

## HOUSE BILL No. 2656

By Committee on Corrections and Juvenile Justice

Requested by Marlee Carpenter on behalf of the City of Wichita and the Wichita  
Police Department

1-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to crimes involving motor vehicles; creating the crime of engaging in a  
3 street stunt and providing criminal penalties therefor; adding engaging  
4 in a street stunt to the list of crimes included in fleeing or attempting to  
5 elude a police officer; amending K.S.A. 8-1568 and repealing the  
6 existing section.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Engaging in a street stunt is operating a motor  
10 vehicle in a group of two or more vehicles while engaging in a course of  
11 conduct affecting other vehicular traffic in an intersection or roadway  
12 disrupting the normal flow of traffic and:

13 (1) Causing other drivers or persons on or near the roadway to remain  
14 stopped when such drivers or persons are otherwise legally entitled to  
15 proceed or to take evasive action to avoid being struck by a motor vehicle  
16 when a reasonable person would fear for the safety of themselves or  
17 others;

18 (2) resulting in damage to another person's vehicle or property; or

19 (3) resulting in injury to another person.

20 (b) Engaging in a street stunt as described in:

21 (1) Subsection (a)(1) is a:

22 (A) Class A person misdemeanor, except as provided in subsection  
23 (b)(1)(B); and

24 (B) severity level 10, person felony upon a second or subsequent  
25 conviction; and

26 (2) subsection (a)(2) or (a)(3) is a:

27 (A) Severity level 9, person felony, except as provided in subsection  
28 (b)(2)(B); and

29 (B) severity level 5, person felony upon a second or subsequent  
30 conviction.

31 (c) As used in this section:

32 (1) "Course of conduct" means three or more of the following acts or  
33 violations over a period of time, however short, that evidences a continuity  
34 of purpose:

- 1 (A) Failure to comply with a traffic control device as described in  
2 K.S.A. 8-1507 through 8-1511, and amendments thereto;
- 3 (B) improper lane use as described in K.S.A. 8-1514 through 8-1522,  
4 and amendments thereto;
- 5 (C) improper overtaking or passing as described in K.S.A. 8-1515  
6 through 8-1518, and amendments thereto;
- 7 (D) driving left of center as described in K.S.A. 8-1519, and  
8 amendments thereto;
- 9 (E) failure to yield the right-of-way as described in K.S.A. 8-1526  
10 through 8-1533 or 8-1540, and amendments thereto;
- 11 (F) stop or yield sign violation as described in K.S.A. 8-1528, and  
12 amendments thereto;
- 13 (G) making an illegal turn as described in K.S.A. 8-1545 through 8-  
14 1550, and amendments thereto;
- 15 (H) failure to stop when exiting a driveway, alley or building as  
16 described in K.S.A. 8-1555, and amendments thereto;
- 17 (I) speeding or exhibition of speed as described in K.S.A. 8-1557  
18 through 8-1560b, and amendments thereto;
- 19 (J) impeding the flow of traffic as described in K.S.A. 8-1561, and  
20 amendments thereto;
- 21 (K) reckless driving as described in K.S.A. 8-1566, and amendments  
22 thereto;
- 23 (L) stopping, standing or parking a vehicle in the driving lanes of a  
24 roadway to confront the occupants of another vehicle as described in  
25 K.S.A. 8-1569, 8-1571 or 8-1572, and amendments thereto;
- 26 (M) improper backing as described in K.S.A. 8-1574, and  
27 amendments thereto;
- 28 (N) driving on a sidewalk as described in K.S.A. 8-1575, and  
29 amendments thereto;
- 30 (O) violation of special rules for motorcycles as described in K.S.A.  
31 8-1594 through 8-1598, and amendments thereto;
- 32 (P) violation of requirements for display of registration plate as  
33 described in K.S.A. 8-133 or 8-15,110, and amendments thereto;
- 34 (Q) failure to use lighted head lamps when required by law as  
35 described in K.S.A. 8-1703, and amendments thereto;
- 36 (R) failure to have tail lamps or stop lamps as described in K.S.A. 8-  
37 1706, 8-1708, 8-1802 or 8-1804, and amendments thereto;
- 38 (S) disorderly conduct as described in K.S.A. 21-6203, and  
39 amendments thereto; or
- 40 (T) driving in a circle in an intersection or near pedestrians or  
41 occupied vehicles in the roadway.
- 42 (2) "Course of conduct" does not include constitutionally protected  
43 activity or conduct that is necessary to accomplish a lawful purpose.

1 (d) A person who violates the provisions of this section may also be  
2 prosecuted for, convicted of and punished for any offense in chapter 21 of  
3 the Kansas Statutes Annotated, and amendments thereto, resulting from  
4 engaging in a street stunt.

