

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on February 16, 1988 in room 526S of the Capitol.

All members were present except:

Representatives Roenbaugh, Walker - E  
Representatives Peterson & Sebelius

Committee staff present:

Mary Torrence, Revisor's Office  
Mary Galligan, Research Department  
Lynda Hutfles, Secretary

Conferees appearing before the committee:

Elwaine Pomeroy, Kansas Parole Board  
Gary Stotts, Department of Corrections  
Lisa Nathanson, Legal Services for Prisons, Inc.  
Representative Jack Lacey  
Representative Jeff Freeman  
R.J. Robel, U.S. Shooting Team  
Ralph Marsh, Kansas State Rifle Association  
Darrell Montei, Wildlife & Parks  
Frank McAnarney, National Association of Federally Licensed Firearms Dealers  
Wayne Maichel, Kansas AFL-CIO  
Paul McAnarney  
Judi Nagel  
Charles Allen  
Paul Frigon, Hastings Barrels, Inc.  
Joe Callahan  
Dale Mitchell  
Mary Mitchell  
Delwin Goheen, Department of Civilian Marksmanship  
Michael Steward  
Lorraine (Jack) Jackson  
Robert Aufdemberge  
E.J. Tomlinson, NRA Instructor  
Dale Sanders  
Ed Augustine  
Ronald Schultz  
Alan Ward  
William Nugent  
Jerry Barnett  
Charles Rice  
Randall Holm  
Ralph Clark  
Mark Wilson  
Phil Lautz  
Jim Kaup, League of Kansas Municipalities  
David Platt, Junction City Police Department  
John Foster, Lenexa Police Department  
Ron Olin, Lawrence Police Department  
Tony Purcell, Kansas Sheriff's Association  
Al Thimmesch, Wichita Police Department  
Larry Blomenkamp, Emporia Police Department

The meeting was called to order by Chairman Miller.

Representative Aylward made a motion, seconded by Representative Gjerstad, to approve the minutes of the February 10 meeting. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S, Statehouse, at 1:30 a.m./p.m. on February 16, 1988, 19    

HB366 - Classes of felonies and terms of imprisonment

Elwaine Pomeroy gave testimony in support of SB366. He explained how the legislation came about and that it is designed to correct an error that came about in the 1984 session.

Gary Stotts, Department of Corrections, gave testimony in support of SB366. He said the department believes that it was not the intent of the 1984 legislature to leave the language about the court setting a term at not less than one year in the statute, but rather intended to return the minimum sentence for Class E felonies to the pre-1982 term - a one-year minimum - See Attachment A.

Lisa Nathanson, Director of Legal Services for Prisons, Inc., expressed her support for the bill.

Hearings were concluded on SB366.

SB368 - Control of state-owned ground used by correctional institutions

Gary Stotts, Department of Corrections, expressed support for SB368 which would place the care, management, and control of all state-owned buildings and grounds used as correctional institutions and the operation of the state surplus property program with the Department of Corrections. See attachment B.

Hearings were concluded on SB368.

HB2815 - Gun Control

Representative Jack Lacey gave testimony in support of HB2815 which will give all the citizens of Kansas equal protection of their constitutional rights and privileges. The bill will not change any of the federal or state laws dealing with firearms. See attachment C.

Representative Jeff Freeman gave testimony in support of the bill which reaffirms the constitutional right of Kansans to keep and bare arms and provides the uniform and consistent laws throughout the state of Kansas. A state firearms preemption law will prevent the hodgepodge of local laws that vary from town to town, county to county, that confuse law-abiding citizens. Representative Freeman also suggested some amendments to the bill. See attachment D.

R.J. Robel, Director of U.S. Shooting Team, gave testimony in support of uniform firearms laws across the state which will reduce the likelihood of law-abiding Kansas citizens unwillingly violating local laws and ordinances. See attachment E.

Ralph Marsh, President of the Kansas State Rifle Association, gave testimony in support of HB2815. Without the benefit of firearm preemption laws, local ordinances can create a problem, making it difficult to transport firearms for legitimate purposes across city limits or county lines without fear of arrest, prosecution or confiscation of personal property. See attachment F.

Darrell Montei, Kansas Wildlife & Parks, expressed his support of the bill which he felt was a preventative measure.

Frank McAnarney, National Association of Federally Licensed Firearms Dealers, distributed his written testimony and two manuals published by the Department of Treasury, Bureau of Alcohol Tobacco & Firearms. Mr. McAnarney supports HB2815 in its current unamended version. See attachment G.

Wayne Maichel, Kansas AFL-CIO, expressed his support of HB2815.

Paul McAnarney, Veterans of Foreign Wars, expressed support of the bill which would allow regulations concerning firearms to be applied equitably to one and all Kansas sportsmen. See attachment H.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S Statehouse, at 1:30 a.m./p.m. on February 16, 1988, 19

Judi Nagel, Young Hunter Safety Instructors & Kansas Wildlife Federation, expressed support for HB2815.

Charles Allen, Leavenworth Rod & Gun Club, gave testimony in support of gun preemption legislation. The proliferation of local firearms ordinances serve only to create a hodgepodge of varying gun laws within a state. See attachment I.

Paul Frigon, Hastings Barrels, Inc, Clay Center, expressed support. See attachment J.

Joe Callahan, Kansas Furharvesters Association member of Onaga, expressed support of the bill. See attachment K.

Due to time restraints, the following people expressed their support of HB2815:

- Dale Mitchell, Member of Mill Creek Rifle Club & Ks. State Rifle Assn.
- Mary Mitchell, Mother of active shooting children
- Delwin Goheen, Department of Civilian Marksmanship & member of Ks. State Rifle Association
- Delwin Goheen, Department of Civilian Marksmanship & Member of Ks. State Rifle Association - See attachment L.
- Michael Steward, Member of Kansas Wild Turkey Federation & Kansas Wildlife Federation
- Lorraine Jackson, Member Hays City Sportsmen's Club & Kansas 4-H Shooting Program - See attachment M.
- Robert Aufdemberge, Member of the Capitol City Gun Club - See Attach N.
- E.J. Tomlinson, Member Young Hunter Safety Instructors & NRA Instructor Training Counselor - See attachment O.
- Dale Sanders, Member Capitol City Gun Club & Kansas State Rifle Assn. See attachment P.
- Ed Augustine, Member Geary County Rod & Gun Club & Kansas Wildlife Federation
- Ronald Schultz, Member Tri County Rod & Gun Club & National Bench Rest Shooters Association - See attachment Q.
- Alan Ward, Member KAW Valley Quail Unlimited
- William Nugent, Member Mill Creek Rifle Club & Casual Competitive Shooter
- Jerry Barnett, Member International Handgun Metallic Silhouette Assn. - See attachment R.
- Charles Rice, Member Kansas Hunter Safety Instructors Assn.-See attachment S.
- Randall Holm, Member Kansas Hunter Safety Instructors Assn.-See attachment T.
- Ralph Clark, Member Delphos Rifle Club, Hardy, NE. - See Attachment U.
- Mark Wilson, Member Riley County Fish & Game Assn. - See attachment V.
- Phil Lautz, Causal Hunter from Topeka

Jim Kaup, General Counsel, League of Kansas Municipalities, expressed to the committee that he was not appearing before them in opposition to HB2815 because they are advocates of gun control. They oppose HB2815 because it is one of the most blatantly anti-local government bills that has been considered by the Kansas Legislature. This bill strikes right at the heart of the most important power of cities in Kansas - Home Rule - the constitutional grant of powers of local self-government. See attachment W.

There was discussion about small towns with no local gun laws and how this bill would effect these towns after reapportionment when the larger cities might pick up more seats and thus making the smaller towns comply with their gun control laws whether they want to or not.

David Platt, City Attorney in Junction City, expressed opposition to the bill. He said that small towns may not need the gun control laws that a particular larger city might need. The city commission should have the right to deal with particular problems of the area. Problems that occur in Junction City may not occur in another town.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE  
room 526S, Statehouse, at 1:30 a.m./p.m. on February 16, 1988, 19   

John Foster, Chief of Police of Lenexa, expressed opposition to HB2815. In a metropolitan area with 1.7 million people, Mr. Foster said he did not want people out there with guns on their hip. Lenexa says who can carry a gun and they want to be able to maintain this for the safety of the public and their police officers.

Ron Olin, Chief of Police of Lawrence, expressed his opposition saying that this bill would invalidate existing ordinances. He said he could not remember one instance where a sportsman was erroneously arrested because of a local gun ordinance. There is not a problem with the transient population and gun control ordinances.

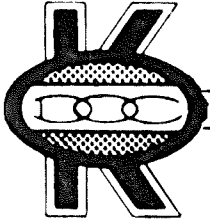
Tony Purcell explained that the sheriffs are not directly effected by this legislation. Mr. Purcell said he supports the principal, but is opposed to the bill as written because of the void that would be created. If the sportsman would take the same precautions that he would take to keep his gun from being stolen, he would not have problems with gun ordinances.

Al Thimmesch, Deputy Chief of Police, Wichita, expressed his opposition to the bill. The constant theme of the proponents has been "if" and "it could". He said the problem is that they deal with people who deal with firearms and these people are not all legitimate. The city of Wichita has had firearms ordinances since the 1800's. They have not arrested a hunter for carrying a gun where he shouldn't. The system should be left in tact. If there is a need to change the statute, look at it very closely.

Larry Blomenkamp, Chief of Police Emporia, expressed his opposition to the bill. If this bill is passed it will provide everyone the opportunity to wear loaded firearms.

The meeting was adjourned.





# KANSAS DEPARTMENT OF CORRECTIONS

MIKE HAYDEN, GOVERNOR

ROGER V. ENDELL, SECRETARY

LONDON STATE OFFICE BUILDING — 900 SW JACKSON  
TOPEKA, KANSAS — 66612-1284  
913-296-3317

February 16, 1988

TO: House Federal and State Affairs Committee  
FROM: *Roger V. Endell*  
Roger V. Endell, Secretary of Corrections  
SUBJECT: Senate Bill 366

The Department of Corrections proposes that K.S.A. 21-4501(e) be amended to strike the words "fixed by the court at not less than" prior to one year with respect to establishing the minimum term for a Class E felony. The Department believes this language is contrary to the intent of the legislature.

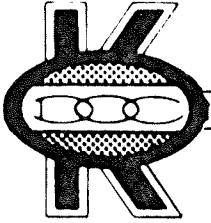
Prior to 1982 the statute provided that the minimum term for a Class E felony "shall be one (1) year." In 1982, the statute was amended to provide for a minimum term of "not less than one year nor more than two years." In 1984, when minimum terms for D and E offenses were "rolled back" to 1982 levels, the two-year minimum for E felonies was removed. However, the language about the court setting a term at not less than one year was left in the statute.

Some courts have interpreted this to mean that they can set a minimum for Class E offenses for any period of years up to five. In other words, the minimum sentence is limited only on the minimum end (not less than one year) but is unlimited on the maximum end except by the overall maximum sentence.

The Department believes the legislature did not intend this result but rather intended to return the minimum sentence for Class E felonies to the pre-1982 term--a one-year minimum sentence.

RVE:dja

Attach A



# KANSAS DEPARTMENT OF CORRECTIONS

MIKE HAYDEN, GOVERNOR

ROGER V. ENDELL, SECRETARY

LONDON STATE OFFICE BUILDING — 900 SW JACKSON  
TOPEKA, KANSAS — 66612-1284  
913-296-3317

February 16, 1988

TO: House Federal and State Affairs Committee  
FROM: *Roger V. Endell* Roger V. Endell, Secretary of Corrections  
SUBJECT: Senate Bill 368

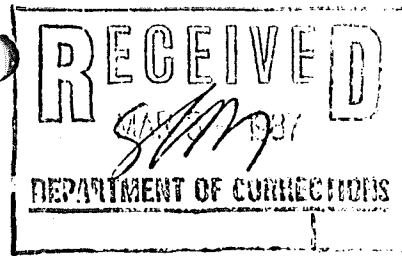
K.S.A. 75-3762 provides that the Secretary of Administration has charge and management over state-owned property in Shawnee County, including the property where the State Reception and Diagnostic Center and Kansas Correctional-Vocational Training Center are located. This appears to conflict with K.S.A. 1987 Supp. 75-5205 which provides that the Secretary of Corrections has charge and supervision of the grounds and buildings of correctional institutions. To resolve this apparent conflict, the Department is proposing SB 368 place all property under the control and management of the Secretary of Corrections. The property in question is generally described as follows: the properties adjacent to the State Reception and Diagnostic Center, the Kansas Correctional-Vocational Training Center and the property used by the surplus property program under the control of the Secretary of Corrections, and operated by Kansas Correctional Industries. The properties include those between Sixth Street on the north, Rice Road on the east, 10th Street to the south and our current west property line.

Attached is a copy of a letter from Secretary of Administration H. Edward Flentje indicating his support for the action. The property at the site utilized by other agencies would not be affected by the bill until and unless the property was used as a correctional institution or for operation of the surplus property program.

The Senate Committee amendment assures that property utilized by the Department of Corrections on the grounds of state hospitals remain under the authority and control of the Department of Social and Rehabilitation Services.

RVE:dja  
Enclosure

*Attach B*



## DEPARTMENT OF ADMINISTRATION

State Capitol  
Topeka 66612-1572  
(913) 296-3011

H. Edward Flentje, *Secretary*

February 27, 1987

Richard Mills  
Secretary  
Department of Corrections  
700 Jackson  
BUILDING MAIL


Dear Secretary Mills:

I am writing in follow-up to your February 19 letter relating to the state property on East Tenth Street in Topeka.

Your requested legislation regarding management and control of the property appears appropriate. Please feel free to proceed with it. I assume that if the bill passes, your Department would maintain all the East Tenth Street property other than the warehouses used by Fish and Game, Health and Environment and Revenue. Please advise if this is not consistent with your thoughts.

Regarding the use of the land which is south of the warehouse used by the Department of Revenue and between the two parcels used by the surplus property program, this appears to be a logical expansion for the surplus property program. Unless the Department of Revenue has concerns, I would approve the surplus property program using this space.

Sincerely,

  
H. Edward Flentje  
Secretary of Administration

HEF:jDeS

cc: Harley Duncan,  
Secretary of Revenue

Bill Nace, Superintendent  
Buildings and Grounds

STATE OF KANSAS

JACK LACEY  
REPRESENTATIVE, SECOND DISTRICT  
CHEROKEE, LABETTE, AND  
MONTGOMERY COUNTIES  
P.O. BOX 6  
OSWEGO, KANSAS 67356



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE AND SMALL BUSINESS  
ENERGY AND NATURAL RESOURCES  
TRANSPORTATION

February 16, 1988

Testimony before Federal and State Affairs Committee on House Bill 2815  
Chairman Miller and members of the Committee

Thank you for the privilege to testify in support of House Bill 2815.

House Bill 2815 will give all the citizens of Kansas equal protection of their constitutional rights and privileges.

House Bill 2815 will prevent the patchwork of local ordinances that differ from city to city, township to township or county to county that can only serve to confuse and entrap the law abiding citizen.

House Bill 2815 will not change any of the Federal or State laws dealing with firearms, it will still be unlawful to sell a hand gun to any person under age 21 or any firearm to any one under 18. Anyone convicted of a felony, mentally defective or addicted to drugs is prohibited from owning, purchasing, receiving or transporting any firearms or ammunition and it will still be unlawful to carry a concealed weapon.

This bill will be of great benefit to all the citizens of Kansas, assuring them their constitutional rights and equal and fair treatment under the law. The thousands law abiding of sportsmen and competitive shooters, as well as tourists and people traveling across the state, will know that they may travel within the state without fear of crossing some local ordinance and ending up in jail, fines and losing valuable firearms, not because they committed a crime, but because they could not

Attach c

Page 2

keep up with the crazy quilt patchwork of local ordinances that are usually passed at times of high emotion and the urgency to do something.

Today, some 33 states have firearms, preemption, including Missouri and Oklahoma. It is working well in those states and supported by local, state and national law enforcement groups. It is time Kansas joined them in guaranteeing our citizens equal protection under the law.

Mr. Chairman I will be happy to try to answer any questions.

A handwritten signature in cursive script that reads "Jack Laay". The signature is written in black ink and is positioned on the right side of the page, below the typed text.

JEFF FREEMAN  
REPRESENTATIVE, SEVENTEENTH DISTRICT  
COFFEY AND LYON COUNTIES



TOPEKA

HOUSE OF  
REPRESENTATIVES

Testimony on HB 2815

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

February 16, 1988

COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN: ENERGY AND NATURAL  
RESOURCES  
MEMBER: AGRICULTURE AND SMALL BUSINESS  
LEGISLATIVE, JUDICIAL AND  
CONGRESSIONAL APPORTIONMENT  
TRANSPORTATION

Thank you Mr. Chairman for the opportunity to testify on HB 2815.

HB 2815 is sponsored by Representative Lacey, myself and 67 of our colleagues.

This bill reaffirms the constitutional rights of Kansans to keep and bear arms and provides for uniform and consistent laws throughout the state of Kansas.

In the 1970's, legislators in California and Pennsylvania led the way in enacting firearm preemption statutes. Currently, 33 states have adopted firearm preemption laws and efforts are underway in twelve more. Last week, the Ohio Senate passed SB 336 which is a similar measure to HB 2815.

This bill is based on language adopted in the 33 other states and recommended for adoption by the American Legislative Exchange Council.

A state firearms preemption law will prevent the hodgepodge of local laws that vary from town to town, county to county that confuse law-aiding citizens. HB 2815 will ensure that the state law will be enforced uniformly and consistently throughout the state on an equal basis. Indeed, in enacting firearms preemption legislation, we fulfill our constitutional duty to protect the rights of all citizens by expressly preventing local units of government from arbitrarily infringing upon the rights of

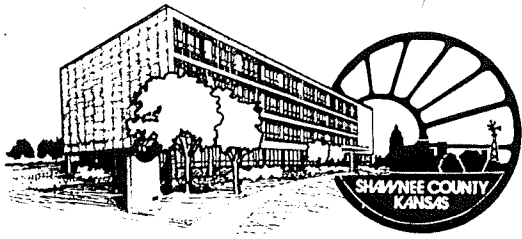
HB 2815

February 16, 1988

citizens and effectively eliminating the need for those citizens to undertake costly litigation to protect their rights. As a practical matter in today's mobile society, firearms preemption laws also provide for intrastate transportation of firearms allowing travel to hunting areas, competitive shooting matches, and gun shows.

HB 2815 will guarantee the citizens their right to own and use firearms for legitimate purposes based on state statutes and federal law, rather than varying and conflicting local ordinances. For this reason, firearms preemption legislation has been very popular in the law enforcement community.

Thank you for the opportunity to appear and I will be happy to answer any questions.



**Shawnee County  
Sheriff's Dept.**

200 East 7th, Topeka, KS 66603-3973

**ED RITCHIE**  
SHERIFF  
295-4047

**DALE COLLIE**  
UNDERSHERIFF  
295-4050

February 16, 1988

Representative Robert Miller, Chairman  
Committee on Federal and State Affairs  
Kansas State House  
Topeka, Kansas 66612

Dear Representative Miller:

The following may be considered as written testimony in support of House Bill No. 2815. I have reviewed the contents of this proposed legislation concerning granting control of firearms and ammunition, etc. to the State of Kansas, and divesting control of the same from the various forms of local government. Based upon the impact that House Bill No. 2815 will have on the Shawnee County Sheriff's Department, I hereby endorse this bill and recommend that it be passed during the 1988 session of the Kansas Legislature.

While there might be some aspects of this bill to which I cannot readily agree, the overall favorable affect of providing uniformity across the state in regard to the law concerning firearms, clearly outweighs other countervailing considerations and prompts my approval of House Bill No 2815. As a member of the law enforcement community, I believe that administration of the criminal justice system could be enhanced by having firearm control laws that apply uniformly to all citizens living in or passing through the State of Kansas. This would remove any possibility of ambiguity in the current law and any conflict that might arise concerning the application of local firearm control laws vis a vis those laws enacted by the State of Kansas. Thus, the probable effect of removing any confusion regarding the firearms laws of this state, should House Bill No. 2815 be passed, is desirable.



Representative Miller  
February 16, 1988  
Page Two

The Shawnee County Sheriff's Department is approached on a frequent basis to provide information concerning the firearms laws of this state. More often than not, this information is solicited by individuals planning to travel through this state who want to know how they can legally transport firearms within the boundaries of the State of Kansas. Generally, these people are gun collectors and are travelling to gun shows and to similar events. As the law currently exists, we candidly tell these interested people that we are only able to provide information as to the gun control laws here in Shawnee County. We are forced to inform them that the law concerning the requirements for legally carrying firearms may differ from county to county and from city to city within the State of Kansas. Thus, and much to their dismay, we are not able to normally provide these people with a satisfactory answer to their questions concerning the law of firearms regulation within the state. Therefore, I feel that House Bill No. 2815 and its goal of providing uniformity to the firearms' law within the State of Kansas, is legislation that would have a desired impact as far as the law enforcement community is concerned. As such, I would like to endorse this particular piece of legislation.

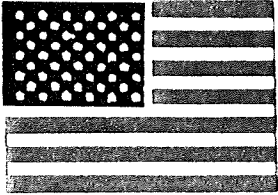
If you should have any questions regarding the contents of this letter, please do not hesitate to contact me at your earliest convenience.

