

OPPD Legal Bulletin
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Revised 2015 Legislative Update

Summary of 2015 Legislation Affecting Law Enforcement Officers.

All bills took Take effect July 1, 2015, unless stated otherwise.

Full text of the bills can be retrieved from the links below or at the [Legislature's website](#).

Alcohol

[HB 2223](#). This bill makes numerous amendments to existing wine and spirits statutes. It expands the ability to obtain a vineyard permit; allows for use of automated wine devices; bans the dispensing of powdered alcohol; expands the eligibility to obtain a liquor license; allows alcoholic sales in “core commercial districts,” facilitates the acquisition of Kansas State Fair permits; allows for the “infusing” of alcohol flavors; broadens the opportunity to sell Kansas wines at farmers markets; and allows alcohol at events in the state capitol if approved by the legislative leadership. The bill also fixes K.S.A. 41-106 addressing the Kite’s v ABC decision. It allows the ABC to take administrative action against a licensee based on local law enforcement observations and reports. It sets out criteria local law enforcement must follow including seeing the violation occur and serving written notice on the person in charge of the licensed establishment.

Crime and Punishment

[SB 95](#) – The bill adopts the Unborn Child Protection from Dismemberment Act which prohibits a “dismemberment abortion” except to preserve the woman’s life or when the continuation of the pregnancy would cause substantial and irreversible physical impairment. The Act provides for criminal penalties, authorizes a civil action with the potential for an attorney fee award, and authorizes injunctive action. A dismemberment abortion is defined as knowingly dismembering a living unborn child and extracting the child one piece at a time from the uterus using clamps, forceps, tongs, scissors, or other instruments that by the convergence of two rigid levers slice, crush, or grasp a portion of the child’s body to cut or rip it off. Clarifies the definition of dismemberment abortion.

[SB 113](#). This bill creates a civil cause of action for victims of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child; adds those charged with committing commercial sexual exploitation of a child to the list of "covered persons" under the Kansas RICO statute; expands the definition of sexual abuse in the CINC statutes to include allowing, permitting or encouraging a child to engage in aggravated human trafficking if committed in whole or in part for the purpose of the sexual gratification of the offender or another;

[HB 2048](#). This bill centralizes all scrap metal prosecution in the office of the attorney general and preempts city ordinances on the subject. It greatly enhances

the sentence for aggravated criminal damage to property where the value or amount of damage exceeds \$5,000. The bill also requires the Attorney General to establish and maintain a database of scrap metal sales regulated elsewhere in the Act to be used for law enforcement purposes.

[HB 2055](#). This bill started out as a bill clarifying how to count out of state misdemeanor convictions for sentencing guidelines purposes, but was amended to include Mija Stockman's Law, which creates a special rule for determining criminal history for a conviction of aggravated battery when a person is driving under the influence (DUI) and great bodily harm to another person or disfigurement of another person results from such act. The rule would provide that for the purposes of determining an offender's criminal history, the first prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication of DUI, commercial DUI, or DUI test refusal would count as one nonperson felony. Each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication of these offenses would count as one person felony. The bill also fixes the State v. Powell search warrant problem by allowing for the issuance of warrants for DNA and biological evidence. The bill also adds criminal system players (judges, attorneys, community corrections officers, etc. (everyone but city prosecutors) to the battery on a law enforcement officer statute.

[HB 2228](#). This bill requires the physical presence of the physician, absent an emergency, in the administration of abortifacient drugs. (Awaiting action by the Governor).

Drugs

[SB 252](#). This bill amends the crime of unlawful abuse of toxic vapors to include "other halogenated hydrocarbons" (freon-like substances) within the definition of "toxic vapors."

[HB 2275](#). This bill adds new substances and compounds to Schedules I, II, III and IV of the uniform controlled substances list. It adds a hallucinogenic drug and a cannabinoid to schedule I, reschedule two hydrocodone drugs from schedule III to schedule II, adds perampanel to schedule III, and add three drugs to schedule IV. The bill also corrects or standardizes spelling or descriptions of several substances. The bill took effect on 04/16/15.

