A. Supp. 21-5204, to the contrary, it shall be an affirmative defense to any prosecution under this section that:

(1) The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.

(2) The defendant is an officer, director, trustee or employee of a public library and the allegedly harmful material or device was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body.

(3) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose

for a bona fide school, museum or library.

(4) With respect to a prosecution for an act described by subsection (a)(1), the allegedly harmful material was kept behind blinder racks.

(5) With respect to a prosecution for an act described by subsection (a)(2) or (3), the defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more.

(6) With respect to a prosecution for an act described by subsection (a)(3), the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents or such minor's legal guardian.

(c) As used in this section:

(1) **Blinder rack** means a device in which material is displayed in such a manner that the lower 2/3 of the material is not exposed to view.

(2) **Harmful to minors** means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:

(A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

(B) The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(C) A reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors.

(3) **Material** means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or video tape.

(4) **Minor** means any unmarried person under 18 years of age.

(5) **Nudity** means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement.

(6) **Performance** means any motion picture, file, video tape, played record, phonograph, tape recording, preview, trailer, play, show, skit, dance or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

(7) **Sadomasochistic abuse** means flagellation or torture by or upon a person clad in undergarments, in a mask or bizarre costume or in the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(8) **Sexual conduct** means acts of masturbation, homosexuality, sexual intercourse or physical contact with a

person's clothed or unclothed genitals or pubic area or buttocks or with a human female's breast.

(9) **Sexual excitement** means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(d) The provisions of this section shall not apply to a retail sales clerk, if such clerk has no financial interest in the materials or performance or in the commercial establishment displaying, presenting or distributing such materials or presenting such performance other than regular employment as a retail sales clerk. The provisions of this section shall not exempt any retail sales clerk from criminal liability for any act unrelated to regular employment as a retail sales clerk. (K.S.A. Supp. 21-6402)

Violation of subsection (a) is a Class B violation.

11.8 **GAMBLING.** Definitions of gambling terms used in sections 11.8, 11.9, and 11.10 shall be as follows:

(a) A **bet** is a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the laws of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;

(2) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(3) A lottery as defined in this section;

(4) Any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;
(5) A lottery operated by the state pursuant to the Kansas lottery act;
(6) Any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel racing act; or
(7) Tribal gaming;
(8) Charitable raffles as defined by K.S.A. Supp. 75-5173, and amendments thereto; or
(9) A fantasy sports league as defined in this section.

(b) A **lottery** is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

(1) A lottery operated by the state pursuant to the Kansas lottery act; or
(2) Tribal gaming.

(c) **Consideration** means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

Consideration shall not include sums of money paid by or for:

(1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal,

educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;

(2) Participants in any lottery operated by the state pursuant to the Kansas lottery act;

(3) Participants in any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel racing act; or

(4) A person to participate in tribal gaming;

(d) **Fantasy sports league** means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

(1) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;

(2) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and

(3) No winning outcome is based:

(A) On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or

(B) Solely on any single performance of an individual athlete in any single real-world sporting event.

(e) (1) **Gambling device** means any:

(A) So-called **slot machine** or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) Other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) Subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine,

mechanical device, electronic device or other contrivance as a constituent part; or

(D) Token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) **Gambling device** shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) Any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) Any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) Any machine, mechanical device, electronic device or other contrivance used in tribal gaming.

(f) A **gambling place** is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

(g) **Tribal gaming** has the meaning provided by K.S.A. 74-9802, and amendments thereto.

(h) **Gambling** is:

(1) Making a bet; or
(2) Entering or remaining in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling device. (K.S.A. Supp. 21-6403; K.S.A. Supp. 21-6404)

Gambling is a Class B violation.

11.9 **COMMERCIAL GAMBLING.** Commercial gambling is knowingly:

(a) Granting the use or allowing the continued use of a place as a gambling place; or

(b) Permitting another to set up a gambling device for use in a place under the offender's control. (K.S.A. Supp. 21-6406)

Commercial gambling is a Class B violation.

