

1 [As Amended by House Committee of the Whole]

2
3 As Amended by House Committee

4 *Session of 2001*

5
6 **SENATE BILL No. 180**

7
8 By Committee on Commerce

9
10 1-31

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12 ~~AN ACT repealing the Kansas performance review act; repealing K.S.A.~~
13 ~~75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and 75-7107.~~

14 ~~**AN ACT concerning the regulation and application of state and**~~
15 ~~**local laws, rules, regulations and ordinances to sport shooting**~~
16 ~~**ranges; providing civil immunity to persons who operate or use**~~
17 ~~**such ranges.**~~

18 **[AN ACT concerning firearms and other weapons; relating to the**
19 **use and regulation thereof; amending K.S.A. 2000 Supp. 21-**
20 **4201 and repealing the existing section.]**

21
22 *Be it enacted by the Legislature of the State of Kansas:*

23 ~~Section 1. K.S.A. 75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and~~
24 ~~75-7107 are hereby repealed.~~

25 **Section 1. As used in this act:**

26 (a) "Generally accepted operation practice" means those
27 safety practices adopted, pursuant to rules and regulations, by the
28 Kansas department of wildlife and parks and established by a na-
29 tionally recognized nonprofit membership organization that pro-
30 vides voluntary firearms safety programs which include training
31 individuals in the safe handling and use of firearms and which
32 practices are developed with consideration of all information rea-
33 sonably available regarding the operation of shooting ranges.

34 (b) "Local unit of government" means a county, city, township
35 or any other political subdivision of the state, or any agency, au-
36 thority, institution or instrumentality thereof.

37 (c) "Person" means an individual, proprietorship, partnership,
38 corporation, club, governmental entity or other legal entity.

39 (d) "Sport shooting range" or "range" means an area designed
40 and operated for the use of archery, rifles, shotguns, pistols, sem-
41 iautomatic firearms, skeet, trap, black powder or any other similar
42 sport shooting.

43 **Sec. 2. (a) Notwithstanding any other provisions of law, and in**

1 addition to other protections provided in this act, a person who
2 owns, operates, manages or uses a sport shooting range that con-
3 forms to generally accepted operation practices in the state is not
4 subject to civil liability or criminal prosecution in any matter re-
5 lating to noise or noise pollution resulting from the operation or
6 use of the range if the range is in compliance with any noise control
7 laws or ordinances or resolutions that applied to the range and its
8 operation at the time of construction and initial operation of the
9 range.

10 (b) In addition to any civil protection provided by the act, a
11 person who owns, operates, manages or uses a sport shooting
12 range that conforms to generally accepted operation practices is
13 not subject to an action for nuisance, and a court of the state shall
14 not enjoin or restrain the use or operation of a range on the basis
15 of noise or noise pollution, if the range is in compliance with any
16 noise control laws or ordinances or resolutions that applied to the
17 range and its operation at the time of construction or initial op-
18 eration of the range.

19 (c) Rules or regulations adopted by any state department or
20 agency for limiting levels of noise in terms of decibel level which
21 may occur in the outdoor atmosphere do not apply to a sport shoot-
22 ing range immune from liability under this act. However, this sub-
23 section does not constrict the application of any provision of gen-
24 erally accepted operation practices.

25 (d) A person who acquires title to real property adversely af-
26 fected by the use of property with a permanently located and im-
27 proved sport shooting range constructed and initially operated
28 prior to the time the person acquires title shall not maintain a
29 nuisance action on the basis of noise or noise pollution or based
30 upon known or inherent dangers against the person who owns,
31 operates or uses the range to restrain, enjoin, or impede the use
32 of the range. This section does not prohibit actions for negligence
33 or recklessness in the operation of the range.

34 Sec. 3. (a) A sport shooting range that is operated and is not
35 in violation of state law at the time of the enactment of an ordi-
36 nance or resolution shall be permitted to continue in operation
37 even if the operation of the sport shooting range at a later date
38 does not conform to the new ordinance or resolution or amend-
39 ment to an existing ordinance or resolution.

