

HOUSE BILL No. 2452

By Representative Ward

1-13

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to the criminal use of weapons; amending K.S.A. 2015 Supp. 21-6301
3 and repealing the existing section.
4

5 WHEREAS, The provisions of K.S.A. 2015 Supp. 21-6301(a) and (b),
6 as amended by this act, shall be known and may be cited as the Kansas
7 protection against terrorists act; Now, therefore,
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2015 Supp. 21-6301 is hereby amended to read as
11 follows: 21-6301. (a) Criminal use of weapons is knowingly:

12 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
13 sand club, metal knuckles or throwing star;

14 (2) possessing with intent to use the same unlawfully against another,
15 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged
16 razor, stiletto or any other dangerous or deadly weapon or instrument of
17 like character;

18 (3) setting a spring gun;

19 (4) possessing any device or attachment of any kind designed, used or
20 intended for use in suppressing the report of any firearm;

21 (5) selling, manufacturing, purchasing or possessing a shotgun with a
22 barrel less than 18 inches in length, or any firearm designed to discharge or
23 capable of discharging automatically more than once by a single function
24 of the trigger, whether the person knows or has reason to know the length
25 of the barrel or that the firearm is designed or capable of discharging
26 automatically;

27 (6) possessing, manufacturing, causing to be manufactured, selling,
28 offering for sale, lending, purchasing or giving away any cartridge which
29 can be fired by a handgun and which has a plastic-coated bullet that has a
30 core of less than 60% lead by weight, whether the person knows or has
31 reason to know that the plastic-coated bullet has a core of less than 60%
32 lead by weight;

33 (7) selling, giving or otherwise transferring any firearm with a barrel
34 less than 12 inches long to any person under 18 years of age whether the
35 person knows or has reason to know the length of the barrel;

36 (8) selling, giving or otherwise transferring any firearms to any

1 person who is both addicted to and an unlawful user of a controlled
 2 substance;

3 (9) selling, giving or otherwise transferring any firearm to any person
 4 who is or has been a mentally ill person subject to involuntary
 5 commitment for care and treatment, as defined in K.S.A. 59-2946, and
 6 amendments thereto, or a person with an alcohol or substance abuse
 7 problem subject to involuntary commitment for care and treatment as
 8 defined in K.S.A. 59-29b46, and amendments thereto;

9 (10) possessing any firearm by a person who is both addicted to and
 10 an unlawful user of a controlled substance;

11 (11) possessing any firearm by any person, other than a law
 12 enforcement officer, in or on any school property or grounds upon which is
 13 located a building or structure used by a unified school district or an
 14 accredited nonpublic school for student instruction or attendance or
 15 extracurricular activities of pupils enrolled in kindergarten or any of the
 16 grades one through 12 or at any regularly scheduled school sponsored
 17 activity or event whether the person knows or has reason to know that such
 18 person was in or on any such property or grounds;

19 (12) refusing to surrender or immediately remove from school
 20 property or grounds or at any regularly scheduled school sponsored
 21 activity or event any firearm in the possession of any person, other than a
 22 law enforcement officer, when so requested or directed by any duly
 23 authorized school employee or any law enforcement officer;

24 (13) possessing any firearm by a person who is or has been a
 25 mentally ill person subject to involuntary commitment for care and
 26 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
 27 persons with an alcohol or substance abuse problem subject to involuntary
 28 commitment for care and treatment as defined in K.S.A. 59-29b46, and
 29 amendments thereto; ~~or~~

30 (14) possessing a firearm with a barrel less than 12 inches long by
 31 any person less than 18 years of age; *or*

32 (15) *selling, giving or otherwise transferring any firearm to any*
 33 *person who is identified in the terrorist screening database, or any*
 34 *successor list or database, maintained and operated by the United States*
 35 *federal bureau of investigation.*

36 (b) Criminal use of weapons as defined in:

37 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), ~~(a)(9)~~ or (a)(12) is a
 38 class A nonperson misdemeanor;

39 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
 40 felony;

41 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
 42 misdemeanor;

43 (4) subsection (a)(9), (a)(13) *or (a)(15)* is a severity level 8,

1 nonperson felony; and

2 (5) subsection (a)(14) is a:

3 (A) Class A nonperson misdemeanor except as provided in subsection
4 (b)(5)(B);

5 (B) severity level 8, nonperson felony upon a second or subsequent
6 conviction.

