

Published 8-20-15

ORDINANCE NO. 0-49-15

An ordinance relating to Chapter 35 Traffic, amending Sections 35-1, 35-10, 35-137, 35-139, 35-227, 35-250, 35-254.1, 35-255, 35-257, 35-311, 35-477, 35-634, 35-645, 35-653, 35-794, 35-809, 35-810, 35-849, 35-852 and 35-922 and repealing Sections 35-138 and 35-141 of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Chapter 35 Traffic, Sections 35-1, 35-10, 35-137, 35-139, 35-227, 35-250, 35-254.1, 35-255, 35-257, 35-311, 35-477, 35-634, 35-645, 35-653, 35-794, 35-809, 35-810, 35-849, 35-852 and 35-922, of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas, be amended to read as follows:

ARTICLE I. - IN GENERAL

Sec. 35-1 Definitions

Alcohol or drug-related conviction means any of the following:

- (1) Conviction of vehicular battery or aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-2,144 or K.S.A. 8-1567; or K.S.A. 8-1025, and amendments thereto, or conviction of a violation of aggravated battery as described in subsection (b)(3) of K.S.A. 21-5413, and amendments thereto.
- (2) Conviction of a violation of a law of another state that would constitute a crime described in subsection (1) of this definition if committed in this state;
- (3) Conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (1) of this definition, whether or not such conviction is in a court of record; or
- (4) Conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-2,144, K.S.A. 8-1567, or K.S.A. 8-1025 and amendments thereto, or would constitute a crime described in subsection (1) of this definition if committed off a military reservation in this state.

Controlled substance means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113 and amendments thereto.

House trailer means:

- (1) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or
- (2) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer as defined in subsection (1) of this definition, but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

The term "house trailer" does not include a manufactured home or a mobile home as defined in K.S.A. 58-4202.

Occurrence means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, including an arrest which occurred prior to the effective date of the ordinance from which this section is derived.

Travel trailer means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

Sec. 35-10. Motor vehicle liability insurance.

- (a) Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with the provisions of the state Automobile Injury Reparations Act (K.S.A. 40-3101 et seq.) for every motor vehicle owned by such person, unless such motor vehicle:
 - (1) Is included under an approved self-insurance plan as provided in K.S.A. 40-3104(f);
 - (2) Is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school;

- (3) Is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in K.S.A. 40-3106(b) has been filed; or
 - (4) Is otherwise expressly exempted from said requirement pursuant to the laws of the state.
- (b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the insurance requirement pursuant to the laws of the state.
- (c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the insurance requirement pursuant to the laws of the state.
- (d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display evidence of financial security to a law enforcement officer upon demand. Such evidence of financial security which meets the requirements of subsection (e) may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court. No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) of this section is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the subsection (e) of this section. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.
- (e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c), or (d) of this section shall be convicted if such person produces in court, within ten days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such evidence of financial security may be produced by displaying such information on a cellular phone or any other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or any

other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle, and the effective and expiration date of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form, the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsections (b), (c), or (d) of this section shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

- (f) Violation of this section is a class B violation, and conviction is punishable by a fine of not less than \$300.00 or more than \$1,000.00, by imprisonment for not more than six months, or by both. Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800.00 or more than \$2,500.00, or by imprisonment for a term not to exceed one year, or both such fine and imprisonment.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 35-137. - Accident involving death or personal injuries; penalties.

- (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to, or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 35-139 of this article and amendments thereto.
- (b) Any person who violations subsection (a) when an accident results in:
 - (1) Total property damages of less than \$1,000 shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 35-71.
 - (2) Injury to any person or total property damages in excess of \$1,000 or more shall be punished by imprisonment for not more than one year or by a fine of not more than \$2,500, or by both such fine and imprisonment.
- (c) The driver shall comply with the provisions of Section 35-144.
- (d) The municipal court does not have jurisdiction to hear cases involving failure to stop and remain at the scene of an accident involving great bodily harm to any person or death of any person.