Very truly yours,



Ed E. Ritchie, Sheriff  
Shawnee County, Kansas

EER/jl



# AMERICAN FEDERATION OF POLICE

**Records Office**  
1100 N.E. 125th Street  
North Miami, FL 33161  
(305) 891-1700

1000 Connecticut Ave., N.W., Suite 9  
Washington, D.C. 20036  
(202) 293-9088

**PRESIDENT**  
Deputy Sheriff, Dennis Ray Martin  
Saginaw, Michigan

**1ST VICE PRESIDENT**  
Officer Joseph J. McCaffrey Jr.  
California State Patrol  
Downey, CA.

**2ND VICE PRESIDENT**  
Deputy Brian L. Willison  
DeForest, WI.

**SECRETARY-TREASURER**  
Lt. D.B. Van Brode, IV.  
FL Crime Prevention Comm.  
No. Miami, FL.

**EXECUTIVE DIRECTOR**  
Chief Gerald S. Arenberg  
FL Crime Prevention Comm.  
No. Miami, FL.

**NATIONAL CHAPLAIN**  
Rev. Robert Lily  
Buffalo, NY

**NATIONAL SGT. AT ARMS**  
Chief Gerald H. Mack  
Amherst, NY

**CONGRESSIONAL LIAISON**  
Col. Fred Pearson  
Montgomery County Police, (Ret.)  
Bethesda, MD.

**NATIONAL VICE PRESIDENTS  
STANDING COMMITTEES**

**MEMBERSHIP**  
Cor. LT. Robert E. Mahoney  
Staten Island, NY

**CORRECTIONS & JAILS**  
Officer Nikki S. McCarty  
Metro Dade Sheriffs Office

**POLICE SURGEONS**  
Dr. Bruno J. Bevino, MD  
Westwood, MA

**ORGANIZED CRIME**  
Officer Daniel J. Meany III  
Boston, MA

**POLICE CHAPLAINS**  
Rabbi Dr. Seig Auerbach  
Lake Placid, NY

**COMMUNICATIONS**  
Sgt. Louis A. Mantione  
Pittston, PA.

**CAMPUS SECURITY**  
Sgt. Douglas H. Smith  
San Marcos, TX.

**AWARDS & DECORATIONS**  
Ranger Nicholas J. Valhos  
Dover Plains, NY

**POLICE TRAINING**  
Dr. F. Gerald St. Souver  
American Police Academy  
Pontiac, MI.

**SELF DEFENSE TACTICS**  
Ptlm. Brian C. Smith  
Chicago Hgts., IL.

**CRIME WATCH**  
Cmdr. Richard W. Wassell  
Miami, FL.

**POLICE HALL OF FAME**  
Chief Charlie J. Reynolds  
Lindsay, TX.

**ARSON & EXPLOSIVES**  
Ptlm. Eugene C. Gushin, Sr.  
San Antonio, TX.

**PAROLE & PROBATION**  
Officer A.H. Salata (Ret.)  
Flushing, N.Y.

**CRIME PREVENTION**  
Col. Leon Clemens  
Sun Lakes, AZ.

**MEDIA RELATIONS**  
Lt. Peter M. Finnegan  
Caldwell, N.J.

**PRIVATE SECURITY LIAISON**  
Sec. Off. Toni Pallett Riss  
San Francisco, CA.

**CB RADIO PATROL**  
Instr. Gene R. Hubler  
Cucamonga, CA.

**POLICE SURVIVAL & TACTICS**  
Inspector U.S. Marshal Bill Scott  
New York, NY

12th February 1988

Rep. Jeff Freeman  
Kansas House of Representatives  
State Capitol  
Topkeka, Kansas 66612

Dear Rep. Freeman:


House Bill 2815, a Firearms Pre-Exemption Law, that would if passed codify a statewide standard for firearms seems to me to be basic logic. Logic that 33 other states have passed and in doing so assisted law enforcement officers who must enforce local, state and federal laws.

I would not suggest in any manner that we suggest to your fellow elected representatives of what standards you use to guarantee the rights of all citizens of good repute to own and bear arms for sport of self defense. But I do suggest that the crazy-quilt laws passed city to city, county to county, are neither fair or easy to enforce.

Our polls of law enforcement officers of all ranks and departments show a support for the right of all citizens to bear arms and own firearms by individual choice. That they want the police to enforce laws against criminals.

No one can speak for every law enforcement officer nor for all groups. I can tell you as an experienced and working road deputy sheriff and training officer that your Bill is the start of a system where both the public and the law enforcement community can work together in mutual respect for the law.

Sincerely,

  
DENNIS RAY MARTIN  
President

M:g

Overnight Messenger





# NATIONAL ASSOCIATION OF CHIEFS OF POLICE

EDWARD P. TURNER  
Executive Vice President  
1100 N.E. 125th Street  
N. Miami, FL 33161  
(305) 891-9800

NATIONAL PRESIDENT  
Chief Robert Ferguson (Ret.)  
Bath TWP, OH

EXECUTIVE VICE PRESIDENT  
Chief Edward P. Turner  
Oakland Park, FL

1st VICE PRESIDENT  
Lt. Col. Ian M. Shipley, Jr.  
Chesapeake, VA

2nd VICE PRESIDENT  
Chief Ramon F. Drehobl  
Ione, CA

3rd VICE PRESIDENT  
Chief Terry L. Davis  
Sardis, AL

4th VICE PRESIDENT  
Chief Thomas E. Carrone  
Shaker Square, OH

5th VICE PRESIDENT  
Chief John M. Simpson  
Marysville, CA

NATIONAL SERGEANT-AT-ARMS  
Andrew W. Carrano  
Cuyahoga Falls, OH

EXECUTIVE DIRECTOR  
Gerald S. Arenberg  
Miami, FL

STANDING NATIONAL COMMITTEES  
VICE PRESIDENT FOR:

MEMBERSHIP  
Dep. Chief Anthony M. Corbo  
Summit, IL

ETHICS  
Chief Inv. Melvin L. Schuck  
Cleveland, OH

TERRORISM  
Capt. Lionel F. Pinn, Sr. (Ret.)  
Guntersville, AL

ARSON & EXPLOSIVES  
Chief Steven A. Johnson  
Highland Village, TX

TRAINING  
Lt. Owen S. Garrison, Jr.  
Upper Deerfield Twnshp., NJ

PROBATION & PAROLE  
Willis X. Harris  
Detroit, MI

CORRECTIONS  
Chief Chuck Frazier  
Madera, CA

ORGANIZED CRIME  
Dale C. Jenkins, Jr.  
Everett, MA

DRUGS & NARCOTICS  
Chief Sam K. Heath, Jr.  
Indian Rocks Beach, FL

JOHN EDGAR HOOVER MEMORIAL  
Gordon L. Day  
Biddeford, ME

PUBLIC RELATIONS  
Chief Norman J. Griffin  
Crestwood, IL

INTERNATIONAL LIAISON  
Coroner William B. Smith, Jr.  
Moncks Corner, SC

FRAUD  
Chief Inv. Jeff Voskans  
Des Moines, IA

CAMPUS POLICE  
Chief Donnie Garrison  
Itawamba Jr. College, MS

SECURITY  
William A. Sharp  
New York, NY

Hon. Jeff Freeman  
House of Representatives  
State Capitol  
Topeka, Kansas 66612

RE: House Bill 2815, Firearms Pre-Emption Legislation

Dear Rep. Freeman:


*Uniform laws that are clear and easy to enforce and to obey are the best laws. Your HB 2815 would make standard in your state the laws that govern firearms. Historically, even today the will of the people and that of most law enforcement officers is that law abiding citizens should have the right to own and bear arms for sport or self defense.*

*Laws that vary from town to town, county to county, tend to confuse law abiding citizens and make the job for police even more difficult. It is well known that criminals are happy to see communities ban firearm ownership since it gives them a safe haven and target.*

*No one can speak for every command officer and I would not try to do so. What I am saying that as an experienced police officer I have found that uniform laws and codes best serve the citizens and the police.*

*I think that you are taking the right step to standardize the laws of your state and I wish you success in this important and common sense effort.*

*Sincerely,*

  
Robert Ferguson  
President

F:g

trial ordered under present law. Vaughn v. Murray, 214 K. 456, 458, 521 P.2d 262.

60. Governmental immunity doctrine as declared in 46-901, 46-902 unconstitutional and void. Brown v. Wichita State University, 217 K. 279, 280, 281, 295, 297, 540 P.2d 66. Reversed and remanded: 219 K. 2, 3, 25, 26, 28, 36, 40, 547 P.2d 1015.

61. Service by publication in tax foreclosure proceeding satisfied constitutional requirements; property description sufficient. Board of County Commissioners v. Alldritt, 217 K. 331, 536 P.2d 1377.

62. Under facts, action against city on common law theories dismissed; governmental immunity. Bribiesca v. City of Wichita, 221 K. 571, 572, 561 P.2d 816.

63. Traditional classifications applied to attractive nuisance actions do not deny equal protection. Gerchberg v. Loney, 223 K. 446, 452, 576 P.2d 593.

64. Health care provider insurance availability act provisions do not violate equal protection of laws. State, *ex rel.*, Schneider v. Liggett, 223 K. 610, 611, 613, 616, 618, 620, 576 P.2d 221.

65. County resolution establishing solid waste management system with different rates for farm and city property held constitutional. Zerr v. Tilton, 224 K. 394, 395, 581 P.2d 364.

66. Equal protection of law not violated by 61-1805. Threadgill v. Beard, 225 K. 296, 301, 590 P.2d 1021.

**§ 3. Right of peaceable assembly; petition.** The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

**Research and Practice Aids:**

Constitutional Law 91.  
C.J.S. Constitutional Law § 214.  
Am. Jur. 2d Constitutional Law §§ 329 to 331, 353 to 355.

**CASE ANNOTATIONS**

1. Association of railroad employees; negotiations with employer; section not violated. Flynn v. Brotherhood of Railroad Trainmen, 111 K. 415, 419, 207 P. 829.  
2. Chief arbiter of public policy in this state is the legislature. State, *ex rel.*, v. Board of Education, 122 K. 701, 708, 253 P. 251.

**§ 4. Bear arms; armies.** The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

**Research and Practice Aids:**

Militia 1, 2.  
Hatcher's Digest, Carrying Weapons § 1.  
C.J.S. Militia § 1 et seq.

**CASE ANNOTATIONS**

1. No limitation on power to prohibit promiscuous carrying of arms. Salina v. Blaksley, 72 K. 230, 83 P. 610.

2. K.S.A. 21-2611 held constitutional; legislature has power to define what constitutes crime. State v. Bolin, 200 K. 369, 370, 436 P.2d 978.

3. Section confers right to bear arms to the people, meaning "people" as a collective body. City of Junction City v. Lee, 216 K. 495, 497, 532 P.2d 1292.

4. Section does not prohibit enactment of laws prohibiting promiscuous carrying of arms. City of Junction City v. Lee, 216 K. 495, 497, 532 P.2d 1292.

**§ 5. Trial by jury.** The right of trial by jury shall be inviolate.

**Cross References to Related Sections:**

Grand juries, see ch. 22, art. 30.  
Trials in criminal proceedings, see ch. 22, art. 34.  
Jury service and selection of jurors, see 43-155 et seq.  
Trial of civil actions in district court, see 60-238, 60-239, 60-247 to 60-253.

Trial of civil actions in courts of limited jurisdiction, see 61-1716.

Right to speedy public trial by impartial jury in criminal prosecutions, see Bill of Rights, Kan. Const., § 10.

**Research and Practice Aids:**

Jury 9 et seq.  
Hatcher's Digest, Juries § 14.  
C.J.S. Juries § 9 et seq.

**Judicial Council Bulletin References:**

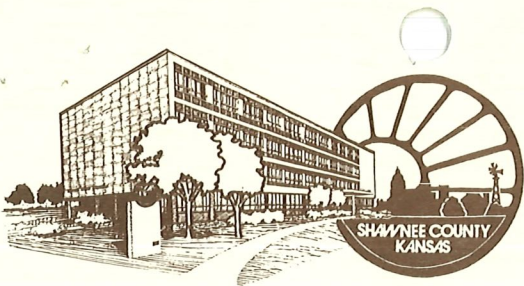
Abolition of general verdict proposed, C. L. Hunt, 1936 J.C.B. 51, 58.  
Abolition of jury trials in county courts suggested, James M. McDermott, 1948 J.C.B. 40, 46.

**Law Review and Bar Journal References:**

Comments on validity of legislation providing jury trials in contempt cases, 6 J.B.A.K. 270, 272 (1938).  
Mentioned in "Plea Bargaining—Justice Off the Record," Robert L. Heath, 9 W.L.J. 430 (1970).  
Cited in comment concerning constitutionality of the six-man jury in Kansas, Jay W. Vander Velde, 12 W.L.J. 249, 250 (1973).  
Mentioned in survey of criminal procedure, Cynthia Hartman, 15 W.L.J. 350, 354 (1976).  
Cited in note, "Civil Juries: Recent Legislation Allowing Nonunanimous Verdicts," Thomas J. Koehler, 18 W.L.J. 269, 281, 285 (1979).

**CASE ANNOTATIONS**

1. Verdict of jury must be verdict of each individual juror. Bowman v. Wheaton, 2 K.A. 581, 584, 44 P. 750.  
2. Superadded conditions of recognizance not cause for dismissal on appeal. City of Kansas City v. Hescher, 4 K.A. 782, 792, 46 P. 1005.  
3. Applied only to cases so triable at common law. Kimball *et al.* v. Connor, Starks *et al.*, 3 K. 414, 432.  
4. In quo warranto defendant is "probably" entitled to jury trial. The State, *ex rel.*, v. Allen, 5 K. 213, 220.  
5. Municipal court trial without jury when jury obtainable on appeal. City of Emporia v. Volmer, 12 K. 622, 631.  
6. In action for recovery of money, jury may be demanded. Board of Education v. Scoville, 13 K. 17, 33.  
7. When trial by jury not a matter of right. Ross v. Comm'rs of Crawford Co., 16 K. 411.  
8. Court may send any issues in equity case to jury. Hixon v. George, 18 K. 253, 256.



**Shawnee County  
Sheriff's Dept.**

200 East 7th, Topeka, KS 66603-3973

**ED RITCHIE**  
SHERIFF  
295-4047

**DALE COLLIE**  
UNDERSHERIFF  
295-4050

February 16, 1988

Representative Robert Miller, Chairman  
Committee on Federal and State Affairs  
Kansas State House  
Topeka, Kansas 66612

Dear Representative Miller:

The following may be considered as written testimony in support of House Bill No. 2815. I have reviewed the contents of this proposed legislation concerning granting control of firearms and ammunition, etc. to the State of Kansas, and divesting control of the same from the various forms of local government. Based upon the impact that House Bill No. 2815 will have on the Shawnee County Sheriff's Department, I hereby endorse this bill and recommend that it be passed during the 1988 session of the Kansas Legislature.

While there might be some aspects of this bill to which I cannot readily agree, the overall favorable affect of providing uniformity across the state in regard to the law concerning firearms, clearly outweighs other countervailing considerations and prompts my approval of House Bill No 2815. As a member of the law enforcement community, I believe that administration of the criminal justice system could be enhanced by having firearm control laws that apply uniformly to all citizens living in or passing through the State of Kansas. This would remove any possibility of ambiguity in the current law and any conflict that might arise concerning the application of local firearm control laws vis a vis those laws enacted by the State of Kansas. Thus, the probable effect of removing any confusion regarding the firearms laws of this state, should House Bill No. 2815 be passed, is desirable.

Representative Miller  
February 16, 1988  
Page Two

The Shawnee County Sheriff's Department is approached on a frequent basis to provide information concerning the firearms laws of this state. More often than not, this information is solicited by individuals planning to travel through this state who want to know how they can legally transport firearms within the boundaries of the State of Kansas. Generally, these people are gun collectors and are travelling to gun shows and to similar events. As the law currently exists, we candidly tell these interested people that we are only able to provide information as to the gun control laws here in Shawnee County. We are forced to inform them that the law concerning the requirements for legally carrying firearms may differ from county to county and from city to city within the State of Kansas. Thus, and much to their dismay, we are not able to normally provide these people with a satisfactory answer to their questions concerning the law of firearms regulation within the state. Therefore, I feel that House Bill No. 2815 and its goal of providing uniformity to the firearms' law within the State of Kansas, is legislation that would have a desired impact as far as the law enforcement community is concerned. As such, I would like to endorse this particular piece of legislation.

If you should have any questions regarding the contents of this letter, please do not hesitate to contact me at your earliest convenience.

Very truly yours,



Ed E. Ritchie, Sheriff  
Shawnee County, Kansas

EER/jl

Testimony on H.B. 2815  
Before the  
House Committee on Federal and State Affairs  
16 February 1988

Mr. Chairman, ladies and gentlemen, my name is Robert J. Robel and I reside at 211 Cedar Drive in Manhattan, Kansas. I am here to speak in support of H.B. 2815. I am the Chairman of the Conservation Issues Committee of the 8,000-member Kansas Wildlife Federation (plus 18,000 Kansas affiliates), and a Director of the National Rifle Association, a national organization with 31,000 members in Kansas. I also serve as a Director of the United States Shooting Team, Inc. The U.S. Shooting Team is the entity responsible for training the athletes who represent the United States in the Olympic Games, and also represent this country internationally in the shooting sports. I will speak today in my latter capacity, i.e., Director of the U.S. Shooting Team. Enactment of H.B. 2815 will allow us to conduct our training programs without having our athletes unwittingly break local laws and ordinances.

Training of U.S. Olympic athletes begins early. Our largest grassroots efforts begin with air guns. The Daisy Manufacturing Company and the U.S. Jaycees cooperate in this program that includes over 750,000 youths annually. Local Jaycee chapters across Kansas organize 7 to 14-year old boys and girls and teach gun safety and the basics of marksmanship. These local groups then compete at the state level and the state champion competes at the international level. In 1987, our team from Norton, Kansas became the International Champion for the fourth time. Via these efforts, I have been personally involved in the development of three individuals who have won Gold Medals for this country during the 1980 and 1984 Olympic Games. These three individuals are among the shooting athletes who will represent this country in the 1988 Olympic Games in Seoul, Korea.

In several states, our Jaycee/Daisy training program was hampered by restrictive local firearms ordinances and laws in the late 1970's and early 1980's. This problem was recognized and was one of the primary reasons Missouri in 1984, Montana in 1985, and West Virginia in 1983, each adopted a firearm preemption bill like you are considering today. Local ordinances in those three states caused U.S. Olympic Medalist Patty Spurgin of Montana, Mike English of Missouri, and Todd Bensley of West Virginia to unknowingly violate local firearms ordinances as they traveled to and from Olympic training sessions in their home states. Adoption of firearm preemption legislation in those states eliminated the problem there.

Before concluding my remarks, I believe it appropriate to briefly summarize the current laws controlling firearms in Kansas.

-over please-

Attach E



Kansas

- Possession: Drug addicts and habitual drunkards cannot possess a gun.  
Only peace officers can possess a shotgun with a barrel shorter than 18".  
Felons are prohibited from possessing firearms with barrels less than 12" in length.
- Purchase: Persons under 18 years of age cannot acquire any firearm with a barrel of less than 12".  
Narcotic addicts and habitual drunkards cannot purchase firearms.
- Carrying: Except for peace officers, prison keepers, watchmen, licensed hunters/fishermen, and detectives, no person can carry a concealed firearm in Kansas.  
Children under 14 may not carry any firearm unless supervised by a person over 18 years of age, or on the premises of his/her residence.
- Machine Guns: Except for peace officers, prison keepers, and military personnel on official duty, the sale, manufacture, possession, and carrying of machine guns is prohibited.

Federal Law

- Prohibits purchase, owning, receiving or transporting any firearms or ammunition by felons, adjudicated mentally defective, or drug addicts.
- Bans mail order sales of firearms except between federally licensed dealers.
- Provides for mandatory penalties for criminal misuse of firearms during crimes of violence or drug-related offenses.
- Requires that firearms dealers be licensed and all purchasers to show proof of identity and sign, under penalty of perjury, a statement certifying eligibility to purchase.
- Requires dealers to keep records of all firearm sales, such records are available for inspection by legal authorities.
- Prohibits sales of handguns to persons under 21 years of age, or rifles and shotguns to those under 18 years of age.
- Prohibits dealers from selling armor piercing bullets or ammunition and/or other destructive devices.

Ladies and gentlemen, the organizations to which I referred in my opening remarks and I personally, strongly endorse H.B. 2815. It will insure uniform firearms laws across this state, and reduce the likelihood of law-abiding Kansas citizens unwittingly violating local laws and ordinances. I thank you for the opportunity to convey my position to you today.



F

I am Ralph Marsh, Allen, KS. I am a farmer, semi retired. I am also among other things, the president of The Kansas State Rifle Association. I am speaking not only for myself, but for the 1600 or so individuals who are members of The Kansas State Rifle Association. These K.S.R.A. members, along with thousands of other law abiding citizens, travel around our state, as hunters, firearms collectors, and competitive shooters. Our state association encourages and sanctions shooting matches at both Junior and Senior levels, shotgun, handgun, and rifle, all across the state. Shooters travel considerable distances, even coming from other states to attend these matches. Without the benefits of firearms preemption laws, local ordinances can create a problem, making it difficult if not impossible to transport firearms for legitimate purposes across city limits or county lines, without fear of arrest, prosecution, or confiscation of personal property. State firearms preemption laws curtail the proliferation of local "Gun Control" laws and insure that state laws will be uniformly enforced throughout the state. Therefore, we the 1600 members of The Kansas State Rifle Association urge the passage of H. B. 2815.

Thank You

*Ralph Marsh*  
*Pres. Kansas State Rifle Assoc.*

6

TESTIMONY  
PRESENTED TO THE  
FEDERAL AND STATE  
AFFAIRS COMMITTEE  
REPRESENTATIVE ROBERT H. MILLER CHAIRMAN

ON  
H.B. 2815  
FEBRUARY 16, 1988, 1:30 PM  
ROOM 526-S STATE CAPITOL  
TOPEKA, KANSAS

BY  
FRANCIS (FRANK) PAUL McANARNEY JR.  
FEDERALLY LICENSED FIREARM DEALER NO. 3-48-085-01-9J-15309  
OWNER AND OPERATOR OF MAC'S GUN SHOP  
664 HIGHLAND AVENUE  
SALINA, KANSAS 67401  
913-825-2031

With all due respect Mr. Chairman Robert H. Miller, members of the Federal and State Affairs Committee, and other interested persons present.

With regards to H.B. 2815 as written in the Committee's record and under discussion here today.

I present for your inspection Mr. Chairman and Committee members these two manuals published by the Department of the Treasury, Bureau of Alcohol Tobacco and Firearms entitled State Laws and Ordinances, Sixteenth Edition and State Laws and Ordinances, Seventeenth Edition, 1984 and 1987 respectfully. These publications list state by state including Guam, Puerto Rico and the Virgin Islands the specific and pertinent laws and ordinances of these government entities.

I present for your inspection and information my written testimony with attachments. Attachment #1 is the front cover facing page which carries a message to all Federal Firearms License holders. I quote a line from that page "I hope this publication will provide you with an extra measure of assistance with your business operations." Attachment #2 is a copy of the state of Idaho Laws and Ordinances concerning firearms. I quote from the last sentence of the Idaho statutes 50-343 "No city may in any manner regulate the lawful ownership, possession, or transportation of firearms when carried or transported for purposes not prohibited by law of the state of Idaho." Attachment #3 is a copy of the state of Illinois Laws and Ordinances concerning firearms. Illinois has laws at the state level and at the city level including to date: these various cities: Carol Stream, Chicago, Chicago Ridge, Cicero, East St. Louis, Evanston, Franklin Park, Freeport, Niles, Glen Ellyn, Highland Park, Joliet, Lombard, Morton Grove, Peoria, Rockford, Skokie, Streamwood, and Worth.

Attachment #2 exemplifies the uniformity and consistency of law in a state which has passed a pre-emption law to restrict proliferation of conflicting firearms ordinances.

