

HOUSE BILL No. 2164

By Committee on Federal and State Affairs

2-3

AN ACT concerning criminal use of weapons; amending K.S.A. 2002 Supp. 21-4201 and repealing the existing section.

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

Section 1. K.S.A. 2002 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, slungshot, 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 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

1 can be fired by a handgun and which has a plastic-coated bullet that has
2 a core of less than 60% lead by weight.

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

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

8 (2) wardens, superintendents, directors, security personnel and keep-
9 ers of prisons, penitentiaries, jails and other institutions for the detention
10 of persons accused or convicted of crime, while acting within the scope
11 of their authority;

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

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

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

18 (1) Watchmen, while actually engaged in the performance of the du-
19 ties of their employment;

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

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

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

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

32 (6) special deputy sheriffs described in K.S.A. 2002 Supp. 19-827,
33 and amendments thereto, who have satisfactorily completed the basic
34 course of instruction required for permanent appointment as a part-time
35 law enforcement officer under K.S.A. 74-5607a and amendments thereto;
36 *or*

37 (7) *a person who has retired after not less than 20 years of service as*
38 *a law enforcement officer, as defined in K.S.A. 74-5602, and amendments*
39 *thereto, if such person is certified annually as qualified and competent to*
40 *carry a concealed firearm by the administrative head of the law enforce-*
41 *ment agency from which such person retired and carries on the person*
42 *an identification card, issued annually by the law enforcement agency*
43 *from which such person is retired, certifying the person to be so qualified*

1 *and competent.*

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

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

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

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

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

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

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

23 (h) Violation of subsections (a)(1) through (a)(5) is a class A nonper-
24 son misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a se-
25 verity level 9, nonperson felony.

26 (i) As used in this section, "throwing star" means any instrument,
27 without handles, consisting of a metal plate having three or more radiating
28 points with one or more sharp edges and designed in the shape of a
29 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
30 tured for use as a weapon for throwing.

31 Sec. 2. K.S.A. 2002 Supp. 21-4201 is hereby repealed.

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

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