

**32-1131. Operating vessel under influence of alcohol or drugs; crime.** (a) No person shall operate or attempt to operate any vessel within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel, is .08 or more;

(3) the alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;

(4) under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel;

(5) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(6) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

(b) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

(d) Except as provided by subsection (e), violation of this section is a misdemeanor punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than \$100 nor more than \$500, or both; and

(2) on the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than \$100 nor more than \$500.

(e) Subsection (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132, and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

(f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction approved by the secretary before such person subsequently operates or attempts to operate any vessel.

**History:** L. 1987, ch. 403, § 2; L. 1993, ch. 259, § 10; L. 1999, ch. 113, § 1; L. 2013, ch. 122, § 11; Jan. 1, 2014.