Sec. 35-139 Duty to give information and render aid.

- (a) (1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any attended vehicle or property shall give such driver's name, address and the registration number of the vehicle such driver is driving, and upon request, shall exhibit such driver's license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident, and shall give such information and, upon request, exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident.
- (2) Such driver, insofar as possible, shall immediately make efforts to determine whether any person involved in such accident was injured or killed, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

- (b) If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:
- (1) There is apparently property damage of \$1,000.00 or more;
 - (2) Any person involved in the accident is injured or killed; or
 - (3) The persons specified in subsection (a) of this section are not present or in condition to receive such information.
- (c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a) shall be convicted if such person produces in court, within ten days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Such evidence also may be produced by displaying on a cellular phone or other type of portable electronic device evidence of financial security required by this subsection. Any person to whom such evidence of financial security is displayed shall view only such evidence of financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic devices.
- (d) Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form, the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in

Sec. 35-250 Driving while under the influence of alcohol or drugs or both; penalties

- (a) Driving under the influence is operating or attempting to operate any vehicle within this city while:
 - (1) The alcohol concentration in the person's blood, breath, urine or other bodily fluid as shown by any competent evidence, including other competent evidence is 0.08 or more;
 - (2) The alcohol concentration in the person's blood, breath, urine or other bodily fluid as measured within three hours of the time of operating or attempting to operate a vehicle, is 0.08 or more;
 - (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or
 - (5) 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 vehicle.
- (b) (1) Driving under the influence is:
 - a. *On a first conviction a class B, nonperson misdemeanor.* The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750.00 nor more than \$1,000.00. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment;
 - b. *On a second conviction a class A, nonperson misdemeanor.* The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250.00 nor more than \$1,750.00. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five-days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing

to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

- c. *On a third conviction a class A, nonperson misdemeanor, except as provided in K.S.A. 8-1567(b)(1)(D).* The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the remainder only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

- (2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

- (c) Any person convicted of violating this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense, shall have such person's

force. Any charge hereunder shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

ARTICLE IV. RECKLESS DRIVING, DRIVING WHILE INTOXICATED, ETC.

Sec. 35-227. - Fleeing or attempting to elude a police officer.

- (a)
 - (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop for a pursuing police vehicle or police bicycle when given visual or audible signal to bring the vehicle to a stop shall be guilty as provided by subsection (c).
 - (2) Any driver of a motor vehicle who willfully flees or attempts to elude a pursuing police vehicle or police bicycle when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c).
 - (3) It shall be an affirmative defense to any prosecution under subsection (a)(1) that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.
- (b) The signal given by the police officer may be by hand, voice, emergency light, or siren:
 - (1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or
 - (2) If the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.
- (c) Every person convicted of violating subsection (a) of this section, shall upon a first conviction, be sentenced to not more than six months in jail, fined not more than \$1,000.00, or be subject to both. Every person convicted of violating this section shall upon a second conviction be punished by imprisonment not to exceed one year or fined not to exceed \$2,500.00 or both.
- (d) For the purpose of this section, "conviction" means a final conviction without regard to whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section it is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (e) Appropriately marked official police vehicle or police bicycle shall include but not be limited to any police vehicle or bicycle equipped with functional emergency lights or siren or both and on which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release, or other conditional release.

- (d) 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.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (g)
 - (1) Upon filing a complaint, citation or notice to appear alleging a violation of this section, and prior to a conviction thereof, the city attorney shall request and shall receive from the:
 - a. Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
 - b. Kansas Bureau of Investigation central repository of all criminal history record information concerning such person.
 - (2) If the elements of a violation of this section are the same as the elements of a violation of K.S.A. 8-1567 that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the district attorney for prosecution.
- (h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and receive from the division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state.
- (i) For the purposes of determining whether a conviction is a first, second or third conviction in sentencing under this section:
 - (1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county

which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceeding on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:

