

HOUSE BILL No. 2819

By Committee on Judiciary

2-11

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to criminal use of weapons; amending K.S.A. 21-4201 and repeal-
11 ing the existing section.

12

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

14 Section 1. K.S.A. 21-4201 is hereby amended to read as follows: 21-
15 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.

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

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

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

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

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

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

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

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

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

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

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

33 (6) special deputy sheriffs described in K.S.A. 19-827, and amend-
34 ments thereto, who have satisfactorily completed the basic course of in-
35 struction required for permanent appointment as a part-time law enforce-
36 ment officer under K.S.A. 74-5607a and amendments thereto.

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

1 so registered in the transferee's name by the transferor.

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

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

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

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

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

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

21 (h) Subsection (a)(4) shall not apply to any person carrying a con-
22 cealed weapon as authorized by K.S.A. 2007 Supp. 75-7c01 through 75-
23 7c17, and amendments thereto.

24 (i) *Subsections (a)(6) and (7) shall not apply to or affect any person*
25 *or entity in compliance with the national firearms act, 26 U.S.C. 5801 et*
26 *seq.*

27 ~~(j)~~ (j) It shall be a defense that the defendant is within an exemption.

28 ~~(k)~~ (k) Violation of subsections (a)(1) through (a)(5) is a class A non-
29 person misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a
30 severity level 9, nonperson felony.

31 ~~(l)~~ (l) As used in this section, "throwing star" means any instrument,
32 without handles, consisting of a metal plate having three or more radiating
33 points with one or more sharp edges and designed in the shape of a
34 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
35 tured for use as a weapon for throwing.

36 Sec. 2. K.S.A. 21-4201 is hereby repealed.

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