Attachment #3 exemplifies the conflicting and confusing and contradicting law in a state which has no pre-emption law and allows the proliferation of multiple firearms ordinances.

I appeal to you as lawmakers to embrace the simple.

As the owner and operator of Mac's Gun Shop I am in the business of selling firearms and related components to eligible customers. I comply with the Laws of the Federal Government, the State of Kansas, and the city and county of my place of business, namely Salina and Saline.

I am able to sell firearms and related components to the residents of the state of Kansas and those states with contiguous borders to Kansas namely, Colorado, Missouri, Nebraska, and Oklahoma.

Missouri and Oklahoma have pre-emptive law.

Kansas, Colorado and Missouri have no pre-emptive law.

A customer from Oklahoma is target shooting or hunting in Saline county and his firearm is either lost, stolen or becomes inoperable. When he comes to my place of business I must establish residency through some form of positive identification most usually a valid drivers license and ensure the transaction complies with both Kansas and Oklahoma firearms ordinances.

A customer from Nebraska is target shooting or hunting in Saline county and his firearm is either lost, stolen or becomes inoperable. When he comes to my place of business I must establish residency through some form of identification and ensure the transaction complies with both Kansas and Nebraska state firearms ordinances. And furthermore must ensure compliance with the specific city or county he resides in.

A customer from Junction City or Lawrence is target shooting or hunting in Saline county and his firearm is either lost, stolen or becomes inoperable. When he comes to my place of business I must establish residency through some form of positive identification and ensure the transaction complies with both Kansas law and the Ordinances of Junction City or Lawrence which ever be the case.

My Federal Firearms License is in jeopardy of being taken from me if I inadvertently violate any law in the transaction of a business matter. It is a complicated system I must work with.

I appeal to you as lawmakers to embrace the simple.

I appeal to you as responsible elected lawmakers to prevent further unnecessary confusing and complication in the firearms business and pass H.B. 2815 in its current unamended version.

Innumerable hunters from Nebraska and Missouri and Colorado and Oklahoma descend on Kansas each year to hunt pheasant. These persons are law abiding citizens engaged in a recreational activity centered around a valuable Kansas resource. Kansas deer herds are expanding uncontrollably and Kansas may in the near future allow non-resident deer hunting to stem this growing Kansas problem. A valuable and as yet untapped Kansas resource. My father and I for the last ten years purchase a non-resident deer permit in the state of Wisconsin at a cost of \$105.50 (one hundred five dollars and fifty cents). Wisconsin residents purchase the same license for \$15.00 (fifteen dollars).

Lets embrace the simple and ensure more and legal business to occur between Kansas and these innumerable out of state hunters and their needs to do business in the state of Kansas when perhaps their firearm either is lost, stolen or becomes inoperable.

I appeal to you to embrace the simple.

# |

**DIRECTOR'S MESSAGE**  
**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**  
**WASHINGTON, DC 20226**

I am pleased to furnish you the 17th Edition of "State Laws and Published Ordinances-Firearms," compiled by our Firearms and Explosives Operations Branch. I hope this publication will provide you with an extra measure of assistance with your business operations.

As a Federal firearms licensee, you play the critical role of assuring that firearms are acquired from you only by persons who are eligible to receive or possess them. Your acquisition and disposition records, Forms 4473, and reports of multiple sales or other dispositions of handguns on Forms 3310.4, have proven valuable to law enforcement agencies at all levels of government in tracing the movements of weapons suspected of use in crimes. I greatly appreciate the high level of assistance you have provided when contacted by ATF's National Firearms Tracing Center, Law Enforcement Agents, and Compliance Operations Inspectors, and hope this will continue.

If you have any questions concerning:

- Your Federal firearms license, renewal application, or the Federal law or regulations, please do not hesitate to contact the ATF Compliance Operations Region or Field Office servicing your State. The address of the relevant office is included on the next page.
- Stolen or lost Title II (National Firearms Act) weapons, or if you suspect or have knowledge of specific, unlawful activities, contact your nearest ATF Law Enforcement District Office. A listing of these offices is included on page (ii).
- Interpretation of a State, county, or other local law or ordinance, please contact the State police, local authority, or the State Attorney General. A listing of States' Attorneys General is included, along with their telephone numbers.

Reports of multiple sales on ATF Forms 3310.4 are to be mailed to the nearest ATF Law Enforcement District Office.

If you are going out of business with no business successor, your firearms records are to be shipped to our Firearms Records Repository, the address of which is included on the next page.

Material for future editions of this publication may be addressed to, and will be gratefully received by, the Firearms and Explosives Operations Branch (C:F:F), P.O. Box 189, Washington, DC 20044.

  
Director

[This publication is required by §921(a)(19) of Title 18, United States Code, to inform Federal firearms licensees of State and local firearms transaction requirements by these jurisdictions.]

firearms; conditions. Every license issued pursuant to this part shall be issued and shall

minimum of \$500, and no more than \$1,000 or imprisoned not more than one year, or

may not lawfully own, possess, or have control of firearms. Art. 6th, Op. 81-12.

#2

Idaho  
State Law  
ID Code

18-3306. Crimes (Firearms, ETC.)

18-3302. Concealed and dangerous weapons—Possession and exhibition—Sale to minors. If any person, excepting officials of a county, officials of the state of Idaho, officials of the United States, peace officers, guards of any jail, or any jail, or any officer of any express company on duty, shall carry concealed upon or about his person any \* \* \* pistol, revolver, gun or any other deadly or dangerous weapon within the limits or confines of any city, town or village, or in any public assembly, or in any mining, lumbering, logging, railroad or other construction camp, public conveyance or on public highways within the state of Idaho, or shall, in the presence of one or more persons, exhibit any deadly or dangerous weapon in a rude, angry or threatening manner, or shall have or carry

such weapons upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor under the age of sixteen years any such weapon without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished \* \* \* provided, however, that any person shall be allowed to carry any of the above weapons in the places mentioned above on securing a permit from the sheriff of the county after satisfying the sheriff of the necessity thereof.

Commentary's Note:

One carries a weapon "upon or about his person" not only when he physically is carrying it in his clothing or in a handbag of some sort, but also when he goes about

with the weapon in such close proximity to himself that it is readily accessible for prompt use. State v. McNary, 100 Idaho 244, 596 P.2d 417 (1979).

18-3307. Civil liability for injury by firearms.— Any party maimed or wounded by the discharge of any firearm aforesaid, or the heirs or representatives of any person who may be killed by such discharge, may have an action against the party offending, for damages, which shall be found by a jury, and such damages, when found, may in the discretion of the court before which such action is brought, be doubled.

18-3308. Selling explosives, ammunition or firearms to minors. No person, firm, association or corporation shall sell or give to any minor under the age of sixteen years any powder, commonly called gunpowder, or any

64

description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor \* \* \*

18-3314. Resident's purchase of firearm in contiguous state. Residents of the state of Idaho may purchase rifles and shotguns in a state contiguous to Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as adminis-

tered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the contiguous state in which the purchase is made.

18-3315. Resident of contiguous state—Purchase of firearm in Idaho. Residents of a state contiguous to the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

31-600. Counties (Powers).

31-672. Regulation of firearms—Control by state.— No board of county commissioners of any county may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

50-300. MUNICIPAL CORPORATIONS (Powers).

50-342. Regulation of firearms—Control by state.— No city may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by law of the state of Idaho.

#3

description, or any dynamite or other explosive, or any shells or fired ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

18-3314. Resident's purchase of firearms in contiguous state. Residents of the state of Idaho may purchase rifles and shotguns in a state contiguous to Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as adminis-

tered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the contiguous state in which the purchase is made.

18-3315. Resident of contiguous state — Purchase of firearm in Idaho. Residents of a state contiguous to the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

## Illinois

### State Law

#### IL Ann. Stat.

### Chapter 38. Criminal Law and Procedure

#### ARTICLE 24. DEADLY WEAPONS

##### 24-1. Unlawful use of weapons.

(a) A person commits the offense of unlawful use of weapons when he knowingly: \*

(2) Carries or possesses with intent to use the same unlawfully against another; \*

(3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a nonlethal noxious liquid gas or substance designed solely for personal defense carried by a person 18 years of age or older; or

(4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode or fixed place of business any pistol, revolver, stun gun or taser or other firearm; or

(5) Sets a spring gun; or

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

(7) Sells, manufactures, purchases, possesses or carries a machine gun, which shall be defined for the purposes of this subsection as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon, or sells, manufactures, purchases, possesses, or carries any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person, or any rifle having one or more barrels less than 18 inches in length or a shotgun having one or more barrels less than 18 inches in length or any weapon made from

a rifle or shotgun, whether by alteration, modification, or otherwise, if such a weapon as modified has an overall length of less than 26 inches or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to, black powder bombs and Molotov cocktails or artillery projectiles; or

(8) Carries or possesses any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted; or

(9) Carries or possesses in a vehicle or on or about his person any pistol, revolver, stun gun or taser or firearm, when he is hooded, robed or masked in such manner as to conceal his identity; or

(10) Carries or possesses on or about his person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his land or in his own abode or fixed place of business, any pistol, revolver, stun gun or taser or other firearm.

A "stun gun or taser", as used in this paragraph (a) means (i) any device which is powered by electrical charging units, such as batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting person's nervous system in such a manner as to render him incapable of normal functioning or (ii) any device which is powered by electrical charging units, such as batteries, and which, upon

#### 31-800. Counties (Powers).

31-872. Regulation of firearms — Control by state. — No board of county commissioners of any county may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

#### 50-300. MUNICIPAL CORPORATIONS (Powers).

50-343. Regulation of firearms — Control by state. — No city may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by law of the state of Idaho.

contact with a human or clothing worn by a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning.

(11) Sells, manufactures or purchases any explosive bullet. For purposes of this paragraph (a) "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained such tube between the projectile and the cap.

(12) Carries or possesses on or about his person any \* \* \* pistol or revolver or other firearm, bomb, grenade, bottle or other container containing an explosive substance of over one quarter ounce, or cartridge while in the building or on the grounds of any elementary or secondary school, community college, college or university. This paragraph (12) shall not apply to law enforcement officers or security officer of such school, college or university, nor to students carrying or possessing firearms for use in training courses, parades, hunting, target shooting on school ranges, or otherwise with the consent of school authorities and which firearms are transported unloaded and enclosed in a suitable case, box or transportation package.

(b) Sentence. A person convicted of a violation of Subsection 24-1(a)(1) through (5) Subsection 24-1(a)(8), Subsection (a)(10) or of 24-1(a)(11), commits a Class A misdemeanor; a person convicted of a violation of Subsection 24-1(a)(6) or 24-1(a)(7) commits a Class 3 felony. A person convicted of a violation of Subsection 24-1(a)(9) or 24-1(a)(12) commits a Class 4 felony. A person convicted of a second or subsequent viola-

tion of Subsection 24-1(a)(4) commits a Class 4 felony.

(c) Violations on school property. (1) A person who violates Subsection 24-1(a)(6) or 24-1(a)(7) in any school or on the real property comprising any school commits a Class 2 felony. (2) A person who violates Subsection 24-1(a)(9) in any school or on the real property comprising any school commits a Class 3 felony. School is defined as any public or private elementary or secondary school community college, college or university.

(d) The presence in an automobile other than a public omnibus of any weapon, instrument or substance referred to in Subsection (a)(7) is prima facie evidence that it is in the possession of, and is being carried by, all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances: (i) if such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or (ii) if such weapon, instrument or substance is found in, an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, than such presumption shall not apply to the driver.

#### COMPILER'S NOTES:

1. All persons in Illinois, including law enforcement officers, are prohibited from possessing "sound suppressors" or "silencers," since such devices are designed for use in silencing the report of a firearm [§24-1(a)(8)]. IL State advisory 9-28-82.

2. No member of the general public is authorized to purchase or possess a weapon described in subsection 24-1(a)(7) \* \* \*. The fact that a weapon is currently incapable of discharging \* \* \* rounds automatically solely because of the capacity of its magazine does not authorize its purchase or possession by an Illinois resident [§24-1(a)(7)]. IL State advisory 9-3-82.

#### 24-1.1 Unlawful use of firearms by felons.

(a) It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction. This Section shall not apply if the person has been granted relief by the Director of the Department of State Police pursuant to Section [83-10].

(b) Sentence. Violation of this Section by a person not confined in a penal institution shall be a Class 3 felony. Any person who violates this Section while confined in a penal institution as defined in Section 2-14 of this Code is guilty of a Class 1 felony, if he possesses any weapon prohibited under Section 24-1 of this Code regardless of the intent with which he possesses it, and a Class X felony if he possesses any firearm, firearm ammunition or explosive.

#### 24-2. Exemptions.

(a) Subsections 24-1(a)(3), 24-1(a)(4) and 24-1(a)(10) do not apply to or affect any of the following:

(1) Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

(2) Warden, superintendents and keeper of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty, or while commuting between their homes and place of employment.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard or the Reserve Officers Training Corps, while in the performance of their official duty.

(4) Special agents employed by a railroad or a public utility to perform police functions or guards of armored car companies while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment; watchmen while actually engaged in the performance of the duties of their employment;

(5) Persons licensed as private security contractors, private detectives, private alarm contractors or employed by an agency certified by the Department of Registration and Education if their duties include the carrying of a weapon under the provisions of [Chapter 111, §2651 et seq.] while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment, provided that such commuting is accomplished within one hour from departure from home or place of employment, as the case may be. Persons exempted under this subsection shall be required to have completed a course of study in firearms handling and training approved and supervised by the Department of Registration and Education as prescribed by [Chapter 111, §2678] prior to becoming eligible for this exemption.

The Department of Registration and Education shall provide suitable documentation demonstrating the successful completion of the prescribed firearms training. Such documentation shall be carried at all times when such persons are in possession of a concealed weapon.

(6) Any person regularly employed in a commercial or industrial operation for the protection of persons employed and private property related to such commercial or industrial operation while actually engaged in the performance of their duty or traveling between sites or properties belonging to the employer of such security guards, and who, as such security guards are members of a security force of 5 persons or more registered with the Department of Registration and Education, provided, that such security guard has successfully completed a course of study, approved by and supervised by the Department of Registration and Education, consisting of not less than 40 hours of training which shall include theory of law enforcement, liability

for acts and the handling of weapons. The Department of Registration and Education shall provide suitable documentation to demonstrate the successful completion of such course. Such documentation shall be carried by the security guard at all times when he is in possession of a concealed weapon.

(7) Agents and investigators of the Illinois Legislative Investigating Commission authorized by the Commission to carry the weapons specified in Subsections 24-1(a)(3) and 24-1(a)(4), while on duty in the course of any investigation for the Commission.

(8) Persons employed by a financial institution for the protection of other employees and property related to such financial institution, while actually engaged in the performance of their duties, commuting between their homes and places of employment, or traveling between sites or properties owned or operated by such financial institution, provided that any person so employed has successfully completed a course of study, approved by and supervised by the Department of Registration and Education, consisting of not less than 40 hours of training which includes theory of law enforcement, liability for acts, and the handling of weapons. The Department of Registration and Education shall provide suitable documentation to demonstrate the successful completion of such course, and such documentation shall be carried by the person so trained at all times when such person is in possession of a concealable weapon. For purposes of this subsection, "financial institution" means a bank, savings and loan association, credit union or company providing armored car services.

(9) Any person employed by an armored car company to drive an armored car while actually engaged in the performance of his duties.

(10) Persons who have been classified as peace officers pursuant to [Chapter 127 1/2, §501, et seq.].

(11) Investigators of the Office of the State's Attorneys Appellate Prosecutor authorized by the board of governors of the Office of the State's Attorneys Appellate Prosecutor to carry weapons pursuant to [Chapter 14, §207.06].

(12) Manufacture, transportation, or sale of weapons to persons authorized under (1) through (10) of this Subsection to possess those weapons.

(b) Subsection 24-1(a)(4) and 24-1(a)(10) do not apply to or affect any of the following:

(1) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, patrons of such ranges while such members or patrons are using their firearms on those target ranges.

(2) Duty authorized military or civil organizations while parading, with the special permission of the Governor.

(3) Licensed hunters, trappers or fishermen while engaged in hunting, trapping or fishing.

(4) Transportation of weapons broken down in a non-functioning state or not immediately accessible.



(c) Subsection 24-1(a)(7) does not apply to or affect any of the following:

(1) Peace officers while in performance of their official duties.

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.

(4) Manufacture, transportation, or sale of machine guns to persons authorized under (1) through (3) of this Subsection to possess machine guns, if the machine guns are broken down in a non-functioning state or not immediately accessible.

(5) Persons licensed under federal law to manufacture any weapon from which eight or more shots or bullets can be discharged by a single function of the firing device, or ammunition for such weapons, and actually engaged in the business of manufacturing such weapons or ammunition, but only with respect to activities which are within the lawful scope of such business, such as the manufacture, transportation, or testing of such weapons or ammunition. This exemption does not authorize the general private possession of any weapon from which eight or more shots or bullets can be discharged by a single function of the firing device but only such possession and activities which are within the lawful scope of a licensed manufacturing business described in this paragraph.

During transportation, such weapons shall be broken down in a non-functioning state or not immediately accessible.

(6) The manufacture, transport, testing, delivery, transfer or sale, and all lawful commercial or experimental activities necessary thereto, of rifles, shotguns, and weapons made from rifles or shotguns, or ammunition for such rifles, shotguns or weapons, where engaged in by a person operating as a contractor or subcontractor pursuant to a contract or subcontract for the development and supply of such rifles, shotguns, weapons or ammunition to the United States Government or any branch of the Armed Forces of the United States, when such activities are necessary and incident to fulfilling the terms of such contract.

The exemption granted under this subsection shall also apply to any authorized agent of any such contractor or subcontractor who is operating within the scope of his employment, where such activities involving such weapon, weapons or ammunition are necessary and incident to fulfilling the terms of such contract.

During transportation, any such weapon shall be broken down in a non-functioning state, or not immediately accessible.

....

(e) Subsection 24-1(a)(8) does not apply to any owner, manager or authorized employee of any place specified in that Subsection nor to any law enforcement officer.

(f) Subsection 24-1(a)(4) and subsection 24-1(a)(10) do not apply to members of a

club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while using their firearms on those target ranges.

(g) Subsection 24-1(a)(11) and 24-3.1(a)(7) do not apply to:

(1) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.

(2) Bonafide collectors of antique or surplus military ordnance.

(3) Laboratories having a department of forensic ballistics, or specializing in the development of ammunition or explosive ordnance;

(4) Commerce, preparation, assembly, or possession of explosive bullets by manufacturers of ammunition licensed by the federal government, in connection with the supply of those organizations and persons exempted by subsection (1) of subparagraph (g) of this Section, or like organizations and persons outside the State, or the transportation of explosive bullets to any organization or person exempted in this Section by a common carrier or by a vehicle owned or leased by an exempted manufacturer.

(h) An information or indictment based upon a violation of any Subsection of this Article need not negate any exemptions contained in this Article. The defendant shall have the burden of proving such an exemption.

(i) Nothing in this Article shall prohibit, apply to, or affect the transportation, carrying, or possession, of any pistol or revolver, stun gun, laser, or other firearm consigned to a Common Carrier operating under license of the State of Illinois or the Federal Government, where such transportation, carrying, or possession is incident to the lawful transportation in which such Common Carrier is engaged; and nothing in this Article shall prohibit, apply to, or affect the transportation, carrying, or possession of any pistol, revolver, stun gun, laser, or other firearm, not the subject of and regulated by subsection 24-1(a)(7) or subsection 24-2(c) of this Article, which is unloaded and enclosed in a case, firearm carrying box, shipping box, or other container, by the possessor of a valid Firearm Owners Identification Card.

24-2.1 Unlawful use of metal piercing bullets.

(a) A person commits the offense of unlawful use of metal piercing bullets when he knowingly manufactures, sells, purchases, possesses, or carries any metal piercing bullet.

For the purposes of this Section, "metal piercing bullet" means polytetrafluoroethylene-coated bullets; jacketed bullets with other than lead or lead alloy cores; and ammunition of which the bullet itself is wholly composed of a metal or metal alloy other than lead.

The definition contained herein shall not be construed to include shotgun shells.

(b) Exemptions. This Section does not apply to or affect any of the following:

(1) Peace officers.

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

(3) Members of the Armed forces or Reserve Forces of the United States or the Illinois National Guard while in the performance of their official duties.

(4) Federal officials required to carry firearms, while engaged in the performance of their official duties.

(5) United States Marshals, while engaged in the performance of their official duties.

(6) Persons licensed under federal law to manufacture, import, or sell firearms and firearm ammunition, and actually engaged in any such business, but only with respect to activities which are within the lawful scope of such business, such as the manufacture, transportation, or testing of such bullets or ammunition.

This exemption does not authorize the general private possession of any metal or armor piercing bullet, but only such possession and activities which are within the lawful scope of a licensed business described in this paragraph.

(7) Laboratories having a department of forensic ballistics or specializing in the development of ammunition or explosive ordnance.

(8) Manufacture, transportation or sale of metal or armor piercing bullets to persons specifically authorized under paragraphs (1) through (7) of this subsection to possess such bullets.

(c) An information or indictment based upon a violation of this Section need not negate any exemption herein contained. The defendant shall have the burden of proving such an exemption.

(d) Sentence. A person convicted of unlawful use of metal piercing bullets shall be guilty of a Class 3 felony.

24-2.2 Manufacture, sale or transfer of bullets represented to be metal piercing bullets.

(a) Except as provided in subsection (b) of this Section, it is unlawful for any person to knowingly manufacture, sell, offer to sell, or transfer any bullet which is represented to be metal or armor piercing; to be polytetrafluoroethylene coated; to be jacketed and have a core other than lead or lead alloy; or to be wholly composed of a metal or metal alloy other than lead.

(b) Exemptions. This Section does not apply to or affect any person authorized under Section 24-2.1 to manufacture, sell, purchase, possess, or carry any metal piercing bullet with respect to activities which are within the lawful scope of the exemption therein granted.

(c) An information or indictment based upon a violation of this Section need not negate any exemption herein contained. The defendant shall have the burden of proving such an exemption and that the activities forming the basis of any criminal charge brought pursuant to this Section were within the lawful scope of such exemption.

(d) Sentence. Manufacture, sale, or transfer of bullets represented to be metal piercing bullets is a Class 4 felony.

24-3. Unlawful sale of firearms.