- a. Refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. Supp. 8-1025 or Section 35-254.1;
- b. driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto or Section 35-257;
- c. operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
- d. involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. Supp. 21-5405, and amendments thereto;
- e. aggravated battery as described in subsection (b)(3) of K.S.A. Supp. 21-5413, and amendments thereto; and
- f. aggravated vehicular homicide, K.S.A. 21- 3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) **conviction** includes:

- a. Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (i)(2);
- b. conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (i)(1) or (i)(2); and
- c. receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (i)(1) or (i)(2) if committed off a military reservation in this state;

(4) multiple convictions of any crime described in subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.

- (j) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (k) Upon conviction of a person of a violation of this section, the court shall assess applicable costs authorized by subsection 23-13(a)(5) of this Code against the convicted person, unless the court makes a finding of undue hardship.
- (l) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.
- (n) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (o) As used in this section:
 - (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;
 - (2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
 - (3) "drug" includes toxic vapors as such term is defined in K.S.A. 2011 Supp. 21-5712, and amendments thereto.

Sec. 35-254.1. Refusal to submit to alcohol or drug test.

- (a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under subsection (a) of K.S.A. 8-1001, and amendments thereto, if such person has:
 - (1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred:
 - a. On or after July 1, 2001; and
 - b. When such person was 18 years of age or older; or
 - (2) Any prior conviction for a violation of K.S.A. 8-1567 or K.S.A. 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a

diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred:

- a. On or after July 1, 2001; and
- b. When such person was 18 years of age or older; ~~or~~

(b) Refusing to submit to a test to determine the presence of alcohol or drugs is:

- (1) On a first conviction, a class A nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750.00. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;
- (2) On a second conviction, a class A, nonperson misdemeanor, except as provided in K.S.A. 8-1025(b)(1)(C). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted

under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours;

- (3) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (c) Any person convicted of violating this section who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (e) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (f) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.
- (g) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

- (1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring:
 - a. On or after July 1, 2001; and
 - b. When such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense.
- (2) Any convictions for a violation of the following sections which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older:
 - a. This section or K.S.A. 8-1025;
 - b. Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or Section 35-257;
 - c. Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
 - d. Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. Supp. 21-5405, and amendments thereto;
 - e. Aggravated battery as described in subsection (b)(3) of K.S.A. Supp. 21-5413 and amendments thereto; and
 - f. Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto.
- (3) Conviction includes:
 - a. Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (g)(2);
 - b. Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (g)(1) or (g)(2); and
 - c. Receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (g)(1) or (g)(2) if committed off a military reservation in this state.

- (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense;
 - (5) Multiple convictions of any crime described in subsection (g)(1) or (g)(2) of this section arising from the same arrest shall only be counted as one conviction;
 - (6) The prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and
 - (7) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, or an ordinance which prohibits the acts of this section, only once during the person's lifetime.
- (h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
 - (i) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
 - (j) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:
 - (1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
 - (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.
 - (k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.
 - (l) As used in this section, imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

Sec. 35-255. - Tampering with ignition interlock device, etc.

- (a) No person shall:
 - (1) Tamper with an ignition interlock device, circumvent it or render it inaccurate or inoperative;
 - (2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device;
 - (3) Blow into an ignition interlock device or start a motor vehicle equipped with such device providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device; or
 - (4) Operate a vehicle not equipped with an ignition interlock device while such person's driving privileges have been restricted to driving a motor vehicle equipped with such device.
- (b) Violation of this section shall be punished by a fine of not more than \$2,500.00, by imprisonment for not more than one year, or by both such fine and imprisonment.
- (c) In addition to any other penalties provided by law:
 - (1) (a) On a first conviction of a violation of subsection (a)(1) or (a)(2), the division shall extend the ignition interlock restriction period on the person's driving privileges for an additional 90 days; and
(b) on a second or subsequent conviction of a violation of subsection (a)(1) or (a)(2), the division shall restart the original ignition interlock restriction period on the person's driving privileges; and
 - (2) on a conviction of a violation of subsection (a)(4), the division shall restart the original ignition interlock restriction period on the person's driving privileges.