DUI

[HB 2159](#). This bill amends the statutes governing expungement of DUIs and test refusals to allow for expungement only after five years after satisfaction of the sentence, and 10 years on a second or subsequent conviction. The bill also allows the Division of Vehicles to issue a restricted driver's license with a DUI-IID designation to a licensee allowed to operate a motor vehicle under ignition interlock restrictions.

Gambling

[HB 2155](#). This bill creates the Kansas Charitable Gaming Act and also amends the Kansas Lottery Act. The Charitable Gaming Act makes numerous changes in the Bingo Act and creates regulations for charitable raffles. It empowers the

Department of Revenue to handle licensure for raffles and enforce regulations and impose penalties relating to raffles. The bill legalizes fantasy sports leagues.

KPERS

[HB 2095](#). This bill governs payment of KPERS benefits when someone works after retirement. Starting on July 1, 2016, and ending on July 1, 2021, a retiree would be allowed to receive up to \$25,000 (up from \$20,000) in compensation annually from a contributing KPERS employer, regardless of whether the retiree is returning to work for the same or a different employer, before the retiree would be required either to terminate employment or forego monthly KPERS benefits until the end of the calendar year. It exempts certain classes of employees, including law enforcement officers.

[SB 228](#). This bill allows for the issuance of up to 1 billion dollars in bonds to shore up the KPERS retirement system. The bill was published and took effect on April 23, 2015.

Law Enforcement Peer support

[HB 2025](#). This bill makes some changes to the law enforcement training act. It gives KCPOST access to relevant reports that may result in suspension, conditioning or revoking an officer's certification, reprimand or censure of an officer; or denial of certification. The bill would also allow an officer whose certificate has been revoked to petition the Commission to reinstate the certificate five years after the revocation is effective. The bill also creates a LEO peer support privilege for information shared in a peer support counseling session.

Miscellaneous

[SB 13](#). This bill clarifies the definition of "criminal history record information" by excluding information regarding the release, assignment to work release, or any other change in custody status of a person confined by the Department of Corrections or a jail. The bill also removes a reference to the Juvenile Justice Authority.

[SB 34](#). This bill creates some new election crimes and give the Secretary of State the authority to prosecute them.

[HB 2064](#). This bill allows insurance companies, other than life companies, to offer coverage against the cost of legal services. Exempts certain companies from the definition of "prepaid service plan" and makes technical amendments on how non-profit dental service corporations calculate certain expenses.

[HB 2109](#). This bill, adopted late on Sunday June 7, 2015, prohibits cities and counties from increasing property taxes above the Consumer Price Index (CPI) unless there is a public vote during an August or November election. This proposal did not receive a hearing this year in any committee, and would have a detrimental effect on city bond ratings and the ability to provide municipal services.

[HB 2256](#). This bill makes the Attorney General primarily responsible for enforcement of the Kansas Open Records Act (KORA) and the Kansas Open Meetings Act (KOMA). The bill also adds exceptions to KORA for the home address or home ownership of a municipal judge, city attorney, assistant city attorney,

special assistant city attorney, special assistant U.S. attorney, special assistant attorney general, special assistant county attorney, or special assistant district attorney.

Notice of Claims

[HB 2246](#). This bill amends K.S.A. 12-105b in response to a 2014 court opinion in *Whaley v. Sharp*, which held that the statute did not require notice when a lawsuit is filed only against a municipal employee and not the municipality.

Ride Sharing Apps

[SB 117](#). This bill creates the Kansas Transportation Network Company Services Act which governs the rights of parties, responsibilities of prearranged rides companies, background checks for drivers and insurance coverage for such companies.

Authorizes the KCC to adopt regulations. Requires individuals with vehicles subject to the bill's lien provisions to provide proof of insurance coverage. Adopted over Governor's veto and became effective on May 14, 2016, but was amended and repealed by SB 101, which takes effect 7/1/15.

