

HOUSE BILL No. 2636

By Representative Stogsdill

2-12

1 AN ACT concerning firearms; relating to criminal possession,
2 manufacturing or selling of large capacity ammunition magazines and
3 criminal carrying of handguns with large capacity ammunition
4 magazines; amending K.S.A. 2019 Supp. 21-6301 and 21-6302 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2019 Supp. 21-6301 is hereby amended to read as
9 follows: 21-6301. (a) Criminal use of weapons is knowingly:

10 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
11 sand club or metal knuckles;

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

16 (3) setting a spring gun;

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (17) possessing any firearm by a person while such person is subject
34 to a court order that:

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

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

41 (C) (i) includes a finding that such person represents a credible threat
42 to the physical safety of such intimate partner or child; or

43 (ii) by its terms explicitly prohibits the use, attempted use or

1 threatened use of physical force against such intimate partner or child that
2 would reasonably be expected to cause bodily injury;~~or~~

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

7 (19) *possessing, manufacturing, causing to be manufactured, selling,*
8 *offering for sale, lending, purchasing or giving away any large capacity*
9 *ammunition magazine designed for use with a handgun whether the*
10 *person knows or has reason to know the size of the magazine.*

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

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

14 (2) subsection (a)(4), (a)(5)~~or~~, (a)(6) *or (a)(19)* is a severity level 9,
15 nonperson felony;

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

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

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

21 (A) Class A nonperson misdemeanor except as provided in subsection
22 (b)(5)(B);

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

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

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

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

33 (3) members of the armed services or reserve forces of the United
34 States or the Kansas national guard while in the performance of their
35 official duty; or

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

39 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
40 sells, purchases, possesses or carries a firearm, device or attachment ~~which~~
41 *that* has been rendered unserviceable by steel weld in the chamber and
42 marriage weld of the barrel to the receiver and ~~which~~ *that* has been
43 registered in the national firearms registration and transfer record in

1 compliance with 26 U.S.C. § 5841 et seq. in the name of such person and,
 2 if such person transfers such firearm, device or attachment to another
 3 person, has been so registered in the transferee's name by the transferor.

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

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

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

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

12 (3) in possession of commercially manufactured devices ~~which~~ that
 13 are:

14 (A) Owned by the law enforcement agency;

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

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

18 (g) Subsections (a)(4), (a)(5) ~~and~~, (a)(6) *and* (a)(19) shall not apply to
 19 any person employed by a laboratory ~~which~~ that is certified by the United
 20 States department of justice, national institute of justice, while actually
 21 engaged in the duties of their employment and on the premises of such
 22 certified laboratory. Subsections (a)(4), (a)(5) ~~and~~, (a)(6) *and* (a)(19) shall
 23 not affect the manufacture of, transportation to or sale of weapons to such
 24 certified laboratory.

25 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
 26 person or entity in compliance with the national firearms act, 26 U.S.C. §
 27 5801 et seq.

28 (i) (1) Subsection (a)(4) shall not apply to or affect any person in
 29 possession of a device or attachment designed, used or intended for use in
 30 suppressing the report of any firearm, if such device or attachment satisfies
 31 the description of a Kansas-made firearm accessory as set forth in K.S.A.
 32 2019 Supp. 50-1204, and amendments thereto.

33 (2) The provisions of this subsection shall apply to any violation of
 34 subsection (a)(4) that occurred on or after April 25, 2013.

35 (j) Subsection (a)(11) shall not apply to:

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

39 (2) possession of any firearm specifically authorized in writing by the
 40 superintendent of any unified school district or the chief administrator of
 41 any accredited nonpublic school;

42 (3) possession of a firearm secured in a motor vehicle by a parent,
 43 guardian, custodian or someone authorized to act in such person's behalf

1 who is delivering or collecting a student; or

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

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

7 (k) Subsections (a)(9) and (a)(13) shall not apply to a person who has
8 received a certificate of restoration pursuant to K.S.A. 75-7c26, and
9 amendments thereto.