Sec. 35-257. Driving commercial motor vehicle with 0.04 alcohol concentration or under the influence of drugs or alcohol; penalties.

- (a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, 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 K.S.A. 8-1013(f)(1) and amendments thereto, is 0.04 or more;
 - (2) The alcohol concentration in the person's blood or breath as measured within three hours of the time of driving a commercial motor vehicle is 0.04 or more; or
 - (3) Committing a violation of section 35-250(a) of this chapter and amendments thereto.
- (b) (1) Driving a commercial vehicle under the influence is:

- a. On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750.00 nor more than \$1,000.00. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspensions or reduction of sentence or parole or other release;
- b. On a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250.00 nor more than \$1,750.00. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

(2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

- (c) Any person convicted of a violation of this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense, shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served

consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

- (d) 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.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in the amount equal to \$5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed at not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall be due on that date.
- (g) Upon filing a complaint, citation or notice to appear alleging a person has violated this section, and prior to conviction thereof, the city attorney shall request and shall receive from the:
 - (1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
 - (2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.
- (h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint, citation or notice to appear of this section to the division. Prior to sentencing under this section, the court shall request and shall receive from the:
 - (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and,
 - (2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.
- (i) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall:
 - (1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and
 - (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

- (j) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (k) Upon conviction of a person of a violation of this section, the court shall assess applicable costs authorized by subsection 23-13(a)(5) of this Code against the convicted person, unless the court makes a finding of undue hardship.
- (l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section.
- (m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (n) For the purposes of determining whether a conviction is a first or second in sentencing under this section:
 - (1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
 - (2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (a) This section or K.S.A. 8-2,144;
 - (b) refusing to submit to a test to determine the presence of alcohol or drugs, K.S.A. 8-1025, and amendments thereto or 35-254.1;
 - (c) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
 - (d) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 21-5405, and amendments thereto;
 - (e) aggravated battery as described in subsection (b)(3) of K.S.A. 21-5413, and amendments thereto; and
 - (f) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;
 - (3) "conviction" includes:

- (a) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (n)(2);
- (b) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (n)(1) or (n)(2); and
- (c) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (n)(1) or (n)(2) if committed off a military reservation in this state;
- (4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (5) multiple convictions of any crime described in subsection (n)(1) or (n)(2) arising from the same arrest shall only be counted as one conviction.
- (o) For the purpose of this section:
 - (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;
 - (2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
 - (3) "drug" includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto.

ARTICLE VI. DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING; USE OF ROADWAY

Sec. 35-311. - When passing on the right permitted.

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or about to make a left turn; or
 - (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
 - (3) A transit bus authorized under and being operated in accordance with the provisions of K.S.A. 75-5091, and amendments thereto.
- (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway, except as authorized under K.S.A. 75-5091, and amendments thereto.

ARTICLE XI. STOPPING, STANDING OR PARKING GENERALLY

Sec. 35-477. - Stopping, standing or parking prohibited in specified places.

- (a) Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand or park a vehicle:

- a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- b. On a sidewalk;
- c. Within an intersection;
- d. On a crosswalk;
- e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- h. On any railroad tracks;
- i. On any controlled-access highway;
- j. In the area between roadways of a divided highway, including crossovers; or
- k. At any place where official signs prohibit stopping.

(2) Stand or park a vehicle whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

- a. In front of a public or private driveway;
- b. Within 15 feet of a fire hydrant;
- c. Within 20 feet of a crosswalk at an intersection;
- d. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway;
- e. Within 20 feet of a driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance, when properly sign-posted; or
- f. At any place where official signs prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

- a. Within 50 feet of the nearest rail of a railroad crossing;
- b. At any place where official signs prohibit parking; or
- c. In any fire lane officially designated as such by the fire chief or his designated representative, whether on public or private property.

