

HOUSE BILL No. 2033

By Representative Huff

1-10

9 AN ACT concerning crimes and punishment; relating to criminal use of
10 weapons; stun guns or tasers; amending K.S.A. 2004 Supp. 21-4201
11 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2004 Supp. 21-4201 is hereby amended to read as
15 follows: 21-4201. (a) Criminal use of weapons is knowingly:

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

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

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

33 (4) carrying any pistol, revolver or other firearm concealed on one's
34 person except when on the person's land or in the person's abode or fixed
35 place of business;

36 (5) setting a spring gun;

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

39 (7) selling, manufacturing, purchasing, possessing or carrying a shot-
40 gun with a barrel less than 18 inches in length or any other firearm de-
41 signed to discharge or capable of discharging automatically more than
42 once by a single function of the trigger; ~~or~~

43 (8) possessing, manufacturing, causing to be manufactured, selling,

1 offering for sale, lending, purchasing or giving away any cartridge which
2 can be fired by a handgun and which has a plastic-coated bullet that has
3 a core of less than 60% lead by weight; *or*

4 (9) *selling, manufacturing, purchasing, possessing or carrying a stun*
5 *gun or taser.*

6 (b) Subsections (a)(1), (2), (3), (4) ~~and~~, (7) *and* (9) shall not apply to
7 or affect any of the following:

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

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

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

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

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

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

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

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

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

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

35 (6) special deputy sheriffs described in K.S.A. 2004 Supp. 19-827,
36 and amendments thereto, who have satisfactorily completed the basic
37 course of instruction required for permanent appointment as a part-time
38 law enforcement officer under K.S.A. 74-5607a and amendments thereto.

39 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
40 sells, purchases, possesses or carries a firearm, device or attachment
41 which has been rendered unserviceable by steel weld in the chamber and
42 marriage weld of the barrel to the receiver and which has been registered
43 in the national firearms registration and transfer record in compliance

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

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

6 (f) Subsection (a)(6) 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 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)(6); and

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

17 (g) Subsections (a)(6), (7) and (8) shall not apply to any person em-
18 ployed by a laboratory which is certified by the United States department
19 of justice, national institute of justice, while actually engaged in the duties
20 of their employment and on the premises of such certified laboratory.
21 Subsections (a)(6), (7) and (8) shall not affect the manufacture of, trans-
22 portation to or sale of weapons to such certified laboratory.

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

24 (i) Violation of subsections (a)(1) through (a)(5) *or* (a)(9) is a class A
25 nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is
26 a severity level 9, nonperson felony.

27 (j) As used in this section;

28 (1) "Throwing star" means any instrument, without handles, consist-
29 ing of a metal plate having three or more radiating points with one or
30 more sharp edges and designed in the shape of a polygon, trefoil, cross,
31 star, diamond or other geometric shape, manufactured for use as a
32 weapon for throwing.

33 (2) "Taser" means any mechanism that is designed to emit an elec-
34 tronic, magnetic or other type of charge or shock through the use of a
35 projectile and is used for the purpose of temporarily incapacitating a
36 person.

37 (3) "Stun gun" means any mechanism that is designed to emit an
38 electronic, magnetic or other type of charge and is used for the purpose
39 of temporarily incapacitating a person.

40 Sec. 2. K.S.A. 2004 Supp. 21-4201 is hereby repealed.

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