40 (b) A sport shooting range that is in existence as of the effective
41 date of this act and operates in compliance with generally accepted
42 operation practices, even if not in compliance with an ordinance
43 or resolution of a local unit of government, shall be permitted to

1 **do all of the following within its preexisting geographic boundaries**
2 **if in compliance with generally accepted operation practices:**

3 **(1) Repair, remodel or reinforce any improvement or facilities**
4 **or building or structure as may be necessary in the interest of**
5 **public safety or to secure the continued use of the building or**
6 **improvement;**

7 **(2) reconstruct, repair, rebuild or resume the use of a facility**
8 **or building damaged by fire, collapse, explosion, act of God or act**
9 **of war occurring after the effective date of this act. The reconstruc-**
10 **tion, repair or restoration shall be completed within one year fol-**
11 **lowing the date of the damage or settlement of any property dam-**
12 **age claim. If reconstruction, repair or restoration is not completed**
13 **within one year as provided in this subsection, such reconstruction,**
14 **repair or restoration may be terminated in the discretion of the**
15 **local unit of government; or**

16 **(3) do anything authorized under generally accepted operation**
17 **practices, including, but not limited to:**

18 **(A) Expand or enhance its membership or opportunities for**
19 **public participation; and**

20 **(B) reasonably expand or increase facilities or activities.**

21 **Sec 4. (a) Except as otherwise provided, the provisions of this**
22 **act shall not prohibit a local unit of government from regulating**
23 **the location and construction of a sport shooting range.**

24 **(b) No person or governmental entity may take title to prop-**
25 **erty which has a permanently located and improved sport shooting**
26 **range, by condemnation, eminent domain or similar process when**
27 **the proposed use of said property would be for shooting related**
28 **activities or recreational activities or for private or commercial**
29 **development. However, this provision does not limit governmental**
30 **exercise of imminent domain or easement necessary for infrastruc-**
31 **ture additions or improvements, such as highways, waterways or**
32 **utilities.**

33 **Sec. 5. The secretary of the Kansas department of wildlife and**
34 **parks is hereby authorized to adopt rules and regulations neces-**
35 **sary to implement the provisions of this act. Rules and regulations**
36 **establishing generally accepted operation practices shall be**
37 **adopted and be in effect on or before January 1, 2002.**

38 **[Sec. 6. K.S.A. 2000 Supp. 21-4201 is hereby amended to read**
39 **as follows: 21-4201. (a) Criminal use of weapons is knowingly:**

40 **[(1) Selling, manufacturing, purchasing, possessing or carrying**
41 **any bludgeon, sandclub, metal knuckles or throwing star, or any**
42 **knife, commonly referred to as a switch-blade, which has a blade**
43 **that opens automatically by hand pressure applied to a button,**

1 **spring or other device in the handle of the knife, or any knife**
2 **having a blade that opens or falls or is ejected into position by the**
3 **force of gravity or by an outward, downward or centrifugal thrust**
4 **or movement;**

5 [(2) **carrying concealed on one's person, or possessing with in-**
6 **tent to use the same unlawfully against another, a dagger, dirk,**
7 **billy, blackjack, slung shot, dangerous knife, straight-edged razor,**
8 **stiletto or any other dangerous or deadly weapon or instrument of**
9 **like character, except that an ordinary pocket knife with no blade**
10 **more than four inches in length shall not be construed to be a**
11 **dangerous knife, or a dangerous or deadly weapon or instrument;**

12 [(3) **carrying on one's person or in any land, water or air ve-**
13 **hicle, with intent to use the same unlawfully, a tear gas or smoke**
14 **bomb or projector or any object containing a noxious liquid, gas**
15 **or substance;**

16 [(4) **carrying any pistol, revolver or other firearm concealed on**
17 **one's person except when on the person's land or in the person's**
18 **abode or fixed place of business;**

19 [(5) **setting a spring gun;**

20 [(6) **possessing any device or attachment of any kind designed,**
21 **used or intended for use in silencing the report of any firearm;**

22 [(7) **selling, manufacturing, purchasing, possessing or carrying**
23 **a shotgun with a barrel less than 18 inches in length or any other**
24 **firearm designed to discharge or capable of discharging automat-**
25 **ically more than once by a single function of the trigger; or**