- (b) No person shall move a vehicle not lawfully under his control into any such prohibited

area or away from a curb such a distance as is unlawful.

ARTICLE XIII. MISCELLANEOUS RULES

Sec. 35-634. - Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

Sec. 35-645. - Riding in house trailer prohibited.

No person or persons shall occupy a house trailer, manufactured home as defined in subsection (a) of K.S.A. 58-4202, or mobile home, as defined in subsection (b) of K.S.A. 58-4202 while it is being moved upon a public street or highway.

Sec. 35-653. - Traffic control signal preemption devices.

- (a) Except as provided in subsection (c) of this section, it shall be unlawful for any person to knowingly possess a traffic control signal preemption device.
- (b) A person convicted of violating subsection (a) of this section shall be subject to a fine of not more than \$1,000.00, by imprisonment for not more than six months, or by both such fine and imprisonment.
- (c) The provisions of this section shall not apply to the operator, passenger, or owner of any of the following authorized emergency vehicles, in the course of such person's emergency duties:
 - (1) Publicly owned fire department vehicles;
 - (2) Publicly owned police vehicles; or
 - (3) Motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq.

ARTICLE XVI. MOTOR VEHICLE EQUIPMENT GENERALLY

Sec. 35-794. - Visibility of reflectors, clearance lamps and marker lamps.

- (a) Every reflector upon any vehicle referred to in section 35-790 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility of reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of

the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

- (b) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at all distances between 500 feet and 50 feet from the front and rear respectively of the vehicle.
- (c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at all distances between 500 feet and 50 feet from the side of the vehicle on which mounted.

Sec. 35-809. - School Buses.

- (a) Every school bus, in addition to any other equipment and distinctive markings required by this chapter:
 - (1) shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight; and
 - (2) every new school bus put into initial service after July 1, 2007, shall be equipped with a white flashing strobe light mounted on the roof of such bus to afford optimum visibility.
- (b) Any school bus, in addition to the lights required by subsection (a) of this section, may be equipped with:
 - (1) Yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 200 feet but not more than 1,000 feet before every stop at which the alternately flashing red lights required by subsection (a) of this section will be actuated; or
 - (2) Head lamps that alternately flash on low beam or simultaneously flash on low beam, except such head lamps shall only be activated during daylight hours.
- (c) The provisions of subsections (a) and (b) of this section shall be subject to the provisions contained in K.S.A. 8-2009a.
- (d) Any person who purchases a motor vehicle which was operated by the seller as a school bus is hereby required to repaint such vehicle a color other than yellow and, except when such bus is being used as a church bus or day care program bus, disassemble and remove the "stop arm" and disconnect all flashing or rotating warning lights on such vehicle before it is operated on the public highways of this state for any purpose other than those set forth in the definitions of a school bus.

Sec. 35-810. - Church buses and day care program buses.

Any church bus or day care program bus, in addition to any other equipment and distinctive markings required by law, may be equipped with:

- (1) Signal lamps which conform to the requirements of section 35-809, and rules and regulations of the secretary applicable to school buses; and
- (2) A stop signal arm that conforms to requirements therefor applicable to school buses that have been adopted by rules and regulations of the state board of education.

ARTICLE XVII. EQUIPMENT ON MOTORCYCLES AND MOTOR DRIVEN CYCLES

Sec. 35-849 Head lamps.

- (a) Every motorcycle and every motor-driven cycle shall be equipped with at least one head lamp which shall comply with the requirements and limitations of this article.
- (b) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in section 35-785(d).
- (c) Any headlamp, required by this section, may be wired with a headlamp modulation system provided the headlamp modulation system complies with federal standards established by 49 C.F.R. §571.108.

Sec. 35-852. Stop lamps.

