

2019 Standard Traffic Ordinance and Uniform Public Offense Code Changes

By Amanda L. Stanley, General Counsel, League of Kansas Municipalities

The 2019 editions of the Standard Traffic Ordinance (STO) and the Uniform Public Offense Code (UPOC) are now available for cities to order. (Order copies online at www.lkm.org.) This article describes the legislative changes to both publications and changes made by the editor.

STO

In 2019, the legislature passed six bills – HB 2104, SB 63, SB 41, SB 17, HB 2125, and HB 2211 – affecting the STO.

HB 2104 amended the statute related to preliminary breath tests of DUI suspects and resulted in the removal of portions of STO, Section 30.2. Subsection (a), which contained language establishing that every driver of a vehicle was deemed to have given consent to a preliminary breath test. Subsection (c), which required an officer to give both written and oral notice to the suspect has also been deleted. Subsection (b), which will now be subsection (a), has been amended by deleting the word saliva and replacing it with the term oral fluid. The bill also removed the traffic infraction for refusing to submit to a preliminary breath test from the state statutes. The League removed that charge in the 2016 edition of the STO due to concerns with the constitutionality of the charge.

SB 63 resulted in eight changes to the STO, creating new sections and definitions, as well as amending existing sections. Section 76 of the STO requires a driver to stop at a railroad grade crossing under certain circumstances. The amended section has expanded the requirement to stop for a train and also for “other on-track equipment”. This bill also made changes to Section 114.1, Unlawful Operation of an All-Terrain Vehicle (ATV) and Section 114.5, Unlawful Operation of a Work-Site Utility Vehicle (UTV). The change is the same for both sections and concerns the operation of these vehicles when used for an agricultural purpose. Both ATV’s and UTV’s can now be operated on federal and state highways with a speed limit of 65 MPH or less if they are being used for an agricultural purpose and the operators meet other requirements. They are not authorized under this bill to operate within any city limits unless authorized by a city. If a city currently allows the operation of these vehicles within the city they can, if they choose, amend the city ordinance to allow the operation on a state or federal highway if all the requirements surrounding the agricultural purpose exemption are included.

The League introduced a bill this year concerning the regulation of electric-assisted scooters which was passed as a part of SB 63. This change required the addition of new STO Section 135.1, Electric-

Assisted Scooters, as well as an additional definition in Section 1 of the STO. The bill mandates that electric-assisted scooters are subject to the traffic regulations applicable to bicycles, found in Sections 127 to 133, of the STO. Cities have the ability to pass an ordinance to provide additional regulations and controls if there is a need. This new STO section contains an editor’s note reminding cities of this ability to further regulate the operation of these vehicles.

SB 63 also created the need for new STO Section 169.1, Transportation Network Lighting Devices, and an amendment to Section 169, Special Restrictions on Lamps. This change will allow ride share company drivers to place a light, of any color other than red, indicating they are on duty and make it easier for consumers to recognize the ride share vehicles. The bill states that a city can authorize this change by passing an ordinance. So, by adopting the 2019 STO, the city will be authorizing transportation network drivers to use these lights.

STO Section 181, One-Way Glass and Sun Screening Devices, is also amended by SB 63. The changes are related to the ability to place protective sun screening on the windshield of a vehicle. The sun screen must have a minimum light transmittance of 70%, be designed to reduce harmful ultraviolet A or B rays, and the driver or occupant of the vehicle must have a signed statement from a doctor indicating the sun screen is necessary for the health of the individual. This bill was brought to the legislature by the family of a young boy who is allergic to the sun and they were concerned he would never be able to drive a car because they could not legally place material on the windshield of a car to protect him from the sun’s harmful rays.

SB 41 amended the seat belt statute making a clear statement that a violation is a traffic infraction. This change resulted in a need to edit STO Section 182.1 to add the traffic infraction language.

