ORDINANCE G-1212

AN ORDINANCE AMENDING SECTION 302.120, ENTITLED "AMENDMENT TO SECTION 300.030.2 OF THE STANDARD TRAFFIC ORDINANCE: PRELIMINARY BREATH TEST" OF CHAPTER 302, ENTITLED "GENERAL PROVISIONS," OF TITLE III, ENTITLED "TRAFFIC CODE" OF THE CODE OF ORDINANCES OF THE CITY OF JUNCTION CITY, KANSAS, TO MAINTAIN REFUSAL OF A PRELIMINARY BREATH TEST AS A TRAFFIC INFRACTION

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

SECTION 1: Section 302.120 – "Amendment to Section 300.030.2 of the Standard Traffic Ordinance; Preliminary Breath Test" of the Code of Ordinances of the City of Junction City, Kansas is hereby amended to read as follows:

SECTION 302.120: - AMENDMENT TO SECTION 300.030.2 OF THE STANDARD TRAFFIC ORDINANCE; PRELIMINARY BREATH TEST.

Section 300.030.2 of the Standard Traffic Ordinance of Kansas Cities as adopted from year to year shall be amended to read as follows:

A. Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath or saliva, or both, subject to the provisions set out in Subsection (B).

B. A law enforcement officer may request a person who is operating or attempting to operate a vehicle within this state to submit to a preliminary screening test of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.

C. At the time the test is requested, the person shall be given oral notice that:

1. There is no right to consult with an attorney regarding whether to submit to testing;

2. Refusal to submit to testing is a traffic infraction; and
3. Further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

D. Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001, and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001, and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001, and amendments thereto.

E. Any preliminary screening of a person's breath shall be conducted with a device approved pursuant to K.S.A. 65-1,107, and amendments thereto.

SECTION 2. All ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

SECTION 3. This Ordinance shall be effective upon publication as required by law.

Passed and adopted by the Governing Body of the City of Junction City, Kansas this 17th day of October, 2017.
CITY OF JUNCTION CITY, KANSAS

Phyllis Fitzgerald
Mayor

ATTEST:

Shawna Settles, City Clerk