

HOUSE BILL No. 2752

AN ACT concerning crimes, criminal procedure and punishment; creating certain crimes relating to pipelines; relating to theft; concerning criminal use of weapons; amending K.S.A. 2001 Supp. 21-3701 and 21-4201 and repealing the existing sections.

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

New Section 1. (a) Tampering with a pipeline is the intentional and unauthorized alteration of or interference with any part of a pipeline.

(b) As used in this section and section 2, and amendments thereto:

(1) "Pipeline" means any pipeline, and any related facility, building, structure or equipment, used in gathering, transmission or transportation of natural gas, crude oil, petroleum products or anhydrous ammonia. "Pipeline" does not include distribution lines that convey natural gas from a gas main to the ultimate consumer.

(2) "Tampering" includes, but is not limited to, any intentional unauthorized adjustment, opening, removal, change or destruction of any part of any pipeline.

(c) Tampering with a pipeline is a severity level 6, nonperson felony.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 2001 Supp. 21-3701 is hereby amended to read as follows: 21-3701. (a) Theft is any of the following acts done with intent to deprive the owner permanently of the possession, use or benefit of the owner's property:

(1) Obtaining or exerting unauthorized control over property;

(2) obtaining by deception control over property;

(3) obtaining by threat control over property; or

(4) obtaining control over stolen property knowing the property to have been stolen by another.

(b) (1) Theft of property of the value of \$25,000 or more is a severity level 7, nonperson felony.

(2) Theft of property of the value of at least \$500 but less than \$25,000 is a severity level 9, nonperson felony.

(3) Theft of property regardless of the value from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony.

(4) Theft of property of the value of less than \$500 is a class A nonperson misdemeanor.

(5) Theft of property of the value of less than \$500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, been convicted of theft two or more times.

(c) *Conviction of a violation of a municipal ordinance prohibiting acts which constitute theft as defined by this section shall be considered a conviction of theft for the purpose of determining the number of prior convictions and the classification of the crime under this section.*

Sec. 3. K.S.A. 2001 Supp. 21-4201 is hereby amended to read as follows: 21-4201. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

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

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

(4) carrying any pistol, revolver or other firearm concealed on one's

person except when on the person's land or in the person's abode or fixed place of business;

(5) setting a spring gun;

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

(7) selling, manufacturing, purchasing, possessing or carrying a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger; or

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

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

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

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

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

(4) manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (2) and (3) to possess such weapons.

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

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

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

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

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

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

(6) special deputy sheriffs described in K.S.A. 2001 Supp. 19-827, *and amendments thereto*, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

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

(e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.

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

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

(2) *designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(6); and*

(3) *in possession of commercially manufactured devices which are: (A) Owned by the law enforcement agency; (B) in such officer's possession only during specific operations; and (C) approved by the bureau of alcohol, tobacco and firearms of the United States department of justice.*

(g) It shall be a defense that the defendant is within an exemption.

~~(g)~~ (h) Violation of subsections (a)(1) through (a)(5) is a class A non-

person misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity level 9, nonperson felony.

~~(h)~~ (i) As used in this section, “throwing star” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

Sec. 4. K.S.A. 2001 Supp. 21-3701 and 21-4201 are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.