

HOUSE BILL No. 2699

By Committee on Judiciary

1-25

9 AN ACT concerning crimes, punishment and criminal procedure;
10 amending K.S.A. 21-3719 and 31-155 and K.S.A. 2005 Supp. 21-3436,
11 21-3608a, 21-3718 and 21-3731 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2005 Supp. 21-3436 is hereby amended to read as
15 follows: 21-3436. (a) Any of the following felonies shall be deemed an
16 inherently dangerous felony whether or not such felony is so distinct from
17 the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401,
18 and amendments thereto, as not to be an ingredient of the homicide
19 alleged to be a violation of subsection (b) of K.S.A. 21-3401, and amend-
20 ments thereto:

21 (1) Kidnapping, as defined in K.S.A. 21-3420, and amendments
22 thereto;

23 (2) aggravated kidnapping, as defined in K.S.A. 21-3421, and amend-
24 ments thereto;

25 (3) robbery, as defined in K.S.A. 21-3426, and amendments thereto;

26 (4) aggravated robbery, as defined in K.S.A. 21-3427, and amend-
27 ments thereto;

28 (5) rape, as defined in K.S.A. 21-3502, and amendments thereto;

29 (6) aggravated criminal sodomy, as defined in K.S.A. 21-3506, and
30 amendments thereto;

31 (7) abuse of a child, as defined in K.S.A. 21-3609, and amendments
32 thereto;

33 (8) felony theft under subsection (a) or (c) of K.S.A. 21-3701, and
34 amendments thereto;

35 (9) burglary, as defined in K.S.A. 21-3715, and amendments thereto;

36 (10) aggravated burglary, as defined in K.S.A. 21-3716, and amend-
37 ments thereto;

38 (11) arson, as defined in K.S.A. 21-3718, and amendments thereto;

39 (12) aggravated arson, as defined in K.S.A. 21-3719, and amendments
40 thereto;

41 (13) treason, as defined in K.S.A. 21-3801, and amendments thereto;

42 (14) any felony offense as provided in K.S.A. 65-4127a, 65-4127b or
43 65-4159 or 65-4160 through 65-4164, and amendments thereto;

- 1 (15) any felony offense as provided in K.S.A. 21-4219, and amend-
2 ments thereto;
- 3 (16) endangering the food supply as defined in K.S.A. 2005 Supp. 21-
4 4221, and amendments thereto;
- 5 (17) aggravated endangering the food supply as defined in K.S.A.
6 2005 Supp. 21-4222, and amendments thereto; ~~or~~
- 7 (18) fleeing or attempting to elude a police officer, as defined in sub-
8 section (b) of K.S.A. 8-1568, and amendments thereto; *or*
- 9 (19) *aggravated endangering a child, as defined in K.S.A. 2005 Supp.*
10 *21-3608a, and amendments thereto.*
- 11 (b) Any of the following felonies shall be deemed an inherently dan-
12 gerous felony only when such felony is so distinct from the homicide
13 alleged to be a violation of subsection (b) of K.S.A. 21-3401, and amend-
14 ments thereto, as to not be an ingredient of the homicide alleged to be
15 a violation of subsection (b) of K.S.A. 21-3401, and amendments thereto:
- 16 (1) Murder in the first degree, as defined in subsection (a) of K.S.A.
17 21-3401, and amendments thereto;
- 18 (2) murder in the second degree, as defined in subsection (a) of
19 K.S.A. 21-3402, and amendments thereto;
- 20 (3) voluntary manslaughter, as defined in subsection (a) of K.S.A. 21-
21 3403, and amendments thereto;
- 22 (4) aggravated assault, as defined in K.S.A. 21-3410, and amendments
23 thereto;
- 24 (5) aggravated assault of a law enforcement officer, as defined in
25 K.S.A. 21-3411, and amendments thereto;
- 26 (6) aggravated battery, as defined in subsection (a)(1) of K.S.A. 21-
27 3414, and amendments thereto; *or*
- 28 (7) aggravated battery against a law enforcement officer, as defined
29 in K.S.A. 21-3415, and amendments thereto.
- 30 (c) This section shall be part of and supplemental to the Kansas crim-
31 inal code.
- 32 Sec. 2. K.S.A. 2005 Supp. 21-3608a is hereby amended to read as
33 follows: 21-3608a. On and after July 1, 2004: (a) Aggravated endangering
34 a child is:
- 35 (1) Intentionally ~~and~~ *or* recklessly causing or permitting a child under
36 the age of 18 years to be placed in a situation in which the child's life,
37 body or health is injured or endangered;
- 38 (2) *causing or* permitting such child to be in an environment where
39 a person is selling, offering for sale or having in such person's possession
40 with intent to sell, deliver, distribute, prescribe, administer, dispense,
41 manufacture or attempt to manufacture any methamphetamine as de-
42 fined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments
43 thereto; *or*