10 (l) Subsection (a)(14) shall not apply if such person, less than 18
11 years of age, was:

12 (1) In attendance at a hunter's safety course or a firearms safety
13 course;

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

18 (3) engaging in an organized competition involving the use of such
19 firearm, or participating in or practicing for a performance by an
20 organization exempt from federal income tax pursuant to section 501(c)(3)
21 of the internal revenue code of 1986 ~~which~~ *that* uses firearms as a part of
22 such performance;

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

26 (5) traveling with any such firearm in such person's possession being
27 unloaded to or from any activity described in subsections (l)(1) through (l)
28 (4), only if such firearm is secured, unloaded and outside the immediate
29 access of such person;

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

33 (7) at such person's residence and who, with the permission of such
34 person's parent or legal guardian, possesses such firearm for the purpose of
35 exercising the rights contained in K.S.A. 2019 Supp. 21-5222, 21-5223 or
36 21-5225, and amendments thereto.

37 (m) As used in this section:

38 (1) "Domestic violence" means the use or attempted use of physical
39 force, or the threatened use of a deadly weapon, committed against a
40 person with whom the offender is involved or has been involved in a
41 dating relationship or is a family or household member.

42 (2) "Fugitive from justice" means any person having knowledge that
43 a warrant for the commission of a felony has been issued for the

1 apprehension of such person under K.S.A. 22-2713, and amendments
2 thereto.

3 (3) *"Handgun" means a firearm that is designed to be fired by the use*
4 *of a single hand.*

5 (4) *"Intimate partner" means, with respect to a person, the spouse*
6 *of the person, a former spouse of the person, an individual who is a parent*
7 *of a child of the person or an individual who cohabitates or has cohabitated*
8 *with the person.*

9 (5) *"Large capacity ammunition magazine" means an ammunition*
10 *feeding device that physically extends below the bottom of the grip of a*
11 *handgun when fully seated into such handgun.*

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

17 Sec. 2. K.S.A. 2019 Supp. 21-6302 is hereby amended to read as
18 follows: 21-6302. (a) Criminal carrying of a weapon is knowingly
19 carrying:

20 (1) Any bludgeon, sandclub, metal knuckles or throwing star;

21 (2) concealed on one's person, a billy, blackjack, slungshot or any
22 other dangerous or deadly weapon or instrument of like character;

23 (3) on one's person or in any land, water or air vehicle, with intent to
24 use the same unlawfully, a tear gas or smoke bomb or projector or any
25 object containing a noxious liquid, gas or substance; or

26 (4) any pistol, revolver or other firearm concealed on one's person if
27 such person is under 21 years of age, except when on such person's land or
28 in such person's abode or fixed place of business; ~~or~~

29 (5) a shotgun with a barrel less than 18 inches in length or any other
30 firearm designed to discharge or capable of discharging automatically
31 more than once by a single function of the trigger whether the person
32 knows or has reason to know the length of the barrel or that the firearm is
33 designed or capable of discharging automatically; or

34 (6) *a handgun with a large capacity ammunition magazine whether*
35 *the person knows or has reason to know the size of the magazine.*

36 (b) Criminal carrying of a weapon as defined in:

37 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson
38 misdemeanor; and

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

40 (c) Subsection (a) shall not apply to:

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

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

5 (3) members of the armed services or reserve forces of the United
6 States or the Kansas national guard while in the performance of their
7 official duty; or

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

11 (d) Subsection (a)(5) shall not apply to:

12 (1) Any person who sells, purchases, possesses or carries a firearm,
13 device or attachment ~~which~~ *that* has been rendered unserviceable by steel
14 weld in the chamber and marriage weld of the barrel to the receiver and
15 ~~which~~ *that* has been registered in the national firearms registration and
16 transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of
17 such person and, if such person transfers such firearm, device or
18 attachment to another person, has been so registered in the transferee's
19 name by the transferor;

20 (2) any person employed by a laboratory ~~which~~ *that* is certified by the
21 United States department of justice, national institute of justice, while
22 actually engaged in the duties of their employment and on the premises of
23 such certified laboratory. Subsection (a)(5) shall not affect the manufacture
24 of, transportation to or sale of weapons to such certified laboratory; or

25 (3) any person or entity in compliance with the national firearms act,
26 26 U.S.C. § 5801 et seq.

27 (e) As used in this section, *the terms "handgun," "large capacity*
28 *ammunition magazine" and "throwing star" means the same as prescribed*
29 ~~by~~ *have the same meaning as such terms are defined in K.S.A. 2019 Supp.*
30 *21-6301, and amendments thereto.*

31 Sec. 3. K.S.A. 2019 Supp. 21-6301 and 21-6302 are hereby repealed.

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