- (a) Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of section 35-802(a).
- (b) Every motorcycle manufactured after January 1, 1973, shall be equipped with electric turn signals meeting the requirements of section 35-802(b). Motor-driven cycles may, but need not, be equipped with electric turn signals.
- (c) In addition to the lamps otherwise permitted by this article, a motorcycle may be equipped with lamps on the sides thereof, visible from the side of the motorcycle but not from the front or the rear thereof, which lamps, together with mountings or receptacles, shall be set into depressions or recesses in the body or wheel of the motorcycle and shall not protrude beyond or outside the body or the wheel of the motorcycle. The light source may emit only white, amber or red light without glare.

ARTICLE XIX. DRIVERS' LICENSES, VEHICLE TAGS, ETC.

Sec. 35-922. - Driving while licensing suspended or revoked.

- (a) No person shall operate a motor vehicle or motorized bicycle on any public street or highway of this city at a time when such person's privilege to do so is canceled, suspended, or revoked or while such person's privilege to obtain a driver's license is suspended or revoked.
- (b) No person shall be convicted under this section if such person, at the time of arrest was entitled under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.
- (c) Except under the circumstances set out in subsection (c)(3) of this section, the following penalties shall apply to a person convicted of violating this section:
 - (1) Upon a first conviction, a person shall be sentenced to not less than five days' nor more than six months' imprisonment and fined not less than \$100.00 nor more than \$1,000.00.
 - (2) Upon a second conviction of a violation of this section, a person shall be sentenced to not less than five days' nor more than one year's imprisonment and fined not less than \$100.00 nor more than \$2,500.00. The person convicted must serve five consecutive days' imprisonment either before or as a condition of any grant of probation, parole, or suspension or reduction of sentence.
 - (3) If a person is convicted of any of the following, the person shall not be eligible for suspension of sentence, probation, or parole until the person has served as least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.
 - a. Is convicted of a violation of this section committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of section 35-250 of this chapter, and amendments thereto, K.S.A. 8-1567, and amendments thereto, K.S.A. 8-2,144, or K.S.A. 8-1025, or any ordinance of any city or a law of another state, which ordinance or law prohibits the acts prohibited by those statutes; and
 - b. Is or has been also convicted of a violation of section 35-250, and amendments thereto, or K.S.A. 8-1567, and amendments thereto, K.S.A. 8-2,144, K.S.A. 8-1025, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked.
 - (4) Upon a third or subsequent conviction of this section, a person shall be sentenced to not less than 90 days imprisonment and fined not less than \$1,500.00 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:
 - a. Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

- b. Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;
 - c. Was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in subsection (a)(3) of K.S.A. 21-5405, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
 - d. Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.
- (5) The person convicted under the circumstances of subsection (c)(4) of this section shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentences only after such person has served 48 consecutive hours' imprisonment.
- (d) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.
- (e) For the purposes of this section, if any person operates a motor vehicle or a motorized bicycle on any public highway of this city at a time when such person's privilege to do so has been restricted by the division, by a judge of a court of competent jurisdiction or by a diversion agreement entered into by the person pursuant to K.S.A. 12-4413 et seq., and amendments thereto, and such operation violates or is outside the scope of such restrictions, such person shall be deemed to be operating a motor vehicle or motorized bicycle when such person's privilege to do so has been suspended, or revoked.

Section 2. That said original Sections 35-1, 35-10, 35-137, 35-138, 35-139, 35-141, 35-227, 35-250, 35-254.1, 35-255, 35-257, 35-311, 35-477, 35-634, 35-645, 35-653, 35-794, 35-809, 35-810, 35-849, 35-852 and 35-922 of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas are hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the official Unified Government newspaper.

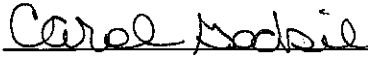
PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED
GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,

THIS 13 DAY OF August, 2015.



Mark Holland, Mayor/CEO

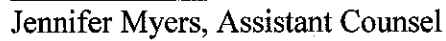
Attest:



Deputy

Unified Government Clerk

Approved As To Form:



Jennifer Myers, Assistant Counsel