- 1 (3) *causing or* permitting such child to be in an environment where
2 drug paraphernalia or volatile, toxic or flammable chemicals are stored
3 for the purpose of manufacturing or attempting to manufacture any meth-
4 amphetamine as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,
5 and amendments thereto.
- 6 (b) Aggravated endangering a child is a severity level 9, person felony.
- 7 (c) As used in this section:
- 8 (1) “Manufacture” shall have the meaning ascribed to that term in
9 K.S.A. 65-4101, and amendments thereto; and
- 10 (2) “drug paraphernalia” shall have the meaning ascribed to that term
11 in K.S.A. 65-4150, and amendments thereto.
- 12 (d) This section shall be part of and supplemental to the Kansas crim-
13 inal code.
- 14 Sec. 3. K.S.A. 2005 Supp. 21-3718 is hereby amended to read as
15 follows: 21-3718. (a) Arson is: (1) Knowingly *or while in the commission*
16 *of a felony*, by means of fire or explosive:
- 17 (A) Damaging any building or property which is a dwelling in which
18 another person has any interest without the consent of such other person;
- 19 (B) damaging any building or property which is a dwelling with intent
20 to injure or defraud an insurer or lienholder;
- 21 (C) damaging any building or property which is not a dwelling in
22 which another person has any interest without the consent of such other
23 person; or
- 24 (D) damaging any building or property which is not a dwelling with
25 intent to injure or defraud an insurer or lienholder;
- 26 (2) accidentally, by means of fire or explosive as a result of manufac-
27 turing or attempting to manufacture a controlled substance in violation
28 of K.S.A. 65-4159, and amendments thereto, damaging any building or
29 property which is a dwelling; ~~or~~
- 30 (3) accidentally, by means of fire or explosive as a result of manufac-
31 turing or attempting to manufacture a controlled substance in violation
32 of K.S.A. 65-4159, and amendments thereto, damaging any building or
33 property which is not a dwelling;
- 34 (4) *unintentionally, by means of fire or explosive, damaging any*
35 *building or property which is a dwelling in which another person has any*
36 *interest without the consent of such person, recklessly or during the com-*
37 *mission of a lawful act in an unlawful manner; or*
- 38 (5) *unintentionally, by means of fire or explosive, damaging any*
39 *building or property which is not a dwelling in which another person has*
40 *any interest without the consent of such person, recklessly or during the*
41 *commission of a lawful act in an unlawful manner.*
- 42 (b) (1) Arson, as described in subsection (a)(1)(A) or (a)(1)(B), is a
43 severity level 6, person felony.

1 (2) Arson, as described in subsection (a)(1)(C), (a)(1)(D) or (a)(3), is
2 a severity level 7, nonperson felony.

3 (3) Arson, as described in subsection (a)(2), is a severity level 7, per-
4 son felony.

5 (4) *Arson, as described in subsection (a)(4), is a severity level 8, non-*
6 *person felony.*

7 (5) *Arson, as described in subsection (a)(5), is a severity level 9, non-*
8 *person felony.*

9 Sec. 4. K.S.A. 21-3719 is hereby amended to read as follows: 21-
10 3719. (a) Aggravated arson is arson, as defined in K.S.A. 21-3718 and
11 amendments thereto, ~~and~~:

12 (1) Committed upon a building or property in which there is a human
13 being; *or*

14 (2) *which results in great bodily harm or disfigurement to a firefighter*
15 *or law enforcement officer in the course of fighting or investigating the*
16 *fire.*

17 (b) (1) Aggravated arson *as described in subsection (a)(1) resulting*
18 *in a substantial risk of bodily harm is a severity level 3, person felony.*

19 (2) Aggravated arson *as described in subsection (a)(1) resulting in no*
20 *substantial risk of bodily harm is a severity level 6, person felony.*

21 (3) *Aggravated arson as described in subsection (a)(2) is a severity*
22 *level 3, person felony.*