SB 17 makes changes concerning motorcycles and drivers license classification. Prior to the changes of SB 17, a person who did not have an M classification drivers license could operate a motorcycle that had a temporary license plate. The M classification was not required until the motorcycle had a permanent license plate. STO Section 192, Driver’s License, has been amended, based on SB 17, and now requires any person operating a motorcycle to have a class M driver’s license regardless of the motorcycle’s license plate status.

HB 2125 deals with providing a driver’s license to a law enforcement officer when requested. This bill was brought to the legislature due to some agencies having incidents of individuals refusing to hand their license to an officer claiming that the law only required them to

display the license. The statute now clearly states a driver is required to promptly deliver their license to an officer when requested. This change required an amendment to STO Section 193, Driver's License in Possession, to reflect the changes made by HB 2125.

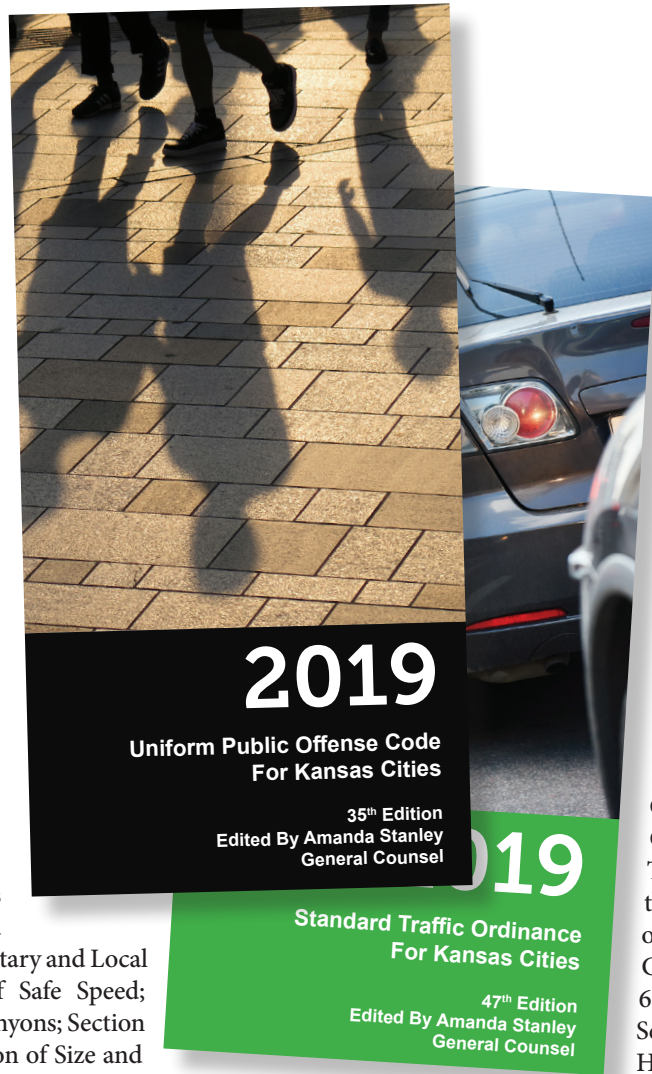
The final bill to change the STO this session was HB 2211. This bill allows a municipal court judge to waive the driver's license reinstatement fee upon showing of manifest hardship. This change required an amendment to STO Section 201.1.

In addition to the changes made by the Legislature, the editor decided it was time for a complete update of the STO to ensure it closely matched the Uniform Traffic Code in Kansas Statutes. This involved the addition of several new sections previous editors had decided to exclude. These sections include: Section 6.1., Road Construction Zone; Section 33.1., Special Speed Limitations Applicable to Certain Vehicles and Portions of Highways; Powers of Secretary and Local Authorities; Violations, Evidence of Safe Speed; Section 38.1., Driving in Defiles or Canyons; Section 105.1., Criminal Penalties for Violation of Size and Weight Laws; Exceptions; Section 105.2., Width of Vehicles and Loads Thereon; Section 105.3., Projecting Loads to the Front and Rear; Section 151.1., Air Conditioning Equipment; and Section 158.1., Lights; Lamps and Reflectors on Farm Tractors; Slow-moving Vehicle and Slow-moving Vehicle Emblem Defined; Requirements for Slow-moving Vehicles; Unlawful Acts; Exception.