A person commits the offense of unlawful sale of firearms when he knowingly:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age; or

(b) Sells or gives any firearm to a person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; or

(c) Sells or gives any firearm to any narcotic addict; or

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction; or

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past 5 years; or

(f) Sells or gives any firearms to any person who is mentally retarded; or

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least 24 hours after application for its purchase has been made. However, this paragraph shall not apply to:

(1) the sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a bank guard, armed truck guard, or other similar employment; or

(2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; or

(3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of State Police; or

(4) the sale of a firearm to a dealer licensed under the Federal [Gun Control] Act of the United States; or

(h) While holding any license under the Federal "Gun Control Act of 1968", as amended, as a dealer, importer, manufacturer or pawnbroker, manufacturer, sells or delivers to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. For purposes of this paragraph,

(1) "firearm" is defined [in § 63-1.1];

(2) "handgun" is defined as a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which a firearm can be assembled.

(i) Sells or gives a firearm of any size to any person under 18 years of age who does not possess a valid Firearm Owner's Identification Card.

(j) Paragraph (h) of this Section shall not include firearms sold within 6 months after enactment of this amendatory Act of 1973, nor shall any firearm legally owned or possessed by any citizen or purchased by any

citizen within 6 months after the enactment of this amendatory Act of 1973 be subject to confiscation or seizure under the provisions of this amendatory Act of 1973. Nothing in this amendatory Act of 1973 shall be construed to prohibit the gift or trade of any firearm if that firearm was legally held or acquired within 6 months after the enactment of this amendatory Act of 1973.

(k) Sentence.

Any person convicted of unlawful sale of firearms in violation of paragraphs (b) through (h) commits a Class A misdemeanor.

Any person convicted of unlawful sale of firearms in violation of paragraphs (a) or (i) commits a Class 4 felony.

24-3.1 Unlawful possession of firearms and firearm ammunition.

(a) A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person.

(2) He is under 21 years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He has been convicted of a felony under the laws of this State or any other jurisdiction, and has any firearm or firearm ammunition in his possession; or

(4) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(5) He has been a patient in a mental hospital within the past 5 years and has any firearms or firearm ammunition in his possession; or

(6) He is mentally retarded and has any firearms or firearm ammunition in his possession.

(7) He has in his possession any explosive bullet.

For purposes of this paragraph "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap.

(b) Sentence. Unlawful possession of firearms and firearm ammunition is a Class A misdemeanor.

24-3.2 Unlawful discharge of metal piercing bullets.

(a) A person commits the offense of unlawful discharge of metal piercing bullets when he knowingly or recklessly uses a metal piercing bullet in violation of this Section. For purposes of this Section, "metal piercing bullet" means polytetrafluoroethylene-coated bullets; jacketed bullets with other than lead or lead alloy cores; and ammunition of which the bullet itself is wholly composed of a metal or metal alloy other than lead. The definition contained herein shall not be construed to include shotgun shells.

(b) A person commits a Class X felony when he or she knowing that a firearm as defined in Section [63-1.1] is loaded with a metal piercing bullet, intentionally or recklessly discharges such firearm and such bullets strikes any other person.

(c) Any person who possesses, concealed on or about his person, a metal piercing bullet and a firearm suitable for the discharge thereof is guilty of a Class 2 felony.

(d) This Section does not apply to or affect any of the following:

(1) Peace officers;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense;

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard while in the performance of their official duties;

(4) Federal officials required to carry firearms while engaged in the performance of their official duties.

(5) United States Marshals, while engaged in the performance of their official duties.

24-3.3. Unlawful sale or delivery of firearms on the premises of any school. Any person 18 years of age or older who sells, gives or delivers any firearm to any person under 18 years of age in any school or on the real property comprising any school commits a Class 3 felony. School is defined, for the purposes of this Section, as any public or private elementary or secondary school, community college, college or university. This does not apply to peace officers or to students carrying or possessing firearms for use in school training courses, parades, target shooting on school ranges, or otherwise with the consent of school authorities and which firearms are transported unloaded and enclosed in a suitable case, box or transportation package.

24-4. Register of sales by dealer.

(a) Any seller of firearms of a size which may be concealed upon the person, other than a manufacturer selling to a bona fide wholesaler or retailer or a wholesaler selling to a bona fide retailer, shall keep a register of all firearms sold or given away.

(b) Such register shall contain the date of the sale or gift, the name, address, age and occupation of the person to whom the weapon is sold or given, the price of the weapon, the kind, description and number of the weapon, and the purpose for which it is purchased and obtained.

(c) Such seller on demand of a peace officer shall produce for inspection the register and allow such peace officer to inspect such register and all stock on hand.

(d) Sentence.

Violation of this Section is a Class B misdemeanor.

COMPLER'S NOTE

1977 Opinion of the Attorney General: Auctioneer must follow statutory restrictions on sale and delivery of firearms and keep register of firearms sold. (No. S-1291.)

**24-5. Defacing identification marks of firearms.**

(a) Any person who shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any firearm commits a misdemeanor.

(b) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

**24-6. Confiscation and disposition of weapons**

(a) Upon conviction of an offense in which a weapon was used or possessed by the offender, any weapon seized shall be confiscated by the trial court.

(b) Any stolen weapon so confiscated, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession if known. After the disposition of a criminal case and when a confiscated weapon is no longer needed for evidentiary purposes, and when in due course no legitimate claim has been made for such weapon, the court may transfer such weapon to the sheriff of the county who shall proceed to destroy it, or may in its discretion order such weapon preserved as property of the governmental body whose police agency seized the weapon, or may in its discretion order such weapon to be transferred to the Division of Forensic Services and Identification of the Department of State Police for use by that Division's criminal laboratory system. If, after the disposition of a criminal case, a need still exists for the use of said confiscated weapon for evidentiary purposes, the court may transfer such weapon to the custody of the State Department of Corrections for preservation.

The provision of this section shall not apply to violations of the "Fish Code of 1971" [Chapter 56, §1.1 et seq.] or the "Game Code of 1971" as now or hereafter amended. [Chapter 61, §1.1 et seq.] Confiscation of weapons for Fish and Game Code violations shall be only as provided in such Code.

**ARTICLE 83. FIREARMS AND AMMUNITION**

**83-1. Legislative declaration.** It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety and welfare of the public, it is necessary and in the public interest to provide a system of identifying persons who are not qualified to acquire or possess firearms and firearm ammunition within the State of Illinois by the establishment of a system of Firearm Owner's Identification Cards, thereby establishing a practical and workable system by which law enforcement authorities will be afforded an opportunity to identify those persons who are prohibited by Section 24-3.1 of the "Criminal Code of 1961", as amended, from acquiring or possessing firearms and firearm ammunition.

**83-1.1 Definitions.** For purposes of this Act: "Firearm" means any device, by whatever name known, which is designed to expel

a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

(1) any pneumatic gun, spring gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter.

(2) any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(3) any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(4) an antique firearm (other than a machine-gun) which, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

"Firearm Ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

(1) any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or

(2) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

**83-2. Requisites for acquisition or possession — Exempted persons or entities.**

(a) No person may acquire or possess any firearm or any firearm ammunition within this State without having in his possession a Firearm Owner's Identification Card previously issued in his name by the Department of State Police under the provisions of this Act.

(b) The provisions of this Section regarding the possession of firearms and firearm ammunition do not apply to:

(1) United States Marshals, while engaged in the operation of their official duties;

(2) Members of the Armed Forces of the United States or the National Guard, while engaged in the operation of their official duties;

(3) Federal officials required to carry firearms, while engaged in the operation of their official duties;

(4) Members of bona fide veterans organizations which receive firearms directly from the armed force of the United States, while using such firearms for ceremonial purposes with blank ammunition;

(5) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places such persons must have their firearms unloaded and enclosed in a case;

(6) Nonresidents while on a firing or shooting range recognized by the Department of State Police however, such persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(7) Nonresidents, while at a firearm showing or display recognized by the Department of State Police however, at all other times

and in all other places such persons must have their firearms unloaded and enclosed in a case;

(8) Nonresidents, whose firearms are unloaded and enclosed in a case; and

(9) Nonresidents, who are currently licensed or registered to possess a firearm in their resident state; and

(10) Unemancipated minors while in the custody and immediate control of their parent or legal guardian or other person in loco parentis to such minor if such parent or legal guardian or other person in loco parentis to such minor has a currently valid Firearm Owner's Identification Card.

(11) Color guards of bona fide veterans organizations or members of bona fide American Legion bands while using firearms for ceremonial purposes with blank ammunition.

(c) The provisions of this Section regarding the acquisition and possession of firearms and firearm ammunition do not apply to law enforcement officials of this or any other jurisdiction, while engaged in the operation of their official duties.

**83-3. Requisites for transfer.**

(a) Except as provided in [83-3a] no person within this State may knowingly transfer, or cause to be transferred, any firearm or any firearm ammunition to any person within this State unless the transferee with whom he deals displays a currently valid Firearm Owner's Identification Card which has previously been issued in his name by the Department of State Police under the provisions of this Act.

(b) Any person within this State who transfers or causes to be transferred any firearm shall keep a record of such transfer for a period of 10 years from the date of transfer. Such record shall contain the date of the transfer, the description, serial number or other information identifying the firearm if no serial number is available; and, if the transfer was completed within this State, the transferee's Firearm Owner's Identification Card number. On demand of a peace officer such transferor shall produce for inspection such record of transfer.

(c) The provisions of this Section regarding the transfer of firearm ammunition shall not apply to those persons specified in [83-2(b)].

**83-3a. Reciprocity.**

(a) Any resident of Illinois who has obtained a firearm owner's identification card pursuant to this Act and who is not otherwise prohibited from obtaining, possessing or using a firearm may purchase or obtain a rifle or shotgun or ammunition for a rifle or shotgun in Iowa, Missouri, Indiana, Wisconsin or Kentucky.

(b) Any resident of Iowa, Missouri, Indiana, Wisconsin or Kentucky, who is 18 years of age or older and who is not prohibited by the laws of Illinois, the state of his domicile, or the United States from obtaining, possessing or using a firearm, may purchase or obtain a rifle, shotgun or ammunition for a rifle or shotgun in Illinois.

(c) Any transaction under this Section is subject to the provisions of the Gun Control Act of 1968 (18 U.S.C. 922(b)(3)).

**83-4. Application for Firearm Owner's Identification Card.**

(a) Each applicant for a Firearm Owner's Identification Card shall:

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police; and

(2) Submit evidence under penalty of perjury to the Department of State Police that:

(i) He is 21 years of age or over, or if he is under 21 years of age that he has the written consent of his parent or legal guardian to possess and acquire firearms and firearm ammunition and that he has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he is not an individual prohibited from having a Card;

(ii) He has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He is not addicted to narcotics;

(iv) He has not been a patient in a mental institution within the past 5 years; and

(v) He is not mentally retarded.

(b) Each application form shall include the following statement printed in bold type: "Warning: False statements of the applicant shall result in prosecution for perjury in accordance with Section 32-2 of the Criminal Code of 1961."

(c) Upon such written consent, pursuant to [83-4(a)(2)(i)], the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

**83-5. Approval or denial of application.** The Department of State Police shall either approve or deny all applications within 30 days from the date they are received, and every applicant found qualified pursuant to [83-5] by the Department shall be entitled to a Firearm Owner's Identification Card upon the payment of a \$5 fee. \$3 of each fee derived from the issuance of Firearm Owner's Identification Cards, or renewals thereof, shall be deposited in the Wildlife and Fish Fund in the State Treasury and \$1 of such fee shall be deposited in a special fund outside the State treasury to be designated the Firearm Owner's Notification fund. The State Treasurer shall be ex officio custodian of the Firearm Owner's Notification Fund. Monies in the Firearm Owner's Notification Fund shall be used exclusively to pay for the cost of sending notices of expiration of Firearm Owner's Identification Cards under [83-13.2].

**83-6. Contents of Identification card.** A Firearm Owner's Identification Card, issued by the Department of State Police at such places as the Director of the Department shall specify, shall contain the applicant's name, residence, date of birth, sex, physical description, recent photograph and such other personal identifying information as may be required by the Director. Each Firearm Owner's Identification Card must have printed on it the following: "CAUTION — This card

does not permit bearer to UNLAWFULLY carry or use firearms."

**83-7. Duration of Identification card.** Except as provided in [83-8], a Firearm Owner's Identification Card issued under the provisions of this Act shall be valid for the person to whom it is issued for a period of 5 years from the date of issuance.

**83-8. Denial of application or revocation or seizure of card.** The Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Department finds that the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent;

(b) A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or whose such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(c) A person convicted of a felony under the laws of this or any other jurisdiction;

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental institution within the past 5 years; or

(f) A person who is mentally retarded; or

(g) A person who intentionally makes a false statement in the Firearm Owner's Identification Card application.

**83-8.1. Felony convictions — Notification — Time for notification.** The Circuit Clerk shall notify the Department of State Police, Firearms Identification Division, of the names and addresses of all persons convicted of a felony in his county. Such information shall be furnished within 30 days after the judgment of conviction becomes final.

**83-9. Denial of application or revocation or seizure of card — Notice.** Every person whose application for a Firearm Owner's Identification Card is denied, and every holder of such a Card before his Card is revoked or seized, shall receive a written notice from the Department of State Police stating specifically the grounds upon which his application has been denied or upon which his Identification Card has been revoked.

**83-10. Appeal to director — Hearing — Relief from firearm possession prohibition.**

(a) Whenever an application for a Firearm Owner's Identification Card is denied, whenever the Department fails to act on an application within 30 days of its receipt, or whenever such a Card is revoked or seized as provided for in [83-8], the aggrieved party may appeal to the Director of the Department of State Police for a hearing upon such denial, revocation or seizure.

(b) Whenever, upon the receipt of such an appeal for a hearing, the Director is satisfied that substantial justice has not been done, he may order a hearing to be held by the Department upon the denial or revocation.

(c) Any person prohibited from possessing a firearm under [Sections 24-1.1 or 24-3.1] or

acquiring a Firearm Owner's Identification Card under [83-8] may apply to the Director of the Department of State Police requesting relief from such prohibition and the Director may grant such relief if it is established by the applicant to the Director's satisfaction that:

(1) the applicant has not been convicted of a forcible felony under the laws of this State or any other jurisdiction;

(2) the circumstances regarding a criminal conviction, where applicable, the applicant's criminal history and his reputation are such that the applicant will not be likely to act in a manner dangerous to public safety; and

(3) granting relief would not be contrary to the public interest.

**83-11. Review under Administrative Review Law.** All final administrative decisions of the Department under this Act shall be subject to judicial review under the provisions of [Chapter 110, §3-101, et seq.], and the rules adopted pursuant thereto. The term "administrative decision" is defined as in [Chapter 110, §3-101].

**83-12. Death of owner — Transfer.** The provisions of this Act shall not apply to the passing or transfer of any firearm or firearm ammunition upon the death of the owner thereof to his heir or legatee or to the passing or transfer of any firearm or firearm ammunition incident to any legal proceeding or action until 60 days after such passing or transfer.

**83-13. Acquisition or possession prohibited by law.** Nothing in this Act shall make lawful the acquisition or possession of firearms or firearm ammunition which is otherwise prohibited by law.

**83-13.1. Municipal ordinance imposing greater restrictions or limitations.** The provisions of any ordinance enacted by any municipality which requires registration or imposes greater restrictions or limitations on the acquisition, possession and transfer of firearms than are imposed by this Act, are not invalidated or affected by this Act.

**83-13.2. Firearm owner's Identification card — Notice of expiration.** The Department of State Police shall, 30 days prior to the expiration of a Firearm Owner's Identification Card, forward each person whose card is to expire a notification of the expiration of the card and an application which may be used to apply for renewal of the card.

**83-14. Sentence.** Violation of this Act is a Class A misdemeanor.

**83-15. Severability clause.** If any provision of this Act or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this Act which can have effect without the invalid application or provision, and to this end the provisions of this Act are declared to be severable.

**83-15a. Transfer records — Identification cards, validity — Rights, powers and duties of Department.** When this amendatory Act enacted by the Seventy-Sixth General Assembly takes effect the records of the Department of Public Safety relating to the administration of the Act amended shall be transferred to the Department of State Police. All Firearm Owner's Identification Cards issued by the Department of Public Safety shall

be valid for the period for which they were issued unless revoked or seized in the manner provided in the Act amended. The Department of State Police as the successor to the Department of Public Safety shall have the rights, powers and duties provided in, and be subject to the provisions of [Chapter 127, §§ 32-34], "The Civil Administrative Code of Illinois".

#### ARTICLE 84. BOARDING AIRCRAFT WITH FIREARM, EXPLOSIVE OR LETHAL WEAPON

84-1. Boarding or attempt to board. It is unlawful for any person to board or attempt to board any commercial or charter aircraft, having in his possession any firearm, explosive of any type or other lethal or dangerous weapon.

84-2. Application. This Act does not apply to any person authorized by either the Federal government or any State government to carry firearms but such person is exempted from the provisions of this Act shall notify the commander of any aircraft he is about to board that he does possess a firearm and show identification satisfactory to the aircraft commander that he is authorized to carry such firearm.

84-3. Purchase of ticket as consent to search — Refusal. Any person purchasing a ticket to board any commercial or charter aircraft shall by such purchase consent to a search of his person or personal belongings by the company selling the ticket to him. Such person may refuse to submit to a search of his person or personal belongings by the aircraft company but the person refusing may be denied the right to board such commercial or charter aircraft at the discretion of the carrier. Such refusal shall create no inference of unlawful conduct.

84-4. Evidence of criminal activity — Admissibility. Any evidence of criminal activity found during a search made pursuant to this Act shall be admissible in legal proceedings for the sole purpose of supporting a charge of violation of this Act and is inadmissible as evidence in any legal proceeding for any other purpose, except in the prosecution of offenses related to weapons as set out in [Chapter 38, § 24-1, et seq.].

84-5. Blank. Liability of airline company. No action may be brought against any commercial or charter airline company operating in this State, for the refusal of such company to permit a person to board any aircraft where such person refused to be searched as set out in [84-3].

84-7. Sentence. Violation of this Act is a Class A misdemeanor.

#### ARTICLE 161. SEARCH AND SEIZURE — FIREARMS

161-1. Complaint — Examination of complainant and witnesses — Warrant. When a complaint is made to any circuit court that a person possessing a firearm or firearms has threatened to use a firearm illegally, the court shall examine on oath such complainant, and any witnesses which may be produced, reduce the complaint to writing and

have it subscribed and sworn to by the complainant. If the court is satisfied that there is any danger of such illegal use of firearms, it shall issue a warrant requiring the apprehension of such person, hereafter referred to as the defendant, for appearance before the court. Such warrant shall also authorize the seizure of any firearm in the possession of the defendant.

161-2. Hearing — Safekeeping and return of firearms — Order for production of firearms. When the defendant is brought before the court, if the charge is controverted the testimony produced on both sides shall be heard. When it appears to the court that the defendant has threatened to use any firearm illegally, and it appears to the court that the surrender of such firearm would serve to keep the peace, the court shall order any firearm taken from the defendant to be kept by the State for safekeeping during a stated period of time not to exceed one year. The firearm or firearms shall be returned to the defendant at the end of the stated period. If such firearm was not seized when the defendant was brought before the court, the defendant may be ordered by the court to produce such firearm for safekeeping as provided above, and upon failure to produce such weapon within a time period established by the court, the defendant may be punished by the court as a contemner.

161-3. Dismissal — Costs of prosecution. If, however, it should appear to the court that the complaint is unfounded, the defendant shall be dismissed. When, in addition, the court is of the opinion that the proceeding was commenced maliciously without probable cause, it may enter judgment against the complainant for the costs of the prosecution.

161-4. Recognizance in lieu of surrender of firearms. In lieu of requiring the surrender of any firearm, the court may require the defendant to give a recognizance as provided in Division V of [Chapter 38, § 200-1, et seq.].

161-5. Nature of proceedings — Appeal. Any action brought under this Act is a civil action, governed by the Civil Practice Law as now or hereafter amended [Chapter 110, § 2-101, et seq.], and by the Supreme Court Rules as now or hereafter adopted in relation to that Law. Appeals may be taken as in other civil cases.

#### Carol Stream

11-35. Firearms and firearms ammunition; regulation at retail.

(a) Storage. All retailers shall be required to securely store ammunition and firearms in any store offering such goods for retail sales.

(b) Display. All retailers shall be required to display firearms either in locked cases or in racks in which the firearms are securely locked to the racks. Firearms ammunition shall only be displayed in locked cases.

(c) Penalty. Any person convicted of any violation of the provisions of this section shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for each offense.

#### Chicago

##### CHAPTER 11.1. REGISTRATION

###### 11.1-2. Registration of Firearms.

(a) All firearms located in the City of Chicago, shall be registered in accordance with the provisions of this Chapter. It shall be the duty of a person owning or possessing a firearm to cause such firearms to be registered. No person shall within the City of Chicago, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver, or accept any firearm unless such person is the holder of a valid registration certificate for such firearm. No person shall, within the City of Chicago, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver or accept any firearm which is unregistrable under the provisions of this Chapter.

(b) This section shall not apply to:

(1) Firearms owned or under the direct control of custody of any federal, state or local governmental authority maintained in the course of its official duties.

(2) Duty related firearms owned and possessed by peace officers who are not residents of the City of Chicago;

(3) Duty related firearms owned or possessed by Corrections Officers, provided that such Corrections Officers are not residents of the City of Chicago.

(4) Firearms owned, manufactured or produced by licensed manufacturers of firearms, bulk transporters or licensed sellers of firearms at wholesale or retail.

(5) Any non-resident of the City of Chicago participating in any lawful recreational firearm-related activity in the City, or on his way to or from such activity in another jurisdiction; Provided that such weapon shall be unloaded and securely wrapped and that his possession or control of such firearm is lawful in the jurisdiction in which he resides.

(6) Peace Officers, while in the course of their official duties, who possess and control any firearm, or ammunition issued by their department, bureau or agency in the normal course of business.

(7) Private security personnel who possess or control any firearm or ammunition within the City of Chicago; provided, that such firearms shall be owned and maintained by the security firm employing such personnel and shall be registered by the security firm in accordance with this Chapter.

(8) Those persons summoned by a peace officer to assist in making an arrest or preserving the peace while actually engaged in assisting the peace officer.

11.1-3. Unregistrable Firearms. No registration certificate shall be issued for any of the following types of firearms:

(a) Sawed-off shotgun, machine gun, or short barreled rifle.

(b) Firearms, other than handguns owned or possessed by any person in the City of Chicago prior to the effective date of this Chapter which were not validly registered prior to the effective date of this Chapter.

(c) Handgun; except  
(1) those validly registered to a current owner in the City of Chicago prior to the effective date of this Chapter.

(2) those owned by peace officers who are residents of the City of Chicago.

(3) those owned by security personnel.

(4) those owned by private detective agencies licensed under Chapter 111, §2601, et seq., Illinois Revised Statutes.

(d) Firearm muffler or silencer.

