

**Kansas Statutes Flying While Intoxicated**  
**January 11, 2020**

3-1001. Operation of aircraft under influence of intoxicating liquor unlawful.

It is unlawful and punishable as provided in K.S.A. [3-1003](#) for any person who is under the influence of intoxicating liquor or when any person has .10% or more by weight of alcohol in such person's body fluid as shown by chemical analysis of blood, breath or urine to operate or be in physical control of any aircraft within this state.

*History: L. 1981, ch. 138, § 1; July 1.*

3-1002. Operation of aircraft under influence of certain drugs unlawful.

It is unlawful and punishable as provided in K.S.A. [3-1003](#) for any person who is under the influence of any narcotic, hypnotic, somnifacient or stimulating drug or who is under the influence of any other drug to a degree which renders such person incapable of safely operating an aircraft to operate an aircraft within this state. The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

*History: L. 1981, ch. 138, § 2; July 1.*

3-1003. Penalties; driving records to court; nonoperation for 6 months; probation.

- (a) Every person who is convicted of a violation of either K.S.A. [3-1001](#) or [3-1002](#) shall be punished by imprisonment of not more than one year, or by a fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment. On a second or subsequent conviction, every person shall be punished by imprisonment for not less than 30 days nor more than one year, and, in the discretion of the court, a fine of not more than \$500. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor-vehicle laws of this state.
- (b) The court shall as part of the judgment of conviction, order every such person not to operate an aircraft for any purpose for a period of six months from the date of final discharge from the county jail, or the date of payment or satisfaction of such fine, whichever is the later or one year from such time on a second conviction. Except in the event that the court suspends the sentence and places the person on probation as provided by law, the court as one of the conditions of probation shall order such person not to operate an aircraft for any purpose for a period of 30 days from the date of the order on a first conviction or 60 days from the date of the order on a second conviction.

*History: L. 1981, ch. 138, § 3; July 1.*

3-1004. Consent to chemical test; administration of tests; unreasonable refusal unlawful, penalty.

Any person who operates or has actual physical control of an aircraft within this state shall be deemed to have given consent to submit to a chemical test of blood, urine or breath, for the purpose of determining the amount of alcoholic content in such person's body fluid, if such person is arrested or otherwise taken into custody for any offense involving operating an aircraft under the influence of intoxicating liquor in violation of a state statute or a city ordinance and the arresting officer has reasonable grounds to believe that prior to arrest the person was operating an aircraft under the influence of intoxicating liquor. The test shall be administered at the direction of a law enforcement officer. If a law enforcement officer requests the arrested person to submit to a chemical test of blood, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician. No person

authorized by this section to withdraw blood, nor any person assisting in the performance of a blood alcohol test or any hospital wherein such blood is withdrawn or tested that has been directed by any law enforcement officer to withdraw or test blood shall be liable in any civil or criminal action when such act is performed in a reasonable manner according to generally accepted medical practices in the community where performed. No law enforcement officer who is acting pursuant to this section shall be liable for such action in any civil or criminal proceeding involving such action. If the person refuses a request to submit to a test of breath or blood, it shall not be given and the law enforcement officer shall arrest such person for refusal to submit to a blood alcohol test. Unreasonable refusal to submit to a blood alcohol test under this section is a class C misdemeanor.

History: L. 1981, ch. 138, § 4; July 1.

3-1005. Chemical tests; additional tests; presumptions; other evidence.

- (a) Without limiting or affecting the provisions of K.S.A. [3-1004](#), the person tested shall have a reasonable opportunity to have an additional chemical test by a physician of such person's own choosing. If the law enforcement officer refuses to permit such additional chemical test to be taken, the original test shall not be competent evidence.
- (b) In any criminal prosecution for violation of K.S.A. [3-1001](#) or [3-1002](#), evidence of the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following presumptions:
  - (1) If there was at that time less than .10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;
  - (2) if there was at the time .10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
- (c) For the purpose of this act, percent by weight of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.
- (d) Upon the request of any person submitting to a chemical test under this act, a report of the test shall be delivered to such person.
- (e) Subsection (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

History: L. 1981, ch. 138, § 5; July 1.