The following sections were amended: Section 115., Unlawful Riding on Vehicles; Section 156., Lamps or Flags on Projecting Loads; and Section 158., Lamps on Other Vehicles and Equipment.

UPOC

The Legislative Session resulted in the UPOC having a few changes this year, with most of the changes being related to marijuana and cannabidiol. SB 28 creates an affirmative defense for products containing THC, the hallucinogenic ingredient in marijuana. If a person is being prosecuted for marijuana possession because of the use of a cannabidiol treatment preparation, as defined by statute, and the individual has a statement from a licensed physician that the person suffers from a debilitating medical condition, the person would not be guilty of possession. This change in Kansas law has resulted in the amendment of UPOC Section 1.1, Definitions, by the addition of definitions for both cannabidiol treatment preparation and debilitating medical condition. UPOC Section 9.9.1., Unlawful Possession of Marijuana and Tetrahydrocannabinols, has been amended to provide the requirements for meeting the affirmative defense now available to individuals.



In addition to changes due to the 2019 session, the editor decided it was time for a complete update of the UPOC to ensure it closely matched the Kansas Criminal Code. This involved the addition of several new sections previous editors had decided to exclude. The following sections were added or modified: Section 3.1.1., Domestic Battery; Section 3.2.1., Sexual Battery; Section 3.4., Unlawful Interference with an Emergency Medical Services Attendant; Section 3.7.1., Interference with Custody of a Committed Person; Section 3.10., Hazing; Section 3.13., Stalking; Section 5.1.2., Unlawful Possession of a Visual Depiction of a Child; Section 5.1.3., Unlawful Transmission of a Visual Depiction of a Child; Section 5.3., Unlawfully Hosting Minors Consuming Alcoholic Liquor or Cereal Malt Beverages; Section 6.1., Theft; Section 6.6., Criminal Damage to Property; Section 6.7.1., Trespassing on Railroad Property; Section 6.16., Giving a Worthless Check; Section 6.23.1., Unlawful Use of Recordings; Section 6.24., Commercial Fossil Hunting; Section 6.25., Counterfeiting, Section 6.26., Automobile Master Key Violation; Section 7.4., Interference

with the Judicial Process; Section 7.15., Intimidation of a Witness or Victim; Section 7.16., Obstructing Apprehension or Prosecution; Section 8.2., Unlawful disclosure of Tax Information; Section 8.3., Unjustifiably Exposing a Convicted or Charged Person; Section 9.9.2., Possession of Drug Paraphernalia and Simulated Controlled Substances; Section 9.9.3., Unlawful Distribution of Controlled Substances; Section 9.9.4., Unlawful Possession of Controlled Substances; Section 9.9.5., Unlawful Possession of a Simulated Substance; Section 9.9.6., Distribution of a Non-controlled Substance; Section 10.2., Possession of a Firearm Under the Influence; Section 10.4., Failure to Register Explosives; Section 10.21., Selling Beverage Containers with Detachable Tabs; Section 10.28., Endangering the Food Supply; Section 11.1., Promoting Obscenity; Section 11.2., Promoting Obscenity to Minors; Section 11.9.1., Illegal Bingo Operation; Section 11.10., Possession of a Gambling Device; Section 11.11., Cruelty to Animals; Section 11.13., Unlawful Possession of Dog Fighting Paraphernalia; Unlawful Attendance of Dog Fighting; Section 11.14., Illegal Animal Ownership; Section 11.15., Permitting a Dangerous Animal to be at Large; and Section 11.16., False Membership Claim. 🌻

🌻 **Amanda L. Stanley** is the League's General Counsel. She can be reached at astanley@lkm.org or (785) 354-9565.