26 [(8) **possessing, manufacturing, causing to be manufactured,**
27 **selling, offering for sale, lending, purchasing or giving away any**
28 **cartridge which can be fired by a handgun and which has a plastic-**
29 **coated bullet that has a core of less than 60% lead by weight.**

30 [(b) **Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or**
31 **affect any of the following:**

32 [(1) **Law enforcement officers, or any person summoned by**
33 **any such officers to assist in making arrests or preserving the peace**
34 **while actually engaged in assisting such officer;**

35 [(2) **wardens, superintendents, directors, security personnel**
36 **and keepers of prisons, penitentiaries, jails and other institutions**
37 **for the detention of persons accused or convicted of crime, while**
38 **acting within the scope of their authority;**

39 [(3) **members of the armed services or reserve forces of the**
40 **United States or the Kansas national guard while in the perform-**
41 **ance of their official duty; or**

42 [(4) **manufacture of, transportation to, or sale of weapons to a**
43 **person authorized under subsections (b)(1), (2) and (3) to possess**

1 **such weapons.**

2 **[(c) Subsection (a)(4) shall not apply to or affect the following:**

3 **[(1) Watchmen, while actually engaged in the performance of**
4 **the duties of their employment;**

5 **[(2) licensed hunters or fishermen, while engaged in hunting**
6 **or fishing;**

7 **[(3) private detectives licensed by the state to carry the firearm**
8 **involved, while actually engaged in the duties of their**
9 **employment;**

10 **[(4) detectives or special agents regularly employed by railroad**
11 **companies or other corporations to perform full-time security or**
12 **investigative service, while actually engaged in the duties of their**
13 **employment;**

14 **[(5) the state fire marshal, the state fire marshal's deputies or**
15 **any member of a fire department authorized to carry a firearm**
16 **pursuant to K.S.A. 31-157 and amendments thereto, while engaged**
17 **in an investigation in which such fire marshal, deputy or member**
18 **is authorized to carry a firearm pursuant to K.S.A. 31-157 and**
19 **amendments thereto; or**

20 **[(6) special deputy sheriffs described in K.S.A. 2000 Supp. 19-**
21 **827 who have satisfactorily completed the basic course of instruc-**
22 **tion required for permanent appointment as a part-time law en-**
23 **forcement officer under K.S.A. 74-5607a and amendments thereto.**

24 **[(d) Subsections (a)(1), (6) and (7) shall not apply to any person**
25 **who sells, purchases, possesses or carries a firearm, device or at-**
26 **achment which has been rendered unserviceable by steel weld in**
27 **the chamber and marriage weld of the barrel to the receiver and**
28 **which has been registered in the national firearms registration and**
29 **transfer record in compliance with 26 U.S.C. 5841 et seq. in the**
30 **name of such person and, if such person transfers such firearm,**
31 **device or attachment to another person, has been so registered in**
32 **the transferee's name by the transferor.**

33 **[(e) Subsection (a)(8) shall not apply to a governmental labo-**
34 **ratory, the owners of a laboratory certified by the National Institute of**
35 **Justice for the purposes of testing, research and development or solid**
36 **plastic bullets.**

37 **[(f) It shall be a defense that the defendant is within an**
38 **exemption.**

39 **[(g) Violation of subsections (a)(1) through (a)(5) is a class A**
40 **nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or**
41 **(a)(8) is a severity level 9, nonperson felony.**

42 **[(h) As used in this section, "throwing star" means any instru-**
43 **ment, without handles, consisting of a metal plate having three or**

1 **more radiating points with one or more sharp edges and designed**
2 **in the shape of a polygon, trefoil, cross, star, diamond or other**
3 **geometric shape, manufactured for use as a weapon for throwing.**

4 *[(i) The provisions of subsection (a)(6) shall not apply to the owners*
5 *of a laboratory certified by the National Institute of Justice for the pur-*
6 *poses of testing, research and development.*

7 **[Sec. 7. K.S.A. 2000 Supp. 21-4201 is hereby repealed.]**

8 Sec. ~~2. 6.~~ **[8.]** This act shall take effect and be in force from and after
9 its publication in the ~~statute book~~ **Kansas register.**

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