[SB 101](#). This bill makes adjustments to SB 117 which was passed earlier in the session, was vetoed and then overridden and went into effect on 5/14/2015. The bill amends the definition of a TNC and alters the requirements for becoming a qualified driver for a TNC, as well as a driver's insurance responsibilities. Eliminates the KBI background check for potential drivers and expands the list of actions that could result in a driver's disqualification. The bill takes effect on 7/1/15 except for provisions relating to lien holders' interests which becomes effective on 1/1/2016.

Traffic & Vehicles

[SB 21](#). A detailed analysis of this bill is beyond the scope of this summary, but the bill replaces an exemption set to expire July 1, 2015, for all commercial motor vehicles operating in intrastate commerce that weigh less than 26,001 pounds and meet certain restrictions. Such vehicles would be exempt from requirements to obtain a certificate, license, or permit from the Kansas Corporation Commission (KCC) or file rates, tariffs, annual reports, or proof of insurance with the KCC. Additionally, the bill exempts certain motor carriers from the safety provisions of 49 CFR parts 390 through 399 adopted by reference in the KCC's rules and regulations, rather than from "any" safety requirements in the KCC rules and regulations. This bill took effect on 04/09/15.

[SB 73](#). This bill eliminates the requirement for All-terrain vehicles to have a seat designed to be straddled by the operator. It also changes the definition of recreational off-highway vehicle to be a vehicle more than 50 but not greater than 64 inches or less in width, and eliminates the requirement that such vehicles have a nonstraddle seat and steering wheel for steering control. The bill changes the definition of work-site utility vehicles to eliminate the requirement they have an overall length, including the bumper, of not more than 135 inches, and changes the requirement from low pressure tires to nonhighway tires.

[HB 2006](#). This bill grants qualifying disabled veterans with a handicapped tag or

placard the ability to park free of charge in spaces clearly marked as reserved for disabled persons in public parking facilities and public parking lots that employ parking attendants to collect payment.

[HB 2013](#). This bill mainly deals with commercial drivers license fees, but also allows anyone a 10-day grace period for failure to display a current registration sticker if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period.

[HB 2044](#). This bill allows operation of "autocycles" without a helmet, but requires drivers and passengers to wear seat belts. An "autocycle" is a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it, such as a Polaris or an Elio. If the vehicle is not enclosed, helmets and eye-protection are required for those under 18. The bill was published and took effect on May 14, 2015. The bill also allows for omega psi phi license plates on and after January 1, 2016.

[HB 2090](#). This bill adopts new CDL Codes:

"E"—no manual transmission in CMV;

"O"—no tractor-trailer;

"M"—no class A passenger vehicle;

"N"—no class A or B passenger vehicle;

"Z"—no full air brake in CMV;

"K"—for intrastate only;

"V"—for medical variance.

The bill also contains custom harvester size restrictions - length restrictions do not apply to vehicles transporting forage cutter or combine headers; changes dealing with Apportioned Fleet registration - Mileage applications and fees shall be charged according to the international registration plan. The bill eliminates annual reports by local governments on permanent registrations; Cleanup of various registration laws. Renewal stickers will indicate the license plate number for which the decal is to be affixed instead of being a sequential number. (Eff. 5/14/2015)

Weapons

[SB 45](#). This bill adopts "constitutional carry" and allows concealed gun carry without a training permit or background check.

[HB 2331](#). This bill adds language to current law limiting local regulation of firearms and ammunition. The bill would add ordinances, resolutions, regulations, and administrative actions governing the requirement of fees, licenses, or permits for, commerce in or the sale of firearms or ammunition to the list of actions prohibited by local government entities, but allow for collection of sales taxes on the sale of firearms, ammunition, or both. The bill also amends K.S.A. 75-7c04 so that prior juvenile convictions will not result in denial of a concealed carry application.

Contact Information:

John J. Knoll

Sr. Assistant City Attorney

City of Overland Park, Kansas
8500 Santa Fe Drive
Overland Park, Kansas 6622-2899
913-895-6086 (City Hall Office) (Wednesday and Friday)
913-327-6941 (Sanders Office) (Monday, Tuesday and Thursday)
785-231-9595 (Cell)
913-895-5095 (Fax)
john.knoll@opkansas.org