

SENATE BILL No. 112

By Committee on Judiciary

1-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to controlled substances; unlawful possession of drug paraphernalia;  
3 ~~penalty~~ **burglary**; amending K.S.A. 2016 Supp. 21-5709 **and 21-5807**  
4 and repealing the existing ~~section~~ **sections**.

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

7 Section 1. K.S.A. 2016 Supp. 21-5709 is hereby amended to read as  
8 follows: 21-5709. (a) It shall be unlawful for any person to possess  
9 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,  
10 iodine, anhydrous ammonia, pressurized ammonia or  
11 phenylpropanolamine, or their salts, isomers or salts of isomers with an  
12 intent to use the product to manufacture a controlled substance.

13 (b) It shall be unlawful for any person to use or possess with intent to  
14 use any drug paraphernalia to:

15 (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or  
16 distribute a controlled substance; or

17 (2) store, contain, conceal, inject, ingest, inhale or otherwise  
18 introduce a controlled substance into the human body.

19 (c) It shall be unlawful for any person to use or possess with intent to  
20 use anhydrous ammonia or pressurized ammonia in a container not  
21 approved for that chemical by the Kansas department of agriculture.

22 (d) It shall be unlawful for any person to purchase, receive or  
23 otherwise acquire at retail any compound, mixture or preparation  
24 containing more than 3.6 grams of pseudoephedrine base or ephedrine  
25 base in any single transaction or any compound, mixture or preparation  
26 containing more than nine grams of pseudoephedrine base or ephedrine  
27 base within any 30-day period.

28 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

29 (2) violation of subsection (b)(1) is a:

30 (A) Drug severity level 5 felony, except as provided in subsection (e)  
31 (2)(B); and

32 (B) class ~~A~~ *B* nonperson misdemeanor if the drug paraphernalia was  
33 used to cultivate fewer than five marijuana plants;

34 (3) violation of subsection (b)(2) is a class ~~A~~ *B* nonperson  
35 misdemeanor;

36 (4) violation of subsection (c) is a drug severity level 5 felony; and

1 (5) violation of subsection (d) is a class A nonperson misdemeanor.

2 (f) For persons arrested and charged under subsection (a) or (c), bail  
3 shall be at least \$50,000 cash or surety, and such person shall not be  
4 released upon the person's own recognizance pursuant to K.S.A. 22-2802,  
5 and amendments thereto, unless the court determines, on the record, that  
6 the defendant is not likely to reoffend, the court imposes pretrial  
7 supervision or the defendant agrees to participate in a licensed or certified  
8 drug treatment program.

9 *Sec. 2. K.S.A. 2016 Supp. 21-5807 is hereby amended to read as*  
10 *follows: 21-5807. (a) Burglary is, without authority, entering into or*  
11 *remaining within any:*

12 (1) *Dwelling, with intent to commit a felony, theft or sexually*  
13 *motivated crime therein;*

14 (2) *building, manufactured home, mobile home, tent or other*  
15 *structure which is not a dwelling, with intent to commit a felony, theft or*  
16 *sexually motivated crime therein; or*

17 (3) *vehicle, aircraft, watercraft, railroad car or other means of*  
18 *conveyance of persons or property, with intent to commit a felony, theft*  
19 *or sexually motivated crime therein.*

20 (b) *Aggravated burglary is, without authority, entering into or*  
21 *remaining within any:*

22 (1) *Dwelling in which there is a human being, with intent to*  
23 *commit a felony, theft or sexually motivated crime therein;*

24 (2) *building, manufactured home, mobile home, tent or other*  
25 *structure which is not a dwelling in which there is a human being, with*  
26 *intent to commit a felony, theft or sexually motivated crime therein; or*

27 (3) *vehicle, aircraft, watercraft, railroad car or other means of*  
28 *conveyance of persons or property in which there is a human being, with*  
29 *intent to commit a felony, theft or sexually motivated crime therein.*

30 (c) (1) *Burglary as defined in:*

31 (A) (i) *Subsection (a)(1) ~~is~~ is a severity level 7, person felony, except*  
32 *as provided in subsection (c)(1)(B);*

33 (ii) *subsection (a)(2) is a severity level 7, nonperson felony, except*  
34 *as provided in subsection (c)(1)(B); and*

35 (iii) *subsection (a)(3) is a severity level 9, nonperson felony,*  
36 *except as provided in subsection (c)(1)(B); and*

37 (B) (i) *subsection (a)(1), with intent to commit the theft of a*  
38 *firearm, is a severity level 5, person felony; and*

39 (ii) *subsection (a)(2) or (a)(3), with intent to commit the theft of a*  
40 *firearm, is a severity level 5, nonperson felony.*

41 (2) *Aggravated burglary as defined in:*

42 (A) *Subsection (b)(1) is a severity level 4, person felony; and*

43 (B) *subsection (b)(2) or (b)(3) is a severity level 5, person felony.*

1        *(d) As used in this section, "sexually motivated" means that one of*  
2 *the purposes for which the defendant committed the crime was for the*  
3 *purpose of the defendant's sexual gratification.*

4        *(e) This section shall not apply to any person entering into or*  
5 *remaining in a retail or commercial premises at any time that it is open*  
6 *to the public after having received a personal communication from the*  
7 *owner or manager of such premises not to enter such premises pursuant*  
8 *to K.S.A. 2016 Supp. 21-5808, and amendments thereto, except when*  
9 *such person is entering into or remaining in such premises with the*  
10 *intent to commit a person felony or sexually motivated crime therein.*

11        ~~Sec.-2: 3.~~ K.S.A. 2016 Supp. 21-5709 ~~is and 21-5807 are~~ hereby  
12 repealed.

13        ~~Sec.-3: 4.~~ This act shall take effect and be in force from and after its  
14 publication in the statute book.