(e) Any person who receives through inheritance any firearm validly registered pursuant to this Chapter will be eligible to re-register such firearm within 60 days after obtaining possession or title, provided such person shall be qualified to do so in accordance with this Chapter.

11.1-4. Prerequisites to Registration — Application for Registration.

(a) No registration certificate shall be issued to any person unless such person:

(1) Shall possess a valid Illinois Firearm Owner's Identification Card in accordance with Chapter 38, Section 83-4 of the Illinois Revised Statutes, as amended;

(2) has not been convicted of a crime of violence, as defined herein, weapons offense, or a violation of this Chapter; and

(3) has not been convicted within the five years prior to application of any:

(i) violation of any law relating to the use, possession or sale of any narcotic or dangerous drug; or

(ii) violation of Chapter 38, Section 12-2(a)(1), of the Illinois Revised Statutes, as amended, for aggravated assault or any similar provision of the law of any other jurisdiction; and

(4) has vision better than or equal to that required to obtain a valid driver's license under the standards established by the Illinois Vehicle Code, Chapter 95 1/2, Section 506-4, Illinois Revised Statutes, as amended; and

(5) is not otherwise ineligible to possess a firearm under any federal, state or local law, statute or ordinance.

(b) All applicants for a registration certificate under this Chapter shall file with the Superintendent, on a form provided, a sworn application in writing. \* \* \* [Contact the Chicago Police Department for requirements.]

11.1-5. Fingerprints. When necessary to establish the identity of any applicant or registrant, such applicant or registrant shall be required to submit to fingerprinting in accordance with procedures and regulations prescribed by the Superintendent.

11.1-6. Application Fees.

(a) A non-refundable fee in the amount of \$5.00 shall accompany each initial registration application filed under this Chapter;

(b) A non-refundable fee in the amount of \$5.00 shall accompany each re-registration application filed under this Chapter;

(c) The registration fee shall not be applicable to duty related handguns of peace officers domiciled in the City of Chicago.

11.1-7. Filing Time.

(a) A registration certificate shall be obtained prior to any person taking possession of a firearm from any source.

(b) Any firearm currently registered must be re-registered pursuant to this Chapter and in accordance with rules, regulations and procedures prescribed by the Superintendent. An application to re-register such firearm shall be

filed within 180 days from the effective date of this Chapter.

11.1-8. Investigations. Upon receipt of an application for registration of a firearm, the Superintendent of Police shall investigate the information contained in said application to determine whether the applicant and firearm meet the requirements for registration under this Chapter. Failure by the applicant or registrant to respond to investigation inquiries shall be sufficient grounds for denial or revocation.

11.1-9. Issuance of Registration Certificate.

(a) Upon receipt of a properly executed application for a registration certificate and the report of the Superintendent, the Mayor, upon determining that the applicant has complied with the provisions of this Chapter, shall authorize the issuance of the registration certificate. Each registration certificate shall be in triplicate and bear a unique registration certificate number and contain such other information as may be necessary to identify the applicant and the firearm registered. The original of the registration certificate shall be retained by the Superintendent; the Mayor and applicant shall each receive a copy.

(b) The Mayor shall approve or deny any application for a registration certificate within a 120 day period beginning on the date the Superintendent receives the application unless good cause is shown. In the case of an application to re-register a firearm currently registered, the Mayor shall have 365 days after receipt of such application to approve or deny such application unless good cause is shown.

(c) Any application for registration or renewal shall be held in abeyance when there is a criminal proceeding for a crime of violence, or an offense involving a weapon, or a proceeding to revoke firearm registration, pending against the applicant until such proceeding has terminated. In the case of a renewal of registration, the then current registration shall be deemed continuing until the termination of such proceeding.

(d) Upon receipt of a registration certificate, each applicant shall examine the same to insure that the information thereon is correct. If the registration certificate is incorrect in any respect, the registrant thereon shall return it to the Superintendent with a signed statement showing the nature of the error. \* \* \*

11.1-10. Revocation; Denial. A registration certificate shall be revoked or an application for registration or re-registration shall be denied by the Mayor when she finds that:

(a) Any of the criteria in Section 11.1-4(a) of this Chapter are not currently met; or

(b) The registered firearm is or has become an unregistrable firearm under the terms of Section 11.1-3 of this Chapter; or

(c) The information furnished to the Superintendent on the application for a registration certificate proves to be false; or

(d) The applicant or registrant has violated any of the provisions of this Chapter.

11.1-11. Procedures for Denial or Revocation. [Contact the Mayor's License Commission for procedures.]

\* \* \* (a) Within 3 days after notification of a decision unfavorable to the applicant or registrant and all time for appeal in accordance with paragraph 11.1-11(a) through (d) having expired, the applicant or registrant shall:

(1) peaceably surrender to the Chicago Police Department the firearm for which the application was denied or the registration certificate was revoked; or

(2) remove such firearm from the City of Chicago; or

(3) Otherwise lawfully dispose of his interest in such firearm.

(f) The applicant or registrant shall submit to the Superintendent evidence of the disposition of non-registrable firearms in accordance with paragraph 11.1-11 (e)(2) and (3). Such evidence shall be submitted on forms and in the manner prescribed by the Superintendent.

11.1-12. Additional Duties of Registrant. Each person holding a registration certificate shall:

(a) Immediately notify the Chicago Police Department on a form prescribed by the Superintendent, of

(1) The loss, theft or destruction of the registration certificate or of a registered firearm immediately upon discovery of such loss, theft, or destruction;

(2) a change in any of the information appearing on the registration certificate;

(3) the sale, transfer or other disposition of the firearm not less than 48 hours prior to delivery.

(b) Immediately return to the Superintendent his copy of the registration certificate for any firearm which is lost, stolen, destroyed or otherwise transferred or disposed of.

11.1-13. Exhibition of Registration. Any person carrying or having in his possession or under his custody or control any firearm, shall have on his person or within his immediate custody a valid registration certificate for such firearm issued hereunder, which shall be exhibited for inspection to any peace officer upon demand. Failure of any such person to so exhibit his registration certificate shall be presumptive that he is not authorized to possess such firearm.

Failure of any person to exhibit a registration certificate for any firearm in his possession, custody or control shall also be cause for the confiscation of such firearms and revocation of any registration certificate issued therefore under this Chapter.

11.1-14. Possession of Ammunition. No person shall possess ammunition in the City of Chicago unless:

(a) he is a person exempted pursuant to Section 11.1-2 of this Chapter; or

(b) he is the holder of a valid registration certificate for a firearm of the same gauge or caliber as the ammunition possessed; or

(c) he is a licensed weapons dealer pursuant to Chapter 183 or a licensed shooting gallery or gun club pursuant to Chapter 170 of this Code.

11.1-15. Permissible Sales and Transfers of Firearms and Ammunition.

(a) No firearm may be sold or otherwise transferred within the City of Chicago except

through a licensed weapons dealer as defined in Chapter 183 of the Municipal Code of the City of Chicago.

(b) No ammunition may be sold or otherwise transferred within the City of Chicago except through a licensed shooting gallery or gun club as defined in Chapter 170, a licensed weapons dealer as defined in Chapter 183, or as otherwise allowed by the Municipal code of the City of Chicago.

(c) No firearm or ammunition shall be security for, or be taken or received by way of any mortgage, deposit, pledge or pawn.

(d) No person may loan, borrow, give or rent to or from another person, any firearm or ammunition, except in accordance with this Chapter.

(e) A peace officer may additionally sell or transfer any lawfully held firearm or ammunition to another peace officer in accordance with this Chapter.

11.1-16. False Information, Forgery, Alteration.

(a) It shall be unlawful for any person purchasing any firearm or ammunition, or applying for any registration certificate under this Chapter, or, in giving any information pursuant to the requirements of this Chapter, to knowingly give false information or offer false evidence of identity.

(b) It shall be unlawful for anyone to forge or alter any application or registration certificate submitted, retained or issued under this Chapter.

11.1-17. Voluntary Surrender; Immunity.

(a) Within 90 days from the effective date of this Ordinance, a person within the City of Chicago may voluntarily and peaceably deliver and abandon to the Superintendent any firearm or ammunition prior to any arrest and prosecution of such person on a charge of violating any provisions of this Chapter with respect to the firearm or ammunition voluntarily delivered.

(b) Delivery under this section may be made at any police district, area or central headquarters or by summoning a police officer to the person's residence or place of business. Any firearm or ammunition to be delivered and abandoned to the Superintendent under this Section shall be unloaded and securely wrapped in a package carried in open view.

(c) The voluntary delivery or abandonment of any firearm or ammunition after an arrest or charge for violation of any provision of this Chapter shall not moot or in any manner invalidate said arrest or charge.

11.1-18. Renewal of Registration.

(a) Every registrant must renew his registration certificate every two years. Applications for renewal shall be made by such registrants 60 days prior to the expiration of the current registration certificate.

(b) The application for renewal shall include the payment of a renewal fee of \$5.00.

(c) Failure to comply with the requirement for renewal of registration of a firearm shall cause that firearm to become unregistrable.

(d) All terms, conditions and requirements of this Chapter for registration of firearms shall be applicable to renewal of registration of such firearms.

11.1-19. Notice. For the purposes of this Chapter, service of any notice, finding or decision upon an applicant or registrant shall be completed by any of the following methods:

(1) personal delivery of a copy of such notice, finding or decision to the applicant or registrant; or

(2) by leaving a copy of such notice, finding or decision at the address identified on the application for registration or renewal; or

(3) by mailing a copy of the notice, finding or decision by certified mail with return receipt to the address identified on the application for registration or renewal; in which case service shall be complete as of the date the return receipt was signed.

11.1-21. Authority of the Superintendent. The Superintendent shall have the authority to promulgate rules and regulations for the implementation of this Chapter and to prescribe all forms and the information required thereon.

11.1-22. Acquisition or Possession Prohibited by Law. Nothing in this Chapter shall make lawful the acquisition or possession of firearms or firearm ammunition which is otherwise prohibited by law.

11.1-23. Penalties. Any person who violates any provision of this Chapter shall, upon conviction for the first time, be fined not less than \$300 nor more than \$500; or be incarcerated for not less than 10 days nor more than 90 days, or both. Any subsequent conviction for a violation of this Chapter shall be punishable by a fine of \$500 and by incarceration for a term of not less than 90 days, nor more than six months.

#### CHAPTER 183. WEAPONS

183-1. License required It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, derringer, or other deadly weapon which can be concealed on the person, without securing a license so to do.

183-2. License fee The annual fee for said deadly weapon license shall be four hundred dollars.

183-3. Report of sale or gift [Contact police department].

183-4. Register required Every person dealing in the aforementioned deadly weapons at retail, within the city, shall keep a register of all such weapons sold, loaned, rented, or given away by him. Such register shall contain the date of the sale, loaning, renting, or gift, the number of the permit, the number of the weapon, the name and age of the person to whom the weapon is sold, loaned, rented, or given, the price of such weapon, and the purpose for which it is purchased or obtained. Such register shall be kept open for the inspection of the police at all reasonable times during business hours.

183-5. Restriction on sale or gift It shall be unlawful for any person to sell, barter, or give away to any person within the city, any deadly weapon mentioned in section 183-1, except to licensed dealers and to persons who have secured a permit for the purchase

of such articles from the superintendent of police as hereinafter required. This section shall not apply to sales made of such articles which are to be delivered or furnished outside the city.

183-7. Permit to purchase weapon It shall be unlawful for any person to purchase any deadly weapon mentioned in section 183-1, which can be concealed on the person without first securing from the superintendent of police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality, and other elements of identification of the person desiring such permit, and the applicant shall present such evidence of good character as the superintendent of police at his discretion may require.

The superintendent of police shall refuse such permit to any person under 18 years of age, any narcotic addict, any person who has been convicted of a felony under the laws of this State or any other jurisdiction within 5 years from release from penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed, and any person who has been released from a mental institution or from the custody of the Illinois Youth Commission within the last 5 years, or is mentally retarded. Otherwise, in case he shall be satisfied that the applicant is of good moral character, it shall be the duty of the superintendent of police to grant such permit.

#### Gunsmiths

183-9.1. License required It shall be unlawful for any person to engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license so to do.

183-9.2. License fee The annual fee for a gunsmith's license shall be fifty dollars, but a person licensed under section 183-1 shall not be required to pay the additional fee for engaging in the business of repairing firearms, but shall be required to make the additional report provided in section 183-9.4.

183-9.4. Daily report [Contact police department].

#### Chicago Ridge

3-7-10-1: Business certificate required; Revocation (A) No person shall sell, loan or give away to any person within the Village any pistol, revolver, derringer, or any toy firearms or other toy in the nature of a firearm in which any explosive substance can be used or other weapon of like character without securing a business certificate therefor. No person having secured such business certificate shall sell or give away such weapon to any person who has not secured a permit from either the Chief of Police or the Village Clerk to purchase such weapon in the manner hereinafter provided.

3-7-10-3: Permits required for purchase: (A) No person shall purchase any pistol, revolver, derringer, or weapon of like character without first securing from the Village Clerk a permit so to purchase.

(B) Before any such permit is granted, an application in writing shall be made therefor setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring such permit.

(C) Before issuing the permit, the Village Clerk shall refer the same to the Chief of Police who shall take and record the fingerprints of such applicant. In addition, the Chief of Police shall make such inquiry or investigation as shall be necessary to ascertain whether or not the applicant is entitled to receive such a permit under the provisions of this Section and other applicable laws and ordinances; and if said Chief of Police finds that the applicant is entitled to such permit he shall endorse his approval of the issuance of such permit upon the application and return same to the Village Clerk. If the Chief of Police finds that the applicant is not entitled to a permit, he shall make a statement to that effect upon said application and return the same to the Village Clerk with a statement of his reasons for denying such application.

3-7-10-4: Refusing permit: The Chief of Police shall refuse his approval of permits, as above provided for, to the following:

(A) All persons having been convicted of any crime;

(B) All minors. Otherwise, he shall approve a permit upon payment of a fee of twenty five dollars (\$25.00), which fee shall be payable to the Village Collector.

#### Cicero

38-7. Minors using firearms. No person shall sell, loan or furnish to any minor any gun, pistol or other firearms, or any toy gun, toy pistol or other toy firearms, in which any explosive substance can be used, within the town, under a penalty of not more than one hundred dollars for each offense; provided, that minors may be permitted, with the consent of their parents or guardians, to use firearms on the premises of a duly licensed shooting gallery, gun club or rifle club.

38-9. Sale or gift of deadly weapons concealable on person - License - Required. It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, derringer, or other deadly weapon which can be concealed on the person, without securing a license so to do.

38-12. Same - Application to, permission from, superintendent of police required. No pistol, revolver, derringer, or other deadly weapon can be sold unless application is made to the superintendent of police of the town stating that a request has been made for the purchase of a pistol, revolver, derringer, or other deadly weapon.

38-14. Same - Prohibited to other than license dealers, or persons granted permits. It shall be unlawful for any person to sell, barter, or give away to any person within the town, any deadly weapon mentioned in section 38-9, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the superintendent of police of the town as hereinafter required. This section shall not apply to sales made of such articles which are to be delivered or furnished outside the town.

38-15. Same - Purchasers required to obtain permit; permits prohibited to minors and persons convicted of crime. It shall be unlawful for any person to purchase any deadly weapon mentioned in section 38-9 which can be concealed on the person without first securing from the superintendent of police of the town a permit so to do.

#### East St. Louis

ORDINANCE NO. 3548, 3509, 3436 AND 4431

An Ordinance Regulating the Possession or Sale of Firearms, Handguns and Other Dangerous Weapons and Repairing Ordinance Nos. 3548, 3509, 3436 and 4431

Whereas, it has been determined that in order to promote the health, safety and welfare of the citizens of the City of East St. Louis (hereinafter "City"), it is necessary to regulate the possession, use and sale of firearms, handguns and other dangerous weapons; and

Whereas, the corporate authorities of the City have found and determined that the easy and convenient availability of certain types of firearms, handguns and other dangerous weapons and the sale of same have increased the potentiality of death or injury to citizens of the City which are caused or due to firearms, handguns or other dangerous weapons; and

Whereas, handguns specifically play a major role in the commission of homicide, aggravated assault, and armed robbery, and accidental injury and death.

NOW, THEREFORE, be it Ordained by the Mayor and the Aldermanic Council of the City of East St. Louis, Illinois, that: Ordinance Nos. 3548, 3509, 3436 and 4431 be and are hereby repealed and in their stead a new Ordinance known as Ordinance [No. 81-10043] is hereby enacted, as follows:

#### ARTICLE I. FINDINGS

Section 1. Incorporation of findings: The corporate authorities do hereby incorporate the foregoing Whereas clauses into this Ordinance, thereby making the findings as hereinabove set forth.

#### ARTICLE II. DEFINITIONS

Section 1. Definitions: The following definitions shall apply and, unless otherwise noted, all other words are given their usual and customary meaning and usage.

(A) City: Means City of East St. Louis, Illinois.

(B) Dealer: Means any person engaged in the business of (a) selling or renting firearms, handguns or other dangerous weapons at wholesale or retail, (b) manufacturing firearms, handguns or other dangerous weapons, (c) repairing firearms, handguns or other dangerous weapons or making or fitting special barrels or trigger mechanisms to firearms, handguns or other dangerous weapons as herein defined.

(C) Dangerous weapons: Means (1) Any weapon from which eight (8) or more

shots or bullets may be discharged by a single function of the firing device, any shotgun having one or more barrels less than 18 inches in length, sometimes called a sawed-off shotgun or any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon, as modified or altered has an overall length of less than 26 inches, or a barrel length of less than 18 inches or any bomb, bomb shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to, black powder bombs and molotov cocktails or artillery projectiles.

(D) Firearm: Means any device by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding however:

(1) Any pneumatic gun, spring gun or BB gun, which expels a single globular projectile not exceeding .18 inches in diameter.

(2) Any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission.

(3) Any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition.

(4) Any antique firearm (other than a machine gun) which, although designed as a weapon, the Department of Law Enforcement of the State of Illinois finds that by reason of the date of its manufacture, value, design and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(5) Model rockets designed to propel a model vehicle in a vertical direction.

(E) Gun club: Means a club or organization organized for the purpose of practicing shooting targets upon established target ranges, whether public or private.

(F) Handgun: Any firearm which (a) is designed or redesigned or made or remade, and intended to be fired while in one hand or, (b) having a barrel of less than ten (10) inches in length or, (c) a firearm of a size which may be concealed upon the person.

(G) Licensed firearm collector: Means any person licensed as a collector by the Secretary of the Treasury of the United States under and by virtue of Title 18, United States Code, Section 923.

(H) Person: Means any individual, corporation, company, association, firm partnership, club, society or joint stock company.

ARTICLE III. POSSESSION OR SALE OF FIREARMS, HANDGUNS OR OTHER DANGEROUS WEAPONS OR SUBSTITUTES

Section 1. Possession or use of firearms, handguns or other dangerous weapons: It shall be unlawful for any person to possess or carry in any vehicle, or about his person except when on his land, or in his own abode or fixed place of business, any firearm, handgun or other dangerous weapon as herein defined while said person is within the corporate limits of the City of East St. Louis (hereinafter "City").

Section 2. Possession of tear gas gun projector or dangerous substances: It shall be unlawful for any person to possess or

carry on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance.

Section 3. Use of spring gun or possession of silencer: It shall be unlawful to set a spring gun, or to possess any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

#### ARTICLE IV. EXEMPTIONS

Section 1. Exemption for law enforcement officials, etc.: Article 3, Sections 1 & 2 shall not apply to the following:

(A) Sworn police officers of the City Police Department (hereinafter "police officer"), or any person summoned by any such police officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

(B) Warden, superintendents and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duties, or while commuting between their homes and place of employment.

(C) Members of the Armed Services or Reserved Forces of the United States or the Illinois National Guard or the Reserved Officers Training Corps while in the performance of their official duties.

(D) Special agents employed by the railroad to perform police functions and security guards and watchmen while actually engaged in the performance of their duties or commuting between their homes and places of employment.

Section 2. Miscellaneous exemptions: Article 3, Section 1 relating only to firearms or handguns shall not apply to any of the following, and the following shall be exempt from the provisions of said Article and Section under the terms and provisions of this Section:

(A) Members of any gun club as herein defined provided the gun club has premises from which it operates and maintains possession and control of firearms or handguns used by its members, and has procedures and facilities for keeping such handguns in a safe place, under the control of the club's chief officer, at all times when they are not being used for target shooting or other sporting or recreational purposes at the premises of the gun club, and the gun club members while such members are using their firearms or handguns at the gun club premises.

(B) Any person transporting handguns from a gun club as herein defined to another gun club or transportation from a gun club within the corporate limits of the City to a gun club outside the corporate limits of the City, provided, however, that the transportation is for the purpose of engaging in competitive target shooting or for the purpose of permanently keeping said firearms or handguns at such new gun clubs; and, provided further, that at all times during such transportations said firearms or handguns shall have trigger locks securely fasten to each of them.

(C) Licensed Hunters or Fishermen while engaged in hunting or fishing. [Ord. No. 82-10008]

(D) Transportation of weapons broken down in a non-functioning state or not immediately accessible. [Ord. No. 82-10008]

#### ARTICLE V. VOLUNTARY DELIVERY TO POLICE DEPARTMENT

Section 1. Voluntary delivery to police department: If a person voluntarily and peaceably delivers and abandons to the Police Department of the City any firearm, handgun or other dangerous weapon mentioned in Article 3, Sections 1, 2 or 3, such delivery shall preclude the arrest and prosecution of such person on a charge of violating any provision of this Ordinance with respect to the weapon or weapons voluntarily delivered.

Section 2. Place of delivery: Delivery under this Article may be made at the headquarters of the Police Department or by summoning a police officer to the residence or place of business of the person so summoning.

Section 3. Requirements of delivery: Every firearm or handgun to be delivered and abandoned to the Police Department under this Article shall be unloaded and securely wrapped in a package and in the case of the delivery to the Police headquarters, the package shall be carried in open view.

Section 4. No requirement to furnish information: No person who delivers and abandons a firearm, handgun or other dangerous weapon under this Section shall be required to furnish identification, photographs, fingerprints, or any other information to the Police Department at the time of said delivery.

Section 5. Compensation for delivery: No amount of money or other compensation shall be paid for any firearm, handgun or other dangerous weapon delivered or abandoned under this Article.

Section 6. Duty of police department to conduct weapon investigation destruction: Whenever any firearm, handgun or other dangerous weapon is delivered or abandoned under this Article, the Police Department shall require of all law enforcement agencies whether such firearm, handgun or other dangerous weapon is needed as evidence and if the same is not needed as evidence, it shall be destroyed.