5 Sec. 2. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568.

6 (a) (1) (A) Any driver of a motor vehicle who knowingly fails or refuses to  
7 bring such driver's vehicle to a stop for a pursuing police vehicle or police  
8 bicycle, when given visual or audible signal to bring the vehicle to a stop,  
9 shall be guilty as provided by subsection (c)(1).

10 (B) Any driver of a motor vehicle who knowingly otherwise flees or  
11 attempts to elude a pursuing police vehicle or police bicycle, when given  
12 visual or audible signal to bring the vehicle to a stop, shall be guilty as  
13 provided by subsection (c)(1).

14 (2) It shall be an affirmative defense to any prosecution under  
15 subsection (a)(1) that the driver's conduct in violation of such subsection  
16 was caused by such driver's reasonable belief that the vehicle or bicycle  
17 pursuing such driver's vehicle is not a police vehicle or police bicycle.

18 (b) Any driver of a motor vehicle who knowingly fails or refuses to  
19 bring such driver's vehicle to a stop, or who otherwise flees or attempts to  
20 elude a pursuing police vehicle or police bicycle, when given visual or  
21 audible signal to bring the vehicle to a stop, and who:

22 (1) Commits any of the following during a police pursuit, shall be  
23 guilty as provided by subsection (c)(2):

24 (A) Fails to stop for a police road block;

25 (B) drives around tire deflating devices placed by a police officer;

26 (C) engages in reckless driving as defined by K.S.A. 8-1566, and  
27 amendments thereto;

28 (D) is involved in any motor vehicle accident or intentionally causes  
29 damage to property;

30 (E) commits five or more moving violations; or

31 (F) is operating a stolen motor vehicle;

32 (2) is attempting to elude capture for the commission of any felony,  
33 shall be guilty as provided by subsection (c)(2);

34 (3) *is attempting to elude capture for the commission of engaging in*  
35 *a street stunt in violation of section 1, and amendments thereto, shall be*  
36 *guilty as provided by subsection (c)(3); or*

37 ~~(3)(4)~~ knowingly drives the wrong way into an opposing lane of  
38 travel on a divided highway as defined in K.S.A. 8-1414, and amendments  
39 thereto, knowingly departs the appropriate lane of travel into an opposing  
40 lane of travel on any roadway causing an evasive maneuver by another  
41 driver, knowingly drives through any intersection causing an evasive  
42 maneuver by another driver or causes a collision involving another driver,  
43 shall be guilty as provided by subsection (c)(3).

1 (c) (1) Violation of subsection (a) is a:

2 (A) Class B nonperson misdemeanor when the person being  
3 sentenced has no prior convictions for a violation of subsection (a) or (b);

4 (B) class A nonperson misdemeanor when the person being sentenced  
5 has one prior conviction for a violation of subsection (a) or (b); or

6 (C) severity level 9, person felony when the person being sentenced  
7 has two or more prior convictions for a violation of subsection (a) or (b).

8 (2) Violation of subsection (b)(1) or (b)(2) is a severity level 9,  
9 person felony.

10 (3) Violation of subsection (b)(3) *or* (b)(4) is a severity level 7,  
11 person felony.

12 (4) In addition to the penalty described in paragraph (2), the court  
13 shall impose a fine of not less than \$500 when the driver is operating a  
14 stolen motor vehicle during the commission of the offense.

15 (d) The signal given by the police officer may be by hand, voice,  
16 emergency light or siren:

17 (1) If the officer giving such signal is within or upon an official police  
18 vehicle or police bicycle at the time the signal is given, the vehicle or  
19 bicycle shall be appropriately marked showing it to be an official police  
20 vehicle or police bicycle; or

21 (2) if the officer giving such signal is not utilizing an official police  
22 vehicle or police bicycle at the time the signal is given, the officer shall be  
23 in uniform, prominently displaying such officer's badge of office at the  
24 time the signal is given.

25 (e) For the purpose of this section:

26 (1) "Conviction" means a final conviction without regard to whether  
27 sentence was suspended or probation granted after such conviction.  
28 Forfeiture of bail, bond or collateral deposited to secure a defendant's  
29 appearance in court, which forfeiture has not been vacated, shall be  
30 equivalent to a conviction. For the purpose of determining whether a  
31 conviction is a first, second, third or subsequent conviction in sentencing  
32 under this section, it is irrelevant whether an offense occurred before or  
33 after conviction for a previous offense.

34 (2) "Appropriately marked" official police vehicle or police bicycle  
35 shall include, but not be limited to, any police vehicle or bicycle equipped  
36 with functional emergency lights or siren or both and which the emergency  
37 lights or siren or both have been activated for the purpose of signaling a  
38 driver to stop a motor vehicle.

39 (f) The division of vehicles of the department of revenue shall  
40 promote public awareness of the provisions of this section when persons  
41 apply for or renew such person's driver's license.

42 Sec. 3. K.S.A. 8-1568 is hereby repealed.

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the statute book.