

HOUSE BILL No. 2091

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning children and minors; relating to possession or
2 consumption of alcoholic beverages; immunity from liability for minor
3 seeking medical assistance; parental notification; amending K.S.A.
4 2016 Supp. 41-727 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2016 Supp. 41-727 is hereby amended to read as
8 follows: 41-727. (a) Except with regard to serving of alcoholic liquor or
9 cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a,
10 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and
11 subject to any rules and regulations adopted pursuant to such statutes, no
12 person under 21 years of age shall possess, consume, obtain, purchase or
13 attempt to obtain or purchase alcoholic liquor or cereal malt beverage
14 except as authorized by law.

15 (b) Violation of this section by a person 18 or more years of age but
16 less than 21 years of age is a class C misdemeanor for which the minimum
17 fine is \$200.

18 (c) Any person less than 18 years of age who violates this section is a
19 juvenile offender under the revised Kansas juvenile justice code. Upon
20 adjudication thereof and as a condition of disposition, the court shall
21 require the offender to pay a fine of not less than \$200 nor more than \$500.

22 (d) In addition to any other penalty provided for a violation of this
23 section: (1) The court may order the offender to do either or both of the
24 following:

25 (A) Perform 40 hours of public service; or

26 (B) attend and satisfactorily complete a suitable educational or
27 training program dealing with the effects of alcohol or other chemical
28 substances when ingested by humans.

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

34 (3) Upon a second conviction of a violation of this section, the court
35 shall order the division of vehicles to suspend the driving privilege of such
36 offender for 90 days. Upon receipt of the court order, the division shall

1 notify the violator and suspend the driving privileges of the violator for 90
2 days whether or not that person has a driver's license.

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

8 (e) This section shall not apply to the possession and consumption of
9 cereal malt beverage by a person under the legal age for consumption of
10 cereal malt beverage when such possession and consumption is permitted
11 and supervised, and such beverage is furnished, by the person's parent or
12 legal guardian.

13 (f) (1) A person and, if applicable, one or two other persons acting in
14 concert with such person are immune from criminal prosecution for a
15 violation of this section, and any city ordinance or county resolution
16 prohibiting the acts prohibited by this section, if such person:

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

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

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

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

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

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

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

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

40 (2) *The emergency medical services personnel or law enforcement*
41 *officer providing medical assistance pursuant to this subsection shall*
42 *notify the parents or guardians of any person who is immune from*
43 *criminal prosecution pursuant to this subsection of such immunity, if such*

1 *person is less than 18 years of age.*

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

5 (g) Any city ordinance or county resolution prohibiting the acts
6 prohibited by this section shall provide a minimum penalty which is not
7 less than the minimum penalty prescribed by this section.

8 (h) A law enforcement officer may request a person under 21 years of
9 age to submit to a preliminary screening test of the person's breath to
10 determine if alcohol has been consumed by such person if the officer has
11 reasonable grounds to believe that the person has alcohol in the person's
12 body except that, if the officer has reasonable grounds to believe the
13 person has been operating or attempting to operate a vehicle under the
14 influence of alcohol, the provisions of K.S.A. 8-1012, and amendments
15 thereto, shall apply. No waiting period shall apply to the use of a
16 preliminary breath test under this subsection. If the person submits to the
17 test, the results shall be used for the purpose of assisting law enforcement
18 officers in determining whether an arrest should be made for violation of
19 this section. A law enforcement officer may arrest a person based in whole
20 or in part upon the results of a preliminary screening test. Such results or a
21 refusal to submit to a preliminary breath test shall be admissible in court
22 in any criminal action, but are not per se proof that the person has violated
23 this section. The person may present to the court evidence to establish the
24 positive preliminary screening test was not the result of a violation of this
25 section.

26 (i) (1) Any person less than 18 years of age who violates only this
27 section shall not be detained or placed in a jail, as defined in K.S.A. 2016
28 Supp. 38-2302, and amendments thereto.

29 (2) Any person less than 18 years of age who is arrested only for a
30 violation of this section shall not be detained or placed in a juvenile
31 detention facility, as defined in K.S.A. 2016 Supp. 38-2302, and
32 amendments thereto, for a period exceeding 24 hours, excluding
33 Saturdays, Sundays and legal holidays.

34 (3) Any person less than 18 years of age at the time of the offense
35 who is adjudicated only of a violation of this section shall not be detained
36 in a jail, juvenile detention facility, juvenile correctional facility or
37 sanctions house, as defined in K.S.A. 2016 Supp. 38-2302, and
38 amendments thereto.

39 (j) This section shall be part of and supplemental to the Kansas liquor
40 control act.

41 Sec. 2. K.S.A. 2016 Supp. 41-727 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the statute book.