

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.