#### (THERE ARE TWO ARTICLES V)

#### ARTICLE V. PENALTIES

Section 1. Penalty: Any person violating a provision of this Ordinance shall be guilty of a misdemeanor and shall be fined \$500.00 or incarcerated for a period of not more than six (6) months for each offense, or both fined and incarcerated.

Section 2. Continuing offense: Each day that any person violates any term or provision of this Ordinance shall constitute a separate offense for which the penalties as herein stated shall be imposed.

Section 3. Confiscation of weapons upon conviction: Upon conviction of a violation of the terms and provisions of this Ordinance, any firearm, handgun or other dangerous weapon shall be confiscated by the trial Court and when no longer needed for

evidentiary purposes, the Court shall transfer such firearm, handgun or other dangerous weapon to the Police Department who shall destroy them.

Section 4. Payment of bond upon arrest: minimum bond amount: Any person arrested and charged with violating any term or provision of this Ordinance shall post a bond, in order to obtain release from confinement, pending final disposition of the charges, in an amount not less than Five Hundred Dollars (\$500.00) cash. [Ord. No. 82-10008]

#### ARTICLE VI. MISCELLANEOUS PROVISIONS

Section 1. Construction: Nothing in this Article shall be construed or applied to necessarily acquire or excuse non-compliance with any provisions of the laws of the State of Illinois or to the laws of the United States. This Ordinance and the penalties prescribed for the violation hereof, shall not supersede, but shall supplement all statutes of the State of Illinois or the United States in which similar conduct may be prohibited or regulated.

#### EVANSTON

9-3-4: Dealers Prohibited: No person, firm or corporation shall engage in the business of a dealer in weapons, firearms or handguns or ammunition in the City, including exchange, loan, rental or other transfer for consideration.

#### FRANKLIN PARK

17-202. Affidavit required for sales. (a) No person licensed under the provisions of this article having secured such a license, shall sell or give away any deadly weapons as defined in this division to any person within this village who has not filed out, signed and had witnessed by a notary public a federal firearms affidavit.

(b) It shall be unlawful, for any person to purchase any deadly weapon as defined in this article without filing out a federal firearms affidavit in writing. Upon witnessing the identification of the applicant, the officer of the company, clerk or secretary, holding a notary public seal from the state shall notarize the affidavit. It shall be the duty of the notary, upon witnessing the identification of the applicant to affix his notary seal and sign the affidavit, refusing any applicant whom he concludes is a minor, lacks proper identification, shows physical signs of being a narcotic, or is unemployed.

17-211. Required. It shall be unlawful for any person to engage in the business of selling, or to sell or give away to any person within the village, any deadly weapon as defined in this article, without securing a license so to do as provided in this division and the general licensing provisions of this chapter.

#### FREEPORT

#### 27-108 adopts 24-3 and 24-4

27-107. Intoxication or agitation. No person shall sell or give any weapon to any person under the influence of alcohol or to any person in a visibly agitated or excited condition.

#### 27-108 extracted from 24-5

#### GLEN ELLYN

6-2-3.13: Weapons: (G) Sales to Intoxicated Persons and Minors: No person shall purchase from or sell, loan or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, or to any person in a condition of agitation or excitability, or to a minor under the age of eighteen, (18) years.

#### HIGHLAND PARK

134.001. Definitions: For the purpose of this chapter, (A) The term "person," includes any individual, corporation, company, association, partnership, society or joint stock company.

(B) The term "hand gun" means any device, or part of a device, by whatever name known, which is designed or may be readily converted to expel a projectile or projectiles by the action of any explosive, expansion of gas or air, or escape of gas or air, having an over-all length of 18 inches or less and designed to be held and operated with and by one hand.

(C) The term "Chief of Police" means the head law enforcement officer of the City of Highland Park or his duly authorized agent.

134.002. Manufacture, assembly, sale prohibited—special permit. No person shall engage in the business of manufacturing, assembling or selling, within the corporate limits of the City of Highland Park, any hand gun as defined in Section 134.001 of this Code, except in compliance with the provisions of this Chapter. No person shall engage in the business of manufacturing, assembling or selling such hand guns without first having been granted a special permit therefor by the City Council. No such permit shall be granted to any person ineligible to register a hand gun in accordance with the requirements of Sections 134.007 and 134.010, nor to any person who fails to meet the standards for federal and Illinois dealer's licenses.

#### JOLET

32-19 Licensed required. It shall be unlawful for any person to engage in the business of selling or to sell or offer to sell or give away to any person within the city any pistol, rifle, shotgun, revolver, or other weapons of like character without first securing a license to do so.

32-21 Sales to minors. None of the articles governed by this article or of like character, shall be sold to any minor.

32-22 Permit required for concealable weapons; application; contents; ineligible applicants. (a) No sale of any revolver, pistol, or other deadly weapon which can be concealed on the person shall be made by any licensee under this article to any purchaser unless the purchaser shall first exhibit to the licensee a permit for the purchase thereof, issued by the chief of police of the city.

(b) Before any permit required by this section is granted, an application in writing

shall be made to the chief of police [contact local authorities for required contents]. \* \* \*

#### LOMBARD

8.16.040 Selling firearms to minors unlawful. No person shall sell, loan or furnish to any minor any gun, pistol or other firearm, in which any explosive substance can be used, within the limits of the village.

#### MORTON GROVE

#### ORDINANCE 95-18

#### An Ordinance Regulating the Sale of Firearms

Whereas, the annual sales of hand guns in the United States is ever increasing, and

Whereas, hand guns play a major role in the commission of homicide, aggravated assault, and armed robbery, and accidental injury and death, and

Whereas, the Corporate Authorities of the Village of Morton Grove have found and determined that the easy and convenient availability of certain types of firearms have increased the potentiality of firearm related deaths and injuries, and

Whereas, the President and Board of Trustees of the Village of Morton Grove have found and determined that it is necessary and desirable to protect the residents of the Village of Morton Grove from loss of property, death and injury by controlling the availability of firearms in the community.

NOW, THEREFORE, be it Ordained by the President and Board of Trustees of the Village of Morton Grove, Cook County, Illinois, as follows:

Section 1: The Corporate Authorities do hereby incorporate the foregoing Whereas clauses into this ordinance, thereby making the findings as hereinabove set forth.

Section 2: That Chapter 132 of the Code of Ordinances of the Village of Morton Grove be and is hereby amended by the addition of the following section:

Section 132.101. Firearm dealers. (A) Definitions: Firearm: "Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding however:

(1) Any pneumatic gun, spring gun or B-B gun which expels a single globular projectile not exceeding .18 inches in diameter.

(2) Any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission.

(3) Any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition.

(4) An antique firearm (other than a machine gun) which, although designed as a weapon, the Department of Law Enforcement of the State of Illinois finds by reason of the date of its manufacture, value, design and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(5) Model rockets designed to propel a model vehicle in a vertical direction.

Handgun: A firearm which (a) is designed or redesigned or made or remade, and in-

tended to be fired while held in one hand or (b) having a barrel of less than 10 inches in length or (c) a firearm of a size which may be concealed upon the person.

Person: Any individual, corporation, company, association, firm, partnership, club, society or joint stock company.

Handgun Dealer: Any person engaged in the business of (a) selling or renting handguns at wholesale or retail (b) manufacture of handguns (c) repairing handguns or making or fitting special barrels or trigger mechanisms to handguns.

(B) Handgun Dealer Prohibited. No person shall engage in the business of handgun dealer in the Village of Morton Grove and no business license shall be granted by the Village of Morton Grove to any handgun dealer.

(C) Current Handgun Dealers. Any person currently engaged in the business of handgun dealer may continue to be so engaged for a period of ninety (90) days after the effective date of this Ordinance.

(D) Penalties. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00 for each such offense. A conviction of a violation of this Ordinance by a holder of a business license issued by the Village of Morton Grove shall constitute grounds for revocation of such business license by the President and Board of Trustees of the Village of Morton Grove.

(E) Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the applicability of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 3: That this Ordinance shall be published in a pamphlet form. Said pamphlet shall be received as evidence of the passage and legal publication of this Ordinance.

Section 4: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form according to law. [June 8, 1981].

#### ORDINANCE 81-11

#### An Ordinance Regulating the Possession of Firearms and Other Dangerous Weapons

Whereas, it has been determined that in order to promote and protect the health and safety and welfare of the public it is necessary to regulate the possession of firearms and other dangerous weapons, and

Whereas, the Corporate Authorities of the Village of Morton Grove have found and determined that the easy and convenient availability of certain types of firearms and weapons have increased the potentiality of firearm related deaths and injuries, and

Whereas, handguns play a major role in the commission of homicide, aggravated assault, and armed robbery, and accidental injury and death.

NOW, THEREFORE, be it Ordained by the President and Board of Trustees of the Village of Morton Grove, Cook County, Illinois, as follows:



Section 1. The Corporate Authorities do hereby incorporate the foregoing Whereas clauses into this Ordinance, thereby making the findings as hereinabove set forth.

Section 2. That Chapter 132 of the Code of Ordinances of the Village of Morton Grove be and is hereby amended by the addition of the following section:

#### Section 132.102. Weapons control

(A) Definitions: [For definitions of "Firearms," and exclusions therefrom; "Handgun," "Person," and "Handgun Dealer," see Ord. 81-10, Sec. 2, Sec. 132.101, as amended].

Licensed Firearm Collector: Any person licensed as a collector by the Secretary of the Treasury of the United States under and by virtue of Title 18; United States Code, Section 923.

Licensed Gun Club: A club or organization, organized for the purpose of practicing shooting at targets, licensed by the Village of Morton Grove under Section 90.20 of the Code of Ordinances of the Village of Morton Grove.

(B) Possession: No person shall possess, in the Village of Morton Grove the following: \* \* \* (2) Any weapon from which 8 or more shots or bullets may be discharged by a single function of the firing device, any shotgun having one or more barrels less than 18 inches in length, sometimes called a sawed off shotgun or any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon, as modified or altered has an overall length of less than 26 inches, or a barrel length of less than 18 inches or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes, such as, but not limited to black powder bombs and Molotov cocktails or artillery projectiles; or (3) Any handgun, unless the same has been rendered permanently inoperative.

(C) Subsection B(1) shall not apply to or affect any peace officer.

(D) Subsection B(2) shall not apply to or affect the following: (1) Peace officers, (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense; (3) Member of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duties; and (4) Transportation of machine guns to those persons authorized under subparagraphs (1) and (2) of this subsection to possess machine guns, if the machine guns are broken down in a non-functioning state or not immediately accessible.

(E) Subsection B(3) does not apply to or affect the following: (1) Peace officers or any person summoned by any peace officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer and if such handgun was provided by the peace officer; (2) Wardens, superintendents and keeper of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense; (3) Members of the Armed Ser-

vices or Reserve Forces of the United States or the Illinois National Guard or the Reserve Officers Training Corps, while in the performance of their official duties; (4) Special Agents employed by a railroad or a public utility to perform police functions; guards of armored car companies; watchmen and security guards actually and regularly employed in the commercial or industrial operation for the protection of persons employed and private property related to such commercial or industrial operations; (5) Agents and investigators of the Illinois Legislative Investigating Commission authorized by the commission to carry such weapons; (6) Licensed gun collectors; (7) Licensed gun clubs provided the gun club has premises from which it operates and maintains possession and control of handguns used by its members, and has procedures and facilities for keeping such handguns in a safe place, under the control of the club's chief officer, at all times when they are not being used for target shooting or other sporting or recreational purposes at the premises of the gun club; and gun club members while such members are using their handguns at the gun club premises; (8) A possession of an antique firearm; (9) Transportation of handguns to those persons authorized under Subparagraph 1 through 8 of this subsection to possess handguns, if the handguns are broken down in a non-functioning state or not immediately accessible. (10) Transportation of handguns by persons from a licensed gun club to another licensed gun club or transportation from a licensed gun club to a gun club outside the limits of Morton Grove; provided however that the transportation is for the purpose of engaging in competitive target shooting or for the purpose of permanently keeping said handgun at such new gun club; and provided further that at all times during such transportation said handgun shall have trigger locks securely fastened to the handgun.

(F) Penalty: (1) Any person violating Section B(1) or B(2) of this Ordinance shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00 or incarcerated for up to six months for each such offense.

(2) Any person violating Section B(3) of this Ordinance shall be guilty of petty offense and shall be fined no less than \$50.00 nor more than \$500.00 for such offense. Any person violating Section B(3) of this Ordinance more than one time shall be guilty of a misdemeanor and shall be fined no less than \$100.00 nor more than \$500.00 or incarcerated for up to six months for each such offense.

(3) Upon conviction of a violation of Section B(1) through B(3) of this Ordinance, any weapon seized shall be confiscated by the trial court and when no longer needed for evidentiary purposes, the court may transfer such weapon to the Morton Grove Police Dept. who shall destroy them.

(G) Voluntary Delivery to Police Department. (1) If a person voluntarily and peaceably delivers and abandons to the Morton Grove Police Dept. any weapon mentioned in Section B(1) through B(3), such delivery shall preclude the arrest and prosecution of such

person on a charge of violating any provision of this Ordinance with respect to the weapon voluntarily delivered. Delivery under this section may be made at the headquarters of the police department or by summoning a police officer to the person's residence or place of business. Every weapon to be delivered and abandoned to the police department under this paragraph shall be unloaded and securely wrapped in a package and in the case of delivery to the police headquarters, the package shall be carried in open view. No person who delivers and abandons a weapon under this section shall be required to furnish identification, photographs or fingerprints. No amount of money shall be paid for any weapon delivered or abandoned under this paragraph.

(2) Whenever any weapon is surrendered under this section, the police department shall inquire of all law enforcement agencies whether such weapon is needed as evidence and if the same is not needed as evidence, it shall be destroyed.

(H) All weapons ordered confiscated by the court under the provisions of Section F(3) and all weapons received by the Morton Grove Police Department under and by virtue of Section G shall be held and identified as to owner, where possible, by the Morton Grove Police Department for a period of five years prior to their being destroyed.

(I) Construction: Nothing in this Ordinance shall be construed or applied to necessarily require or excuse noncompliance with any provision of the laws of the State of Illinois or to the laws of the United States. This Ordinance and the penalties proscribed for violation hereof, shall not supersede, but shall supplement all statutes of the State of Illinois or of the United States in which similar conduct may be prohibited or regulated.

(J) Severability: If any provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the applicability of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(K) The provision of this Ordinance shall take effect ninety (90) days from and after its passage, approval and publication in pamphlet form according to law.

Section 3: That this Ordinance shall be published in pamphlet form. Said pamphlet shall be received as evidence of the passage and legal publication of this Ordinance. [June 8, 1981].

#### Niles

##### 22-44. Affidavit to purchase firearms.

(a) It shall be unlawful for any person dealing in firearms to sell, barter, loan, or give away to any person within the village any pistol, revolver, or other firearm of like character which can be concealed upon the person, unless such person so purchasing or receiving such firearm shall have filed with the dealer an affidavit. \* \* \*

(b) The following persons are covered by the section and not eligible to purchase a firearm:

(1) Any person convicted of a felony;

(2) Any minor under the age of eighteen (18) years;

(3) A narcotic addict.

22-45. Selling, furnishing firearms to minors. It shall be unlawful for any person to sell, give, loan or furnish to any minor under the age of eighteen (18) years any gun, pistol, rifle, revolver or other firearm within the corporate limits of the village.

22-48. Machine guns prohibited. It shall be unlawful for any person to sell, offer to sell, give, loan, furnish or possess a machine gun within the corporate boundaries of the village. The term "machine gun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

#### Peoria

41-4. License to sell, etc. — Required. It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, \* \* \* \* \* deminger, \* \* \* or other deadly weapon, which can be concealed on the person, without securing a license so to do.

41-8. Required certificate and thumb print. It shall be unlawful for any person to sell, barter, or give away to any person with the City, any deadly weapon mentioned in Section 41-4 of this Code, except to licensed dealers, without first obtaining from the person receiving such deadly weapon a signed statement [contact local authorities for required contents] \* \* \* and which shall contain a thumb print from the person receiving such a weapon. Such thumb print shall be the right-hand thumb print unless circumstances prevent, in which case it shall be the left-hand thumb print. All such information required by this section shall be entered upon forms provided by the Superintendent of Police for that purpose.

41-11. Restriction on sale. It shall be unlawful for any person to sell, barter or give away, to any person within the city, any deadly weapon mentioned in section 41-4 of this Code, to any person known to him to be under twenty-one (21) years of age or of unsound mind or under indictment or a drug

addict or a fugitive from justice or who has been convicted of a crime of violence.

41-13. Registration. All permanent residents of the city and those persons who reside in the city continuously for more than ten (10) days who have in their possession any pistol, revolver or gun which may be concealed on the person, shall register such gun or pistol with the superintendent of police, setting forth the caliber, make, model and manufacturer's number of the weapon. No fee shall be required for such registration.

#### Rockford

7-260. License required. It shall be unlawful for any person to engage in the business of repairing or selling, or to repair, sell or give away to any person within the city, a new or used pistol, revolver, deminger or other weapons of similar character which can be concealed upon the person, without first having secured a license.

7-264. Record required; inspection. It shall be the duty of every licensee hereunder to keep a register of all weapons sold, repaired or given away by such licensee, the register to be in substantially the following form:

(a) Date of transaction;  
(b) Number of weapon;  
(c) To whom sold or given;  
(d) Age and residence of purchaser;  
(e) Kind and description of weapon;  
(f) Purpose for which purchased;  
(g) Price of weapon;  
(h) The number of purchaser's permit.  
Entries in this register shall be made at the time of the sale, repair or gift, and the register shall be kept open for inspection by any member of the police department at all reasonable times.

7-265. Report required. Any person making any sale, repair or gift of any weapon referred to in section 7-260 shall report such sale or gift to the chief of police within twenty-four (24) hours thereafter, upon a form to be furnished by the city, the report to contain the following information:

(a) The date of transaction;  
(b) Number of weapon;  
(c) To whom sold or given;  
(d) Form whom repaired;  
(e) Age and residence of purchaser;  
(f) Residence of person requesting weapon to be repaired;  
(g) Kind and description of weapon;  
(h) Purpose for which purchased;  
(i) Price of weapon and description of the purchaser or person for whom the weapon is to be repaired.

#### Skokie

55-025. Permit. It shall be unlawful for any person dealing in firearms to sell, barter, loan or give away to any person within the Village of Skokie, any pistol, revolver, or other firearm of like character which can be concealed upon the person, unless such person so purchasing or receiving such firearm shall have secured a written permit for the purchase of such firearm, from the Chief of Police. \* \* \*

55-026. Minors. It shall be unlawful for any person to sell, loan or furnish to any minor any gun, pistol, rifle, revolver or other firearm within the Village.

#### Streamwood

3-7-3-1: License and permit required: It shall be unlawful for any person to engage in the business of selling or to sell or give away to any person within the Village, any firearms which are of such size or nature as may be concealed upon the person without securing a license therefor. No person, having secured such license, shall sell, loan, or give away any such weapon to any person who has not secured a permit from the Chief of Police to purchase such weapon.

4-4-1: Definitions: firearms: A pistol, revolver, gun and small arms of a size and character that may be concealed upon or about the person.

4-4-2: Permit to purchase firearms: No person shall be permitted to purchase a firearm without having secured a permit from the Chief of Police. Such permit shall not be issued to a criminal, vagabond, minor under eighteen (18) years of age or an alien. Application for a permit shall state the type of firearm desired, the name, age, sex, residence, nationality, height, weight and complexion of the applicant. Recommendation by two (2) or more citizens of good moral character of the applicant shall accompany the application. \* \* \*

#### Worth

3-11-1: License required. Sale restricted: It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person within the Village, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor. No person, having secured such license, shall sell, loan or give away, any such weapon to any person who has not secured a permit from the Chief of Police to purchase such weapon.

2-15-88

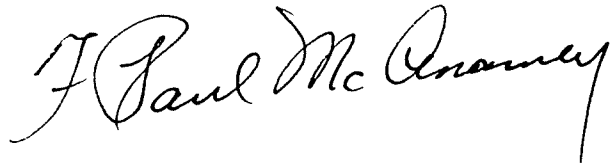
Dear Sirs:

In the way of introduction of myself, I am F Paul McAnarney. I am a member of The American Legion, Veterans of Foreign Wars, Knights of Columbus (both 3rd & 4th degrees) The Pratt Rifle and Pistol Association, Kansas State Rifle Association, National Rifle Association, NRA Whittington Center, and an avid shooter and deer hunter both here in Kansas and other states.

In view of the fact that I and others who enjoy the same sports that I enjoy and pursue, sometimes travel to Silhouette, and regional, and state rifle matches and also to hunt in various game seasons and fields. We oftentimes go or travel between towns and cities within states that have varying and different firearms regulations than those in which we reside. And We would be subject to these rules and to the unknowing and unintentioned violation of various regulations and possibly subject to arrest and legal litigation as a result of these circumstances and delayed from attendance at these events and hunts, as well as our timely return from these sporting endeavors and own homes.

I, gnetlemen, request that you consider my concerns as stated above and give Serious consideration to the timely removal from committee and the eventual passage of title HB 2815. This will make it so that the regulations concerning firearms use can be applied equitably to one and all of our great Kansas Shooting Sportsmen and all others who wish to enjoy the shooting sports and also the use of their firearms for their own self\* Defense.

Respectfully Yours For fairness and uniformity  
in regulations.



**F. Paul McAnarney**  
R. R. 4 Box 41G  
Pratt, Kansas 67124

Attach H

TESTIMONY PRESENTED

16 February 1988  
to the  
Federal and State Affairs Committee

C. S. Allen

Mr. Chairman, my name is Charles S. Allen and I am a resident of Leavenworth, Kansas. I am here to present testimony in support of H.B. 2815, a bill providing firearms preemption legislation. I am a Vice President of the Kansas Wildlife Federation representing over 7,000 paid members in Kansas. I am also a member of the Leavenworth Rod and Gun Club. Both organizations fully endorse legislation of the type you are considering today.

Since the 1960's, a number of communities across the nation have passed local ordinances affecting firearms ownership. These gun control ordinances were prompted for the most part by emotional reaction to the use of firearms in some public tragedy or to create an atmosphere of harassment of individual firearms owners.

The proliferation of local firearms ordinances serve only to create a hodgepodge of varying gun laws within a state, resulting in law-abiding gun owners risking arrest, prosecution and confiscation of personal property for unintentional violation of local laws by merely transporting firearms for sporting or other legitimate purposes across city limits and county lines.



This bill, H.B. 2815, will curtail the proliferation of local gun ordinances and ensure that state law will be enforced uniformly and consistantly throughout the state on an equal basis. This legislation will guarantee the citizens right to own and use firearms for legitimate purposes based upon state statues and federal law, rather than varying and conflicting local ordinances.

