

HOUSE BILL No. 2145

By Committee on Federal and State Affairs

1-24

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to firearms, unlawful possession thereof; amending K.S.A. 2016 Supp.
3 21-6301 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 21-6301 is hereby amended to read as
7 follows: 21-6301. (a) Criminal use of weapons is knowingly:

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

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

14 (3) setting a spring gun;

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

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

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

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

32 (8) selling, giving or otherwise transferring any firearms to any
33 person who is both addicted to and an unlawful user of a controlled
34 substance;

35 (9) selling, giving or otherwise transferring any firearm to any person
36 who is or has been a mentally ill person subject to involuntary

1 commitment for care and treatment, as defined in K.S.A. 59-2946, and
2 amendments thereto, or a person with an alcohol or substance abuse
3 problem subject to involuntary commitment for care and treatment as
4 defined in K.S.A. 59-29b46, and amendments thereto;

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

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

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

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

26 (14) possessing a firearm with a barrel less than 12 inches long by
27 any person less than 18 years of age;

28 (15) *possessing any firearm while a fugitive from justice;*

29 (16) *possessing any firearm by a person who is an alien illegally or*
30 *unlawfully in the United States;*

31 (17) *possessing any firearm by a person while such person is subject*
32 *to a court order that:*

33 (A) *Was issued after a hearing, of which such person received actual*
34 *notice, and at which such person had an opportunity to participate;*

35 (B) *restrains such person from harassing, stalking or threatening an*
36 *intimate partner of such person or a child of such person or such intimate*
37 *partner, or engaging in other conduct that would place an intimate partner*
38 *in reasonable fear of bodily injury to the partner or the child; and*

39 (C) (i) *Includes a finding that such person represents a credible*
40 *threat to the physical safety of such intimate partner or child; or*

41 (ii) *by its terms explicitly prohibits the use, attempted use or*
42 *threatened use of physical force against such intimate partner or child that*
43 *would reasonably be expected to cause bodily injury; or*

1 (18) *possessing any firearm by a person who, within the preceding*
 2 *five years, has been convicted of a misdemeanor for a domestic violence*
 3 *offense, or a misdemeanor under a law of another jurisdiction which is*
 4 *substantially the same as such misdemeanor offense.*

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

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

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

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

12 (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity
 13 level 8, nonperson felony; and

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

15 (A) Class A nonperson misdemeanor except as provided in subsection
 16 (b)(5)(B);

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

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

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

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

27 (3) members of the armed services or reserve forces of the United
 28 States or the Kansas national guard while in the performance of their
 29 official duty; or

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

33 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
 34 sells, purchases, possesses or carries a firearm, device or attachment which
 35 has been rendered unserviceable by steel weld in the chamber and
 36 marriage weld of the barrel to the receiver and which has been registered
 37 in the national firearms registration and transfer record in compliance with
 38 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
 39 transfers such firearm, device or attachment to another person, has been so
 40 registered in the transferee's name by the transferor.

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

43 (f) Subsection (a)(4) shall not apply to a law enforcement officer who

1 is:

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

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

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

7 (A) Owned by the law enforcement agency;

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

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

11 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
12 employed by a laboratory which is certified by the United States
13 department of justice, national institute of justice, while actually engaged
14 in the duties of their employment and on the premises of such certified
15 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
16 manufacture of, transportation to or sale of weapons to such certified
17 laboratory.

18 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
19 person or entity in compliance with the national firearms act, 26 U.S.C. §
20 5801 et seq.

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

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

25 (2) possession of any firearm specifically authorized in writing by the
26 superintendent of any unified school district or the chief administrator of
27 any accredited nonpublic school;

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

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

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

36 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
37 received a certificate of restoration pursuant to K.S.A. 2016 Supp. 75-
38 7c26, and amendments thereto.

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

41 (1) In attendance at a hunter's safety course or a firearms safety
42 course;

43 (2) engaging in practice in the use of such firearm or target shooting

1 at an established range authorized by the governing body of the
2 jurisdiction in which such range is located, or at another private range with
3 permission of such person's parent or legal guardian;

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

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

12 (5) traveling with any such firearm in such person's possession being
13 unloaded to or from any activity described in subsections (k)(1) through
14 (k)(4), only if such firearm is secured, unloaded and outside the immediate
15 access of such person;

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

19 (7) at such person's residence and who, with the permission of such
20 person's parent or legal guardian, possesses such firearm for the purpose of
21 exercising the rights contained in K.S.A. 2016 Supp. 21-5222, 21-5223 or
22 21-5225, and amendments thereto.

23 (1) As used in this section:-

24 (1) *"Domestic violence" means the use or attempted use of physical*
25 *force, or the threatened use of a deadly weapon, committed by:*

26 (A) *A current or former spouse, parent or legal guardian of the*
27 *victim;*

28 (B) *a person with whom the victim shares a child in common;*

29 (C) *a person who is cohabitating with or has cohabitated with the*
30 *victim as a spouse, parent or legal guardian; or*

31 (D) *a person similarly situated to a spouse, parent or legal guardian*
32 *of the victim.*

33 (2) *"Fugitive from justice" means any person having knowledge that*
34 *a warrant for the commission of a felony has been issued for the*
35 *apprehension of such person under K.S.A. 22-2713, and amendments*
36 *thereto.*

37 (3) *"Intimate partner" means, with respect to a person, the spouse of*
38 *the person, a former spouse of the person, an individual who is a parent of*
39 *a child of the person or an individual who cohabitates or has cohabitated*
40 *with the person.*

41 (4) *"Throwing star" means any instrument, without handles,*
42 *consisting of a metal plate having three or more radiating points with one*
43 *or more sharp edges and designed in the shape of a polygon, trefoil, cross,*

1 star, diamond or other geometric shape, manufactured for use as a weapon
2 for throwing.

3 Sec. 2. K.S.A. 2016 Supp. 21-6301 is hereby repealed.

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