23 Sec. 5. K.S.A. 2005 Supp. 21-3731 is hereby amended to read as
24 follows: 21-3731. (a) Criminal use of explosives is the:

25 (1) Possession, manufacture or transportation of commercial explo-
26 sives; chemical compounds that form explosives; *a combination of chem-*
27 *icals, compounds or materials, including, but not limited to, the presence*
28 *of an acid, a base, dry ice or aluminum foil, that are placed in a container*
29 *for the purpose of generating a gas or gases to cause a mechanical failure,*
30 *rupture or bursting of the container; incendiary or explosive material,*
31 *liquid or solid; detonators; blasting caps; military explosive fuse assem-*
32 *blies; squibs; electric match or functional improvised fuse assemblies; or*
33 *any completed explosive devices commonly known as pipe bombs or mol-*
34 *otov cocktails. For purposes of this section, explosives shall not include*
35 ~~class "c" fireworks~~, *legally obtained and transferred commercial explo-*
36 *sives by licensed individuals and ammunition and commercially available*
37 *loading powders and products used as ammunition; and consumer*
38 *fireworks, unless such consumer fireworks are modified or assembled as*
39 *a device that deflagrates or explodes when used for a purpose not intended*
40 *by the manufacturer; or*

41 (2) *possession, creation or construction of a hoax explosive, destruc-*
42 *tive device, incendiary, radiological, biological or poison gas, bomb,*
43 *rocket, missile, mine, grenade, dispersal device or similar hoax device,*

- 1 *with intent to intimidate or cause alarm to another person.*
- 2 (b) (1) Criminal use of explosives as defined in subsection (a)(1) is a
3 severity level ~~8~~ 6, person felony.
- 4 (2) Criminal use of explosives as defined in subsection (a)(1) if: (A)
5 The possession, manufacture or transportation is intended to be used to
6 commit a crime or is delivered to another with knowledge that such other
7 intends to use such substance to commit a crime; (B) a public safety
8 officer is placed at risk to defuse such explosive; or (C) the explosive is
9 introduced into a building in which there is another human being, is a
10 severity level ~~6~~ 5, person felony.
- 11 (3) *Criminal use of explosives as defined in subsection (a)(2) is a se-*
12 *verity level 8, person felony.*
- 13 (c) *The provisions of subsection (a)(1) shall not prohibit law enforce-*
14 *ment officials, the United States military, public safety officials, accredited*
15 *educational institutions or licensed or registered businesses, and associ-*
16 *ated personnel, engaging in legitimate public safety training, demonstra-*
17 *tions or exhibitions requiring the authorized construction or use of such*
18 *simulated devices or materials.*
- 19 Sec. 6. K.S.A. 31-155 is hereby amended to read as follows: 31-155.
- 20 (a) Except as provided in subsection (c):
- 21 (1) It shall be unlawful to *possess, transport, sell, or offer to sell,* ~~or~~
22 ~~to possess with intent to sell or offer for sale~~ a bottle rocket; and
- 23 (2) it shall be unlawful to ignite, fire, set-off or otherwise use a bottle
24 rocket.
- 25 (b) Any person violating the provisions of subsection (a) shall be guilty
26 of an unclassified misdemeanor punishable by a fine of not more than
27 \$100.
- 28 (c) The provisions of this section shall not prohibit the possession or
29 transportation of bottle rockets by a manufacturer or wholesaler thereof
30 for sale outside this state if such manufacturer or wholesaler is currently
31 registered with the state fire marshal pursuant to K.S.A. 31-156, *and*
32 *amendments thereto.*
- 33 (d) As used in this act, “bottle rocket” means any pyrotechnic device
34 which:
- 35 (1) Is classified as a ~~class C 1.4 consumer~~ explosive by the United
36 States department of transportation under 49 C.F.R. 173.100 (1977);
- 37 (2) is mounted on a stick or wire; and
- 38 (3) projects into the air when ignited, with or without reports, and
39 includes any device with the same configuration, with or without reports,
40 which may be classified as a pipe or trough rocket. “Bottle rocket” does
41 not include helicopter-type rockets.
- 42 Sec. 7. K.S.A. 21-3719 and 31-155 and K.S.A. 2005 Supp. 21-3436,
43 21-3608a, 21-3718 and 21-3731 are hereby repealed.

1 Sec. 8. This act shall take effect and be in force from and after its
2 publication in the Kansas register.