At the present time, 33 states have enacted firearms pre-emption legislation. Kansas is one of only 17 states having no current preemptive firearms legislation.

Thank you for the opportunity to present you the desires of approximately 7,000 members of the Kansas Wildlife Federation and the many sportsmen in Leavenworth and the surrounding area.

J

Kansas House Bill 2815  
State vs. Local Gun Control

Testimony submitted by: Phil Frigon, Rt.1, Box 109A, Clay  
Center, Kansas, 67432 President, Hastings Shotgun Barrels

I am here to testify in support of House Bill 2815 which will provide for a uniform gun control law throughout the State of Kansas. I am well acquainted with the sporting gun industry. In trapshooting I was on seven All-American and state trapshooting teams. I have competed in most all states including national championships. I write a monthly column on firearms and equipment in the national trapshooting magazine Trap & Field , and have since 1979. I have hunted in many states and in Europe where I competed in the world pigeon shoot in Italy. My company, Hastings, manufactures replacement shotgun barrels. I currently sell these barrels to mail order catalogs such as L.L. Bean of Freeport, Maine, and other distributors and dealers throughout the United States.


The wide variation in local gun control laws needs to be eliminated for several reasons. One is to prevent bizarre and extreme measures from being passed in a small area, such as a complete ban on all firearms, or the opposite such as requiring every person to own a gun. Another reason is to eliminate confusion among gun owners who are travelling for hunting or sport reasons in and out of several communities. It would be impossible for one person to know all local laws on this matter, thus risking arrest and prosecution. Passage of House Bill 2815 would unify the State's gun laws and eliminate confusion.

Attach J

An example from my own experience will illustrate my point. My company, Hastings, manufactures a shotgun barrel with rifling for slug shooting, as most deer hunters in the North and Northeast must shoot slugs in hunting deer. This barrel is obviously a shotgun barrel, with rifling, but is still a shotgun barrel. It certainly is according to Federal standards and definition. But this is not true in New York, Ohio and Massachusetts, as their state laws define a rifled shotgun barrel as a rifle, not a shotgun. Thus this barrel can not be used in their designated shotgun only areas. This is very confusing to the hunter and sportsman who by merely crossing state lines finds his firearm changed from a shotgun to a rifle. One could only imagine the confusion multiplied if different rules were in effect from city to city, when compared to the problems I have faced in differences state to state.

I hope my points on this matter will be considered carefully. I urge you to vote in favor of House Bill 2815.

Thank you for your time.

Phil Frigon  
  
Pres., Hastings

DATE : 16 February '88  
TO : House Federal and State Affairs Committee  
FROM : Joe Callahan  
TOPIC: H.B. 2815

I am Joe Callahan, from Onaga, KS and I have been asked to speak on firearms laws and how they affect trappers. I am the Kansas director of the National Trappers Association, acting as Kansas's delegate at the national level. Also, I have recently been elected National General Organizer, one of four officer positions within the National Trappers Association.

I see potential problems between trappers and a hodgepodge of locally enacted restrictive gun laws concerning the use of handguns, traveling with firearms, and possibly, the use of high powered rifles. Also I see the trapper as being somewhat unique in that he views a firearm in a different light than other firearms users.

It is somewhat of an over simplification, but trapping can be divided into land trapping and water trapping. Water trapping makes use of drowning devices, and the animal drowns very quickly after being caught. The animal (coon, muskrat, beaver, etc.) is dead when you check your trap. Land trapping in Kansas centers around the trapping of coyotes. Due to the coyotes strength and large size, the vast majority of trappers kill the coyote fast and humanely with a 22 caliber bullet. Among experienced trappers I feel the cartridge of choice is the 22 short and the tool of choice is a 22 caliber handgun. With a well aimed shot to the head, death is swift and humane. As I am sure you are aware some would have the purchase, use, and ownership of handguns severely restricted which would force the trapper within the affected area to use a less desirable and conceivably less humane firearm and/or cartridge.

Notice the word tool, when I speak of a 22 handgun. Trapping is hard strenuous work, which requires a lot of walking, digging, pounding, climbing and carrying. It is not uncommon to be carrying 60# of equipment with both hands full. The handgun is easiest tool to carry along with all the other equipment a trapper has to carry. Unlike the hunter, the firearm is not the central tool being used it is just one of many. To the hunter, the use of the weapon is the culmination of the hunt. To the trapper the use of the firearm is anticlimactic. Because of the trapper's unique attitude towards firearms I am concerned about the inadvertent breaking of local laws if H.B. 2815 does not become law. The gun is just another piece of needed equipment, and it's use is a somewhat secondary consideration due to the nature of it's use.

In northeastern Kansas we are blessed with an abundance of coyotes, some research suggests 6 to 8 coyotes per square mile, but in other areas of Kansas coyote populations are not quite so dense, due to less desirable habitat. Trappers that have gone out and lined up a lot of territory, asking friends, relatives and friendly farmers and/or ranchers can easily travel through several jurisdictions. They

Attach R

may travel five to ten miles between locations and during the course of a day they may travel up to fifty miles.

It is my observation that the two party system is not alive and well at the county office level in Kansas. Far too often the incumbent runs unopposed and he or she is elected by a handful of voters in an election that has rather poor voter turn out. A healthy two party systems has become part of our system of checks and balances, adding restraint to politicians views. Without it we run the danger of narrow issue laws that are not in the public good, but rather, a "pet" or "vanity" issue to satisfy the personal whim of the sponsor.

Contrary to stereotype, I have found trappers to be a gregarious group and many times two trappers from different areas of Kansas will "partner" together. Typically, two trappers from different parts of the state will take vacation time at work during trapping season. They may trap coyotes in Southwestern Kansas and then trap raccoons in the Northeastern Kansas later on. County and town laws are poorly advertised outside the immediate area, and although ignorance of the law is not a valid reason for not observing the law, realistically, locally enacted gun laws can make a trapper or other sportsman in violation of the law where he was in compliance every where else in the state.

The United States of America is a paradox in that we have fifty sovereign states within one sovereign nation and yet we have endured the test of time. That paradox was what the Civil War was all about, states rights versus federal rights. We have been able to endure because the states have been willing for the most part to mirror the federal laws at the state level. Within the state the state is sovereign concerning "the right to keep and bear arms" relative to it's cities, counties, and the other lesser governmental entities. To not exercise the state's rights and let lesser entities usurp your authority can only invite chaos.

In the January '88 issue of "National Geographic" an article entitled, "Discovering America" a Polish couple (from Poland) tour the U.S. and write of our country from the perspective of outsiders looking in. They write, "Free access to guns is a disturbing symbol of America to us. In Poland, ownership of guns is strictly controlled." I found that both disturbing and ironic. Those people have accepted their fate. The Solidarity movement which I believe represented the will of the people was stopped dead in its tracks by an outside force. They did not have the ability to do otherwise. The United States is a great nation founded on individual liberties. Liberty demands responsibility. Freedom breeds responsibility, and it is the acceptance of those responsibilities by the average citizen that has made our country great. It is right and proper that the state exercise it's preemptive right concerning firearms within the state.

K Delwin L. Goheen from Beloit, Kansas  
Representing the

DCM and the Mid-West High Power Shooters Assoc.

To quote a great Englishman-Disraeli-"there are 3 types of lies, lies, damned lies, and statistics." It is possible to sit before you today and list thousands of statistics, like those that have already been presented and are yet to be presented, and I could probably use the same statistics to prove an opposing point. So, I want to use facts, not statistics. When a local municipality, such as a city or county, passes a law that is more stringent than the state legislature, it can be an inconvenience only to the law abiding people of the involved area or sets a trap for those visitors who desire to visit our great state and spend money hunting or in rifle competition of any kind. Imagine the businessman who spends several thousand dollars on a trip to Wichita, or Topeka or another town to participate in some of the greatest wild game bird hunting in the United States. Lets say he passes through some county that has recently banned all firearms. Mr. Businessman's shotgun is seen as he stops for coffee, the sheriff is called and Mr. Businessman is fined, or worse, arrested. What kind of impression does this leave with the businessman. And you can be guaranteed that when he returns to Chicago, or Minneapolis or where ever, this topic will come up and the impression won't be favorable. Anybody who has been to Washington D.C. knows about the Southeast side, but they haven't necessarily been there nor will they probably ever bother to visit. If the cities and counties of our state start passing laws that are stricter than those of the state legislature, they will simultaneously be raising barriers to tourism, both interstate and intrastate.

Thank You.

Attach L

## Testimony in Support of H.B. 2815

**Lorraine "Jack" Jackson, HC 32, Box 84, Hays, KS 67601**

Past president of Hays City Sportsman's Club; past president of Kansas State Rifle Association; hunter safety instructor, instructor in 4-H shooting project and member of state 4-H advisory committee on shooting sports project.

I am pleased to appear before you today in support of H. B. 2815 as introduced. As a hunter and competitive shooter who travels throughout Kansas while pursuing both activities, I am quite concerned with the need for uniform firearms regulations throughout the state as I do not want to unwittingly violate local ordinances of which I might not even be aware.

As a competitive shooter, I regularly compete in rifle, pistol, and shotgun matches throughout the state. As a competitor, I travel through and stay overnight in a wide variety of towns. As a hunter, I hunt turkeys in Gray county, pheasants in Ellis and Trego counties, deer in Republic county, and quail and rabbits with my son in Miami and Linn counties.

I know of no practical way to determine what local ordinances might be in effect in each of these towns and/or counties through which I might pass. Without passage of the bill being considered here today, I and other Kansas sportsmen like me can never be quite sure that they are not unwittingly violating local ordinances. With the passage of H.B. 2815, I can be assured that I am in compliance with the law relating to the possession and use of my firearms wherever I may be in Kansas. I urge you to pass H.B. 2815 unamended. Thank you.

Subject: H.B. 2815

Statement of: Robert L. Aufdemberge  
8431 SW 77th  
Auburn, KS 66402  
Member, Capital City Gun Club, Topeka, Kansas  
Past president and member of board of directors,  
Kansas State Rifle Association  
Competitive target shooter, hunter, collector

As a person who participates in a number of shooting sports, I am concerned with the potential proliferation of a series of local firearms ordinances which are likely to be contradictory and pose a threat of unintentional violation by sportsmen and competitive shooters. Given the emotional history of such legislation, county and municipal governments might be prone to overreact to isolated or perceived problems and create pockets of unduly harsh restriction. An example is a county commission in Kansas which reportedly considered a ban on all shooting in their county. Such a ban would create a serious and unnecessary hardship for sport shooters in the affected area, and would negate the use of hunting as a wildlife management tool, causing possible over-population of certain game species with increased crop depredation. Examples of local firearms ordinances from other states can be cited which appear to have little effect other than to harrass the legitimate firearms user.

House Bill No. 2815 contains provisions which would prevent the undesirable situations referred to above and would assure uniform application, state-wide and commonly recognized, of any law regarding firearms and their continued legitimate use. I urge that the committee consider favorably on H.B. 2815.

Attach N



Reference: Hearing on House Bill 2815

Eugene J. Tomlinson  
1526 N. Topeka  
Wichita, Ks. 67214  
Master Instructor, Kansas Safe Hunter Program  
Training Counselor, National Rifle Association

I serve on a voluntary basis, both as a Kansas Instructor and an N.R.A. Training Counselor. I train people to be instructors for the Kansas Safe Hunter Program. The majority of students which are taught by these instructors are required to pass the course to obtain a hunting license.

As Training Counselor for the National Rifle Association I train people to be instructors in rifle marksmanship, shotgun marksmanship, pistol marksmanship, practical pistol shooting, and home firearm responsibility.

In order to train people to serve as instructors in these various disciplines I travel to cities and towns throughout Kansas. I must also take with me a selection of various types of firearms. It would be impossible for me to pass through various counties, cities and towns and comply with the firearms legalities of each if a uniform procedure were not adopted by the State of Kansas.

Last spring I participated in the training of over one hundred people as shooting sports instructors at the Rock Springs Ranch to implement the 4-H shooting sports program. This training program would not have been possible if the instructors involved were unable to bring their own firearms from their homes in all parts of the state.

I reccommend passage of House Bill 2815.



E. J. Tomlinson

Topeka, Kansas

16 Feb. 1988

Mr. Chairman, I would like to thank you and the committee for the opportunity to testify. My name is Augustus Dale Sanders, I'm a Life Member of the National Rifle Association, Life Member of the Kansas State Rifle Association, Honorary Life Member of Capital City Gun Club of Topeka. I'm an active rifle and pistol competitor. I travel throughout the state to attend matches, this oftentimes requires travel through the city limits of various communities throughout Kansas. I believe that the control of firearms, ammunition or their components should rest solely with the State. I feel the State Legislature has the ability to best judge the control over firearms laws. I feel their judgement will be the best for the majority of firearms owners whether they are hunters, collectors, or competitive shooters.

Augustus Dale Sanders  
9920 SE Paulen Rd.  
Berryton, Kansas 66409

Attach P

MY NAME IS RONALD SHULTZ. I AM A MEMBER OF TRI-COUNTY  
ROD AND GUN CLUB OF BONNER SPRINGS KANSAS. I AM THE  
CHAIRMAN OF THE CLUBS LEGISLATIVE COMMITTEE. I AM ALSO A  
MEMBER OF THE N.R.A., THE NATIONAL BENCH REST SHOOTERS  
ASSOCIATION AND THE INTERNATIONAL HANDGUN METALIC  
SILHOUETTE SHOOTERS ASSOCIATION. I AM A COMPETITOR.  
MANY MEMBERS OF OUR CLUB BELONG TO THESE AND OTHER SHOOTERS  
ASSOCIATIONS AND ARE ALSO COMPETITORS. WE TRAVEL ALL OVER  
THE STATE TO COMPETE IN DIFFERENT MATCHES.

I AM ONLY ONE OF 321 PISTOL SILHOUETTE SHOOTERS REGISTERED  
IN KANSAS. OUR MATCHES ARE HELD FROM NORTON TO HAYS TO  
WICHITA TO KANSAS CITY, LITERALLY ALL OVER THE STATE. ON  
ANY GIVEN WEEKEND BETWEEN MARCH AND OCTOBER AS MANY AS  
200 PISTOL SILHOUETTE SHOOTERS ARE EN ROUTE TO A MATCH  
SOME WHERE IN OUR STATE OR A NEIGHBORING STATE. OUR  
SPORT HAS MANY DIFFERENT STYLES AND CLASSES SO WE USE AS  
MANY AS FOUR (4) DIFFERENT HANDGUNS AT A MATCH. THERE  
ARE FEWER BENCH REST SHOOTERS AND FEWER BENCH REST  
RANGES IN OUR STATE. SO IN ORDER TO COMPETE WE HAVE  
TO TRAVEL. SOMETIMES ACROSS KANSAS TO COLORADO. MOST  
OF US TAKE TWO (2) RIFLES WITH US. AS WE TRAVEL WE STOP  
FOR GAS, LUNCH, OR REST STOPS. MANY TIMES WE ARRIVE  
EARLY, THE DAY BEFORE, AND STAY ALL NIGHT. IT IS IMPORTANT  
AS WE TRAVEL THRU MANY TOWNS AND COUNTIES, THAT WE SHOULD  
NOT HAVE TO WORRY ABOUT BREAKING OR VIOLATING UNKNOWN  
CITY OR COUNTY LAWS OR ORDINANCES.

Attach Q

PAGE (2)

THOSE OF US WHO COMPETE IN THE SHOOTING SPORTS LOOK AT OUR EQUIPMENT AS TOOLS OF THE TRADE. THE SAME AS A GOLFER LOOKS AT HIS CLUBS OR A TENNIS PLAYER LOOKS AT THE RACKETS THAT THEY USE.

THIS BILL CAN LEAD TO UNIFORM STATE WIDE LAWS THAT ASSURE OUR RIGHT TO TRAVEL AND COMPETE WITHOUT WORRY.

YOUR SUPPORT OF THIS BILL WILL GIVE US THAT ASSURANCE.

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

ROBERT H. MILLER CHAIRMAN

LADIES & GENTLEMAN,

Thank you for the opportunity of speaking here today on behalf of H.B. #2815.

First I would like to say that I support the above bill in its unamended form.

My wife, Peggy & myself compete in many rifle and handgun matches every year, across the state. In our travels, we must pass through, quite a number of towns & cities, to and from our activities. If any of the towns or cities had any conflicting firearms laws, we could very easily be entrapped and be unaware of the local laws. We also go to some gun shows, the same applies to them.

Every firearm owner that I have contacted, and explained H.B. #2815 to, has strongly supported its passage in its unamended form.

I am afraid that any local regulations that would be passed, will not have the research and study, that would be present in a House sponsored ruling. I trust the sound judgement of the House more than, some of our local officials

*Jerry R Barnett*

JERRY R. BARNETT 1262 THOMPSON EMPORIA, KS. 66801  
316-342-7257

MEMBER OF: KANSAS RIFLE ASSOCIATION  
NATIONAL RIFLE ASSOCIATION  
AMERICAN SINGLE SHOT RIFLE ASS.  
CAST BULLET ASSOCIATION  
INTERNATIONAL HANDGUN METALIC SILHOUETTE ASS.  
SMITH & WESSON COLLECTORS ASSOCIATION  
LIFE SUBSCRIBER TO GUN WEEK NEWSPAPER

*Attach R*

TESTIMONY IN SUPPORT OF HOUSE BILL 2815

My name is Charles Rice. I live on route 1, Neodesha. I have been involved with hunter safety education for 10 years and am a master instructor.

Following are reasons why I support H.B. 2815:

EDUCATIONAL

The 1972 Legislature mandated a uniform course of hunter safety education. Random county and city firearms codes will defeat the purpose of uniform education. Without H.B. 2815 - just on the county level - there is potential for 105 different and conflicting codes. My students normally come from five different counties. Imagine the frustration of trying to teach 2,3 or 5 different codes.

In the fifteen years since the hunter education program began nearly 1/4 of a million Kansas youth have benefited - not only from safety instruction, but ethics, conservation and first aid. In this period firearms accidents have been greatly reduced.

Your passage of H.B. 2815 will insure the unhindered continuance of an educational program that benefits all Kansans.

ECONOMIC

Like it or not, firearms and hunting play a significant part in the Kansas economy. Loss of revenue to the state's economy as a result of restrictive local firearms codes could be significant. Kansas can ill afford the loss of sales tax revenue generated by the sale of firearms, ammunition and related hunting equipment. Motels, restaurants, and sporting goods outlets are just some of the businesses that could be adversely impacted unless you pass H.B. 2815.

February 16, 1988

To: Federal and State Affairs Committee

From: Randall G. Holm

I am here to testify on behalf of the Firearms Preemption Bill, H.B. 2815. This piece of legislation is much needed in our state as it will prevent the creation of a multitude of different local ordinances that could only create confusion & problems for our law abiding citizens. If this happens we will be allowing the creation of an atmosphere that will result in law-abiding gun owners risking arrest, prosecution, & confiscation of personal property for unintentional violations by simply transporting firearms across city limits & county lines.

Such ordinances would clearly put an undue burden on our law abiding residents & sportsmen and they could also stifle the influx of tourist dollars by out of state hunters. Firearms preemption laws were first passed in the 1960's when California & Pennsylvania led the way after realizing that a rash of local "gun control" measures were based on emotion rather than logical efforts to control crime. Since then another 31 states have seen the need and passed firearms preemption laws, & our 99th Congress enacted the Firearms Owners Protection Act of 1986.

We need to insure that if additional gun control legislation is enacted in our state that it is only approached in the best interests of our entire populace and not just an over-reaction to a single incidence or an attempt to harass our law abiding gun owners. You, our state legislators, are best suited to determine if & when we need additional gun control legislation.

I am a lifetime resident of Kansas and a graduate of Wichita State University. I competed on my high school rifle team and on the W.S.U. pistol team. Since I have moved back to Salina and opened my own business I have stayed active in target shooting by competing in N.R.A. sanctioned High Power Rifle Matches and as a Saline County Reserve Deputy, I hope to eventually qualify for their pistol team. For over 10 years I have been active in the Saline County Hunter Safety Instructors Association; of which I am past president, a Master Instructor, and the recipient of the Order of the Buffalo award for outstanding service to Hunter Education.

I ask you to move Kansas ahead by protecting our law-abiding gun

Attach T

FROM: RALPH CLARK  
DELPHOS RIFLE AND PISTOL CLUB

TO: FEDERAL AND STATE AFFAIRS COMMITTEE

As a competitive shooter, hunter and firearm collector, I am concerned about local communities passing ordinances that restrict ownership of firearms. When a person travels from one community to another they should not have to worry about local firearm ordinances.

A State that has too many varying gun laws probably will lose revenue because people will not put up with the local hassle.

I cannot see any logical reason why House Bill No. 2815 should not be passed.



TESTIMONY PRESENTED

February 16, 1988

to the

House Committee of Federal and State Affairs

H.B. 2815

My name is Mark Wilson. I am the President of the Riley County Fish and Game Association. I represent a 200 member group of sportsmen and women in the Manhattan area.

The Riley County Fish and Game Association supports H.B. 2815 from the standpoint of noninterference with people who are engaged in, or are in transit to or from places where they participate in lawful firearm-related recreation. Such activities would include hunting, competitive target shooting (e.g. skeet shooting), or target shooting for personal enjoyment. While we recognize the rights of counties and municipalities to enact laws that meet the needs of their locality, such laws should not be allowed to unnecessarily interfere with legitimate recreational activities and possibly commerce at the State level.

Failure to pass H.B. 2815 or a similar bill, might result in the following example situation. A county or community situated along a major interstate route (e.g. Wichita), might enact a law requiring "all firearms" within or transported through their jurisdiction to be safety inspected by the local safety engineer. While such a law might have a legitimate and well-meaning basis, hunters (particularly nonresident hunters) and shooting enthusiasts from communities other than Wichita could unknowingly violate such a law merely by transporting firearms through Wichita while enroute to otherwise lawful participation in

Attach ✓

shooting-related recreation.

Hunting is a popular and perfectly legal activity in Kansas as evidenced by the State's sale of licenses for the privilege to engage in this recreational pursuit. Furthermore, it is a substantial source of commerce in Kansas as evidenced by the fact that nearly 8 million dollars was pumped into the Dodge City area economy on the opening weekend of the 1986 pheasant season. These revenues resulted from hunting-related sales of lodging, food, fuel and other supplies and services. Many of you are also aware that pheasant hunting is the annual economy booster for many communities in western Kansas.