7 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

8 (1) Law enforcement officers, or any person summoned by any such
9 officers to assist in making arrests or preserving the peace while actually
10 engaged in assisting such officer;

11 (2) wardens, superintendents, directors, security personnel and
12 keepers of prisons, penitentiaries, jails and other institutions for the
13 detention of persons accused or convicted of crime, while acting within the
14 scope of their authority;

15 (3) members of the armed services or reserve forces of the United
16 States or the Kansas national guard while in the performance of their
17 official duty; or

18 (4) the manufacture of, transportation to, or sale of weapons to a
19 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
20 such weapons.

21 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
22 sells, purchases, possesses or carries a firearm, device or attachment which
23 has been rendered unserviceable by steel weld in the chamber and
24 marriage weld of the barrel to the receiver and which has been registered
25 in the national firearms registration and transfer record in compliance with
26 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
27 transfers such firearm, device or attachment to another person, has been so
28 registered in the transferee's name by the transferor.

29 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
30 solid plastic bullets.

31 (f) Subsection (a)(4) shall not apply to a law enforcement officer who
32 is:

33 (1) Assigned by the head of such officer's law enforcement agency to
34 a tactical unit which receives specialized, regular training;

35 (2) designated by the head of such officer's law enforcement agency
36 to possess devices described in subsection (a)(4); and

37 (3) in possession of commercially manufactured devices which are:

38 (A) Owned by the law enforcement agency;

39 (B) in such officer's possession only during specific operations; and

40 (C) approved by the bureau of alcohol, tobacco, firearms and
41 explosives of the United States department of justice.

42 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
43 employed by a laboratory which is certified by the United States

1 department of justice, national institute of justice, while actually engaged
 2 in the duties of their employment and on the premises of such certified
 3 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
 4 manufacture of, transportation to or sale of weapons to such certified
 5 laboratory.

6 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
 7 person or entity in compliance with the national firearms act, 26 U.S.C. §
 8 5801 et seq.

9 (i) Subsection (a)(11) shall not apply to:

10 (1) Possession of any firearm in connection with a firearms safety
 11 course of instruction or firearms education course approved and authorized
 12 by the school;

13 (2) possession of any firearm specifically authorized in writing by the
 14 superintendent of any unified school district or the chief administrator of
 15 any accredited nonpublic school;

16 (3) possession of a firearm secured in a motor vehicle by a parent,
 17 guardian, custodian or someone authorized to act in such person's behalf
 18 who is delivering or collecting a student; or

19 (4) possession of a firearm secured in a motor vehicle by a registered
 20 voter who is on the school grounds, which contain a polling place for the
 21 purpose of voting during polling hours on an election day; or

22 (5) possession of a concealed handgun by an individual who is not
 23 prohibited from possessing a firearm under either federal or state law.

24 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
 25 received a certificate of restoration pursuant to K.S.A. 2015 Supp. 75-
 26 7c26, and amendments thereto.

27 (k) Subsection (a)(14) shall not apply if such person, less than 18
 28 years of age, was:

29 (1) In attendance at a hunter's safety course or a firearms safety
 30 course;

31 (2) engaging in practice in the use of such firearm or target shooting
 32 at an established range authorized by the governing body of the
 33 jurisdiction in which such range is located, or at another private range with
 34 permission of such person's parent or legal guardian;

35 (3) engaging in an organized competition involving the use of such
 36 firearm, or participating in or practicing for a performance by an
 37 organization exempt from federal income tax pursuant to section 501(c)(3)
 38 of the internal revenue code of 1986 which uses firearms as a part of such
 39 performance;

40 (4) hunting or trapping pursuant to a valid license issued to such
 41 person pursuant to article 9 of chapter 32 of the Kansas Statutes
 42 Annotated, and amendments thereto;

43 (5) traveling with any such firearm in such person's possession being

1 unloaded to or from any activity described in subsections (k)(1) through
2 (k)(4), only if such firearm is secured, unloaded and outside the immediate
3 access of such person;

4 (6) on real property under the control of such person's parent, legal
5 guardian or grandparent and who has the permission of such parent, legal
6 guardian or grandparent to possess such firearm; or

7 (7) at such person's residence and who, with the permission of such
8 person's parent or legal guardian, possesses such firearm for the purpose of
9 exercising the rights contained in K.S.A. 2015 Supp. 21-5222, 21-5223 or
10 21-5225, and amendments thereto.

11 (l) As used in this section, "throwing star" means any instrument,
12 without handles, consisting of a metal plate having three or more radiating
13 points with one or more sharp edges and designed in the shape of a
14 polygon, trefoil, cross, star, diamond or other geometric shape,
15 manufactured for use as a weapon for throwing.

16 Sec. 2. K.S.A. 2015 Supp. 21-6301 is hereby repealed.

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the statute book.