11.10 **POSSESSION OF A GAMBLING DEVICE.**

(a) It shall be unlawful for any person to possess a gambling device.

(b) It shall be a defense to a prosecution under this section that:

(1) The gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950; or

(2) The gambling device is possessed or under custody or control of a manufacturer registered under the federal gambling devices act of 1962 (15 U.S.C. § 1171 *et seq.*) or a transporter under contract with such manufacturer with intent to distribute for use:

(A) By the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) By a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission;

(C) In a state other than the state of Kansas; or

(D) In tribal gaming.

(K.S.A. Supp. 21-6408)

11.11 CRUELTY TO ANIMALS.

(a) Cruelty to animals is:

(1) Knowingly abandoning any animal any place without making provisions for its proper care;

(2) Having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is need for the health or well-being of such kind of animal;

(3) Intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(4) Intentionally causing any physical injury other than the acts described in subsection (a)(1).

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;
(2) *Bona fide* experiments carried on by commonly recognized research facilities;
(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
(4) Rodeo practices accepted by the rodeo cowboys' association;
(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
(6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
(7) The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) Laying an equine down for medical or identification purposes;

(10) Normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

(11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006. (K.S.A. Supp. 21-6412)

(c) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

On first conviction, cruelty to animals is a Class A violation.

11.12 **COCKFIGHTING.**

(a) Unlawful possession of cockfighting paraphernalia is possession of, with the intent to use in the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.

(b) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring,

whether or not the person knows or has reason to know that cockfighting is occurring on the premises.

(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals. (K.S.A. Supp. 21-6417)

Unlawful possession of cockfighting paraphernalia is a Class A violation.

Unlawful attendance of cockfighting is a Class B violation.

ARTICLE 12. VIOLATIONS, PENALTIES

12.1 CLASSES OF VIOLATIONS AND CONFINEMENT.

(a) For the purpose of sentencing, the following classes of violations and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year;

(2) Class B, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed six months;

(3) Class C, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one month;

(4) Unclassified violations, which shall include all offenses declared to be violations without specification as to class, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a Class C violation.

(b) Upon conviction of a violation, a person may be punished by a fine, as provided in Section 12.2 of this article, instead of or in addition to confinement, as provided in this section.

(c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary for aging and disability services. (K.S.A. Supp. 21-6602)

12.2 **FINES.**

(a) A person convicted of a violation may, in addition to or instead of the confinement authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) Class A violation, a sum not exceeding $2,500.
(2) Class B violation, a sum not exceeding $1,000.
(3) Class C violation, a sum not exceeding $500.
(4) Unclassified violation, any sum authorized by the section that defines the offense. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a Class C violation.

(b) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender. (K.S.A. Supp. 21-6611)

ARTICLE 13. MISCELLANEOUS

13.1 **APPLICATION; KANSAS CRIMINAL CODE.** The provisions of the Kansas Criminal Code (K.S.A. Supp. 21-5101:6712, inclusive and amendments thereto), which are in their nature applicable to the jurisdiction of the city and in respect to which no special provision is made by ordinance of the city are applicable to this criminal code.

13.2 **SEVERABILITY.** If any provision of this code is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby.

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CHANGES IN UNIFORM PUBLIC OFFENSE CODE FOR 2016

The following represent the changes in the Uniform Public Offense Code from the 2015 edition to the 2016 edition.

Section 1.1 **Definitions.**

Amended: Act, Smoking; Definitions (h).

Deleted: Juvenile Correctional Facility Officer or Employee.

Section 3.2 **Battery Against a Law Enforcement Officer.** (Amended)

Section 3.12 **Breach of Privacy.** (Amended by HB 2501)

Section 5.8 **Purchase, Consumption or Possession of Alcoholic Liquor or Cereal Malt Beverage by a Minor; 18-21.** (Amended by SB 133)

Section 6.1 **Theft.** (Amended by HB 2462)

Section 10.14 **Operation of a Motorboat or Sailboat.** (Amended by HB 2436)

THE LEAGUE OF KANSAS MUNICIPALITIES
300 SW 8th Avenue, Suite 100, Topeka, KS 66603