Therefore, the Riley County Fish and Game Association believes it would not be in the State's best economic interest to allow the previously-mentioned example situation or a similar event to disrupt the vacations of resident and nonresident hunters. A few well-publicized hunter arrests for unintentional firearms law violations could result in hunters detouring around the county or community in question, thus causing a loss to the local service economy. Even worse, hunters might choose to vacation in another state, withholding their contributions to the nearly one billion dollar a year outdoor recreation-related economy in Kansas.

The Riley County Fish and Game Association asks you to consider the implications of not having a Kansas statute such as that proposed by H.B. 2815.

Thank you for allowing me to present the views of sportsmen and women from the Manhattan area.



# League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Chairman Robert Miller and Members,  
House Committee on Federal and State Affairs  
FROM: Jim Kaup, General Counsel, League of Kansas Municipalities  
DATE: February 16, 1988  
RE: House Bill 2815; Preempting Local Regulation of Firearms

## I. INTRODUCTION

The League of Kansas Municipalities does not appear before this Committee today in opposition to HB 2815 because we are advocates of gun control. We oppose HB 2815 because it is one of the most blatantly anti-local government bills the Kansas Legislature has ever considered.

HB 2815 strikes right at the heart of the most important power of cities in Kansas -- Home Rule -- the constitutional grant of powers of local self-government.

The League's formal position in opposition to HB 2815 is based not only upon the provisions in our convention-adopted Statement of Municipal Policy relating to Home Rule (discussed in detail in Part II of this testimony), but also on the basis of the following from the 1987-1988 Statement of Municipal Policy:

**G-6. Firearms Regulation.** We oppose any legislative efforts to restrict or preempt local regulations as to the taxation or licensure of firearms, or the possession or discharge of firearms in public places within cities.

This Committee must recognize that your favorable action on this bill would undo legislative decisions, lawmaking decisions, already made by the people in communities across the state. If you pass HB 2815 you are telling those people that they are wrong to pass local laws regulating firearms -- that only the state, and the state's lawmakers, should be entrusted with such power. You would also be telling the people who reside in communities which have not enacted firearm laws (the majority of the 627 incorporated cities) that they are also not wise enough to make their own decisions as to what laws are needed to address local conditions and circumstances.

The League appears before the Legislature with the belief that state laws are not changed for frivolous reasons. A burden properly rests upon those who advocate a change in state law to show the need, the necessity, which compels that change. The more fundamental the change in the law that is proposed, the more compelling the reason must be. What can advocates of HB 2815 offer in the way of a compelling need for such a radical move away from the long-established system of joint state-local regulation of firearms? Do advocates offer widespread, or any, "abuses" of local authority? What unreasonable or unlawful actions have cities taken with respect to firearm regulation? If "problems" have, or do, exist do they justify the sudden and absolute removal of authority of all cities to pass any laws relating to firearms? How can the State's need to regulate suddenly be so great as to justify the preemption of local authority which has existed since statehood?

Attach w

## II. THE HOME RULE POWERS OF CITIES IN KANSAS—ARTICLE 12, SECTION 5 OF THE KANSAS CONSTITUTION.

The League of Kansas Municipalities is a staunch defender of Constitutional Home Rule. Our advocacy for the effective, lawful use of that power of self-government is found in the following excerpt from the League's convention-adopted 1987-1988 Statement of Municipal Policy:

A-1. **General.** We believe the governing of public affairs should be as close to the people as possible and that home rule is essential to vigorous, effective and responsible local government under our representative system. Home rule is crucial to the continued ability of locally elected officials to solve local problems in ways most appropriate to local needs and conditions. We recognize our obligation to effectively use home rule by facing our own problems and assuming responsibility for the conduct of local affairs and government to the maximum extent possible. The people of Kansas, by adopting the home rule constitutional amendment in 1960, empowered cities to determine their local affairs and government. The preservation of the intent and spirit of home rule self-government is of the highest priority to Kansas cities, and shall be the principal foundation upon which the League establishes and promotes its public policies and legislative program.

A-2. **State Role.** The state legislature should avoid intervention in matters of local affairs and government and should act to encourage and promote the exercise of authority and assumption of responsibility by locally elected, locally responsible governing bodies. We believe it vital that both the law and spirit of home rule be preserved and strengthened and that the efforts of special interest groups to diminish this prerogative of local self-determination should be vigorously resisted. The League shall oppose, as a general rule, any direct or indirect attempt to limit or restrict the constitutionally granted home rule authority of cities, or any bills which merely declare the existence of legal authority which cities have under the constitution.

### A. Home Rule in General.

Home rule, as granted by the Kansas voters to cities in 1961, is predicated on the assumption that matters of local affairs and government should be open to local solution and experimentation to meet local needs. Different communities may perceive a problem differently and therefore may adopt different measures to address the problem. Those local solutions and experiments, undertaken in compliance with the Kansas Constitution, must remain free from interference by those who disagree with the particular approach chosen by the people of a particular community.

Prior to the grant of home rule powers and for the first 100 years of statehood, cities in Kansas were entirely dependent upon the state legislature for authority to take any action. Unless there was in effect a state statute which authorized the action desired to be taken, a city had no power to act. Legislative silence was tantamount to prohibition. Since 1961, cities have had the power to initiate legislation without the need for authority from the state legislature.

The basic power granted to cities by the home rule amendment is included in these few words: "Cities are hereby empowered to determine their local affairs and government. . ." Except as to certain restrictions contained in the home rule amendment and conflicting state laws, cities may pass ordinances on any subject without the need for enabling legislation.

The basic plan of the Kansas Home Rule Amendment is to provide for a broad grant of powers to cities to initiate legislation on any subject without regard to its characterization as "statewide" or "local," but reserving to the legislature the power to plant its flag of supremacy. The state-local situation in Kansas is analogous to the situation that exists in federal - state relations where the state is free to act on a matter of concern to the federal government until such time as the federal government exercises its constitutional prerogatives.

The Kansas Home Rule Amendment does not prohibit the legislature from continuing to enact laws relating to city local affairs and government. The state and a city may both legislate on the same subject. In the event of a conflict between the provisions of a home rule ordinance and a state law, the state law prevails. However, cities are not necessarily bound by such conflicting state laws. Cities are empowered to pass a charter ordinance to exempt from or modify state enactments which apply to them but do not apply uniformly to all cities.

The Home Rule Amendment made two fundamental changes in the state-local distribution of governmental powers: (1) it grants cities the power to legislate in regard to their local affairs and government; and (2) it restricts the power of the state legislature to treat cities differently and to enact binding nonuniform restrictions on local affairs. Cities are not bound to follow state laws (except in certain specified areas) unless those laws are uniformly applicable to all cities. The Kansas legislature has the final and ultimate power, but the home rule amendment places restraints on the manner in which the legislature exercises this final control.

Home rule recognizes the need for solving local problems locally so that constant trips to the legislature for enabling legislation to meet new and varied problems are not necessary. It also frees the state legislature from the burden of enacting local legislation and makes it possible for the legislature to devote more time to legislation of statewide concern.

The Kansas Supreme Court has demonstrated its awareness of the amendment, and its provisions that "it shall be liberally construed for the purpose of giving cities the largest measure of self-government." The importance of the amendment in the Kansas system of state and local government is demonstrated in the following quote from a 1973 case:

This (home rule) was brought about by the people in amending the constitution which is the organic law of the land, is paramount over the governor, legislature and courts, and receives its force from the expressed will of the people. (Van Sickle v. Shanahan, 212 Kan. 426, 451) (1969).

#### **B. Home Rule Powers of Kansas Cities to Regulate Firearms.**

Municipal regulation of firearms is well-recognized as a lawful exercise of the general police power, justified as protective of the general welfare. Such regulation has been long-recognized as lawful in Kansas, preceding home rule by many years. For example, an 1887 decision of the Kansas Supreme Court, City of Cottonwood Falls v. Smith (36 Kan. 401) was one of the first cases upholding the power of cities to enact ordinances prohibiting the discharge of firearms within city limits.

One of the most detailed examinations of the Home Rule Amendment by the Kansas Supreme Court dealt, conveniently, with the precise issue now before this Committee -- local laws regulating firearms. That case, City of Junction City v. Lee, 216 Kan. 495 (1975), is summarized below:

1. The defendant was convicted in municipal court of violation of an ordinance prohibiting certain use of handguns. Portions of that ordinance were more restrictive than those contained in the state weapons control act (K.S.A. 21-4201, et seq.).
2. "The essential difference between the ordinance and the state statute, pertinent here, is that the ordinance denounces carrying on one's person a dangerous knife or firearm while the statute makes such carrying criminal only where the weapons are concealed or, disjunctively, in the case of a dangerous knife, carried with intent to use the same unlawfully against another. The ordinance eliminates these latter elements and is thus more restrictive, more stringent."
3. "Weapons control is an area of cities' concern. That it is of concurrent state concern is no impediment to the exercise of authority by a city through ordinance so long as there is no conflict in terms with state legislation and the state legislature has not preempted the field."
4. Whether a city ordinance is subject to state legislation within the meaning of the home rule amendment depends upon whether the language or terms of the ordinance conflict with those of the statute and whether the legislature has by legislation preempted the particular field.
5. "A test frequently used to determine whether conflict in terms exists is whether the ordinance permits or licenses that which the statute forbids or prohibits that which the statute authorizes; if so, there is conflict, but where both an ordinance and the statute are prohibitory and the only difference is that the ordinance goes further in its prohibition but not counter to the prohibition in the statute, and the city does not attempt to authorize by the ordinance that which the legislature has forbidden, or forbid that which the legislature has expressly authorized, there is no conflict."
6. The fact the state has enacted legislation on a subject does not necessarily deprive a city of the power to deal with the same subject. Legislative intent to reserve to the state exclusive jurisdiction to regulate must be clearly manifested by statute before it can be held that the state has withdrawn from the cities power to regulate in a particular area. In Hutchinson Human Relations Comm. v. Midland Credit Management, Inc., 213 Kan. 308, the Supreme Court held:

"An intent on the part of the legislature to retain exclusive jurisdiction to legislate in a given area must be clearly shown, and where such an intent cannot be gathered from the statutes themselves, whatever extrinsic evidence there may be of such an intention must be clear and convincing before the power to regulate can be said to have been withdrawn from cities."

The League submits to this Committee that the Junction City v. Lee decision not only stands as controlling law on the scope and use of constitutional home rule in Kansas, it also provides, as is noted below, language that reveals the Court's sensitivity to the need for people, through their local governments, to be able to respond to local conditions and circumstances that demand local solutions:

"The governing bodies of some cities may conclude they are sufficiently protected by the state statutes on weapons control but that is their business. Evaluation of the wisdom or necessity of the Junction City enactment of a weapons control ordinance more rigid than statutory law is not within our province, although the city fathers undoubtedly were aware of the fact that in situations where passions or tempers suddenly flare easy accessibility of weapons, whether carried openly or concealed, may contribute to an increased number of fatalities, and further that their own problem is rendered more acute by the presence of an adjoining military reservation from whence combat troops trained in the use of handguns and knives sometimes repair to the city during off-duty hours."

### III. HOW CITIES IN KANSAS HAVE USED HOME RULE TO REGULATE FIREARMS

By anyone's measurement, the extent of city regulation of firearms has been minimal. While many cities have ordinances that follow word-for-word specific state law on firearm offenses and regulation, the League believes only a small percentage have used their home rule power to enact laws that have no state law counterpart.

Attachment A provides an illustration of the type of ordinances that have been passed by local elected governing bodies. Attachment A is organized as follows:

#### I. Ordinances Which Parallel State Firearm Statutory Prohibitions and Regulations.

[Examples of local laws under this heading include the unlawful use of weapons (e.g. carrying a concealed weapon); defacing firearm identification numbers; unlawful disposal of firearms (e.g. sale of certain firearms to minors); and unlawful possession of a firearm (i.e. to a felon). ]

#### II. Ordinances Which Supplement State Firearm Regulatory Law.

[Examples of city-enacted laws which have no corresponding statutory prohibition or regulation include registration of certain handguns; waiting periods before purchased handguns can be acquired; carrying loaded weapons on public property; carrying unconcealed handguns; and discharging a firearm within the city limits. ]

Because of the vagueness of HB 2815 it is difficult to determine with certainty whether ordinances under the heading of "I.", found at pages A-1 through A-11 of Attachment A, would be made invalid. The League's position is that HB 2815 clearly intends to invalidate city ordinances which parallel state law ". . . regarding ownership, possession, transportation, carrying. . ." of firearms, therefore these ordinances would be repealed by state legislative enactment.

Clearly however, ordinances such as those under the heading of "II.", found at pages A-13 through A-23 of Attachment A, would be invalidated by HB 2815.

Committee members must understand clearly that these laws -- considered, debated and enacted by local governing bodies directly accountable to the voters -- would be wiped out by the stroke of a pen. There is simply no other meaning to give to HB 2815.

#### IV. CONSEQUENCES OF PASSAGE OF HB 2815

HB 2815 represents a dramatic change in Kansas law. Predictably, such a radical change will precipitate serious consequences for the public. Some consequences will be felt immediately, others over the long-term.

##### A. Short-Term Consequences.

Passage of HB 2815 will invalidate most, if not all, the ordinances noted in III, above, and Attachment A. The more immediate consequences of the sudden removal of local law are likely to be:

1. For conduct now unlawful under both state and local law (e.g. carrying a concealed weapon), prosecutions would only be able to be brought under the state statute, in district court. While the number of cases now handled in municipal court, prosecuted by city attorneys, is unknown, they undoubtedly number in the thousands. All such cases would, by definition be dumped upon the district and county attorneys for prosecution in district court.
2. For conduct now unlawful only under ordinances (e.g. carrying a loaded firearm, carrying a nonconcealed firearm, or drawing a firearm) passage of HB 2815 would result in a void as no state law exists to regulate or prohibit the conduct. The extent to which the public would be harmed would vary from community to community, depending upon local conditions and the nature of the local laws that had been enacted to address those local conditions.

##### B. Long-Term Consequences.

Advocates of HB 2815 should note one certain consequence of its passage -- cities of Kansas would become advocates for strong state-wide gun control legislation. Under present law -- where cities can use their Home Rule powers to tailor local laws to meet local needs -- the cities of Kansas collectively have little concern for state firearm regulations. But, if the ability to pass local laws is usurped by the state, cities will be before this Legislature each session, requesting gun control legislation that is adequate to meet the needs of those cities which need the most restrictive laws. If one city needs handgun registration because of unique local conditions, and if passing a state law requiring statewide handgun registration is the only way that city's needs can be met, the cities of Kansas would work for passage of that state law, regardless of whether handgun registration is needed in other communities. Passage of HB 2815 would set the stage for many legislative battles. We think the people of Kansas would prevail in such a struggle with the end result being more firearm control laws than now



exist under a system of law where citizens are able to determine the proper level of local regulation. In short, a long-term consequence of HB 2815 would be the League of Kansas Municipalities support for the broadest, most restrictive gun control legislation this body can pass, not because of an anti-gun, pro-control philosophy, but because that would be the only means whereby cities could respond to the demands of their citizens.

#### IV. SUMMARY

The League offers this Committee the following major points in opposition to HB 2815:

- 1) The present system of joint state-local regulation of firearms is serving the people of Kansas well.
- 2) Advocates of HB 2815 can offer no compelling justification for state preemption of firearm regulation.
- 3) While the State Legislature unquestionably can remove local governments' authority to enact laws regulating firearms, such action would be adverse to the public interest for at least the following reasons --
  - (a) It would do grievous harm to the ability of local governments to pass the laws needed to protect the interest of citizens of their communities.
  - (b) It would burden the state court system by dumping cases now tried before the municipal courts upon the district courts.
  - (c) It would stike from the books numerous laws passed to protect the public.
  - (d) It would ultimately lead to more restrictive firearm control laws, applicable statewide, than is wanted, or needed, in many communities.

The League's testimony today on the nature and use of Constitutional Home Rule is offered in the hope that your understanding of what it is, how it operates and how the people of Kansas are served by it will lead this Committee to dispose of HB 2815.

We respectfully ask this Committee to kill HB 2815.

I. ORDINANCES WHICH PARALLEL STATE FIREARM STATUTORY PROHIBITIONS AND REGULATIONS.

A. Unlawful Use of Weapons (K.S.A. 21-4201).

1. Coffeyville.

**Sec. 17-189. Unlawful use of weapons.**

(a) Unlawful use of weapons is knowingly:

- (1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles 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 any outward, downward, or centrifugal thrust or movement; or
- (2) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor, stiletto, or any other dangerous or deadly weapon or instrument of like character: Provided, an ordinary pocket knife with no blade more than four (4) inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument; or
- (3) Carrying on or about one's person any pistol or revolver, billy or club, or without regard to position carrying any slingshot, metal knuckles of any character, cross-knuckles of any character, bowie knife, razor, dirk knife or dagger, or any knife resembling a bowie knife or dirk, or any weapon or instrument by the use of which injury may be inflicted upon the person of another when such person is not an officer of the nation, state or city; or
- (4) 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; or
- (5) Carrying any pistol, revolver or other firearm concealed on the person except when on his land or in his abode or fixed place of business; or



- (6) Setting a spring gun; or
  - (7) Using any bow and arrow, including crossbows, except upon target ranges designated and approved by the police department for such use; or
  - (8) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or
  - (9) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.
- (b) Subsections (a) (1), (2), (4), (5) and (9) 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) Keepers of jails and other institutions for the detention of persons accused or convicted of offenses;
  - (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;
  - (4) Manufacture of, transportation to, or sale of weapons to persons authorized under (1) through (3) of this subsection to possess such weapons.
- (c) Subsection (a) (5) of this section shall not apply to or affect the following:
- (1) Watchmen while actually engaged in the performance of the duties of their employment; or
  - (2) Licensed hunters or fishermen while engaged in hunting or fishing; or
  - (3) Persons licensed as private detectives by the State of Kansas, detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service.
- (d) It shall be a defense that the defendant is within an exemption set out in subsections (b) and (c) above.
- (e) Unlawful use of weapons shall be a class two offense.



2. El Dorado.

7-1001. UNLAWFUL USE OF WEAPONS. (1) Unlawful use of weapons is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles, throwing star, or any knife, commonly referred to as a switchblade, 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;

(b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, sling 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;

(c) 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;

(d) 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;

(e) Setting a spring gun;

(f) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm;

(g) 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;

(h) 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 percent lead by weight.

(2) Subsections 1(a), (b), (c), (d) and (g) shall not apply to or affect any of the following:

(a) 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;

(b) 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;

(c) 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

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(3) Subsection 1(d) shall not apply to or affect the following:

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

(b) Licensed hunters or fishermen, while engaged in hunting or fishing;

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

(d) 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; or

(e) 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, 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.



(4) Subsections 1(a), (f) and (g) 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.

(5) Subsection (1)(h) shall not apply to a governmental laboratory or solid plastic bullets.

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

(7) Violation of subsections 1(a) through 1(f) is a Class B misdemeanor. Violation of subsections 1(g) or (h) is a Class E felony.

(8) As used in 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.  
(K.S.A. 21-4201, Ord. G-568, Sec. 1)

### 3. Leawood.

11-104. SAME. Section 10.1 of the uniform code incorporated in section 11-101 above is hereby amended to read as follows:

#### 10.1 Unlawful Use of Weapons.

(a) Unlawful use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possession or carrying any bludgeon, sandclub, shotgun with a barrel less than 18 inches in length, metal knuckles 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, slingshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character: provided, 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:

(i) concealed on the person except when on his or her land or in his or her abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within any vehicle in transport unless the weapon is unloaded and in a case.

(5) Setting a spring gun;

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

(7) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

(b) Unlawful use of weapons is a Class B violation.



4. Uniform Public Offense Code (UPOC).

10.1

UNLAWFUL USE OF WEAPONS. (a) Unlawful 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 the report of any firearm;

(b) Subsections (a)(1), (2), (3) and (4) 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 (b)(1) through (b)(3) this section to possess such weapons.

(c) Subsection (a)(4) 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; or



(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. Supp. 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. Supp. 31-157 and amendments thereto.

(d) Subsections (a)(1) and (6) 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) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201 as amended by Chapter 126 of the 1986 Kansas Session Laws)

(f) Violation of this section is a Class B violation.

## B. Defacing Firearm Identification Marks (K.S.A. 21-4205).

### 1. Coffeyville.

#### Sec. 17-192. Defacing identification marks of a firearm.

(a) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered or obliterated the same.

(c) Defacing identification marks of a firearm is a class two offense.



## 2. Junction City

### 12-906—DEFACING IDENTIFICATION MARKS OF A FIREARM.

(1) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(2) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

(3) Defacing identification marks of a firearm is a Class B misdemeanor.

## 3. Uniform Public Offense Code (UPOC).

10.10

DEFACING IDENTIFICATION MARKS OF A FIREARM. (a) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

Defacing identification marks of a firearm is a Class B violation.

## C. Unlawful Disposal of Firearms (K.S.A. 21-4203).

### 1. Topeka.

#### **Sec. 15-94. Furnishing weapons to minors or persons of unsound mind.**

It shall be unlawful for any person to sell, give loan or otherwise furnish any pistol or revolver by which a cartridge may be exploded, or any dirk, Bowie knife, knucks, sling shot or other dangerous weapons to any minor, or to any person of notorious unsound mind. (Code 1975, § 12-216)



2. Uniform Public Offense Code (UPOC).

10.3

UNLAWFUL DISPOSAL OF FIREARMS. Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age;

(b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict;

(c) Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five years after his or her release from the penitentiary or within five years after his conviction if the offender has not been imprisoned in the penitentiary.

(K.S.A. 21-4203)

Unlawful disposal of firearms is a Class A violation.

3. El Dorado.

7-1003. UNLAWFUL DISPOSAL OF FIREARMS. Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age;

b. Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict;

c. Selling, giving or otherwise transferring any firearm with a barrel less than twelve inches (12") long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the offender has not been imprisoned in the penitentiary.

(K. S. A. Supp. 21-4203; Ord. G-294, Sec. 13-1003)

Unlawful disposal of firearms is a Class A misdemeanor.

4. Junction City.

12-902—UNLAWFUL DISPOSAL OF FIREARMS. (1) Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or

(b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotics addict; or

(c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

(2) Unlawful disposal of firearms is a Class A misdemeanor.



D. Confiscation/Disposition of Weapons (K.S.A. 21-4206).

1. Coffeyville.

**Sec. 17-193. Confiscation and disposition of weapons.**

(a) Upon conviction of a violation of Section 17-189 or 17-190 of this article, any weapon seized in connection therewith shall remain in the custody of the trial court.

(b) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons, when no longer needed for evidentiary purposes, shall, in the discretion of the trial court, be destroyed, preserved as property of the city police department or sold, and the proceeds of such sale directed into the city's general fund.

State law reference—Similar provisions, K.S.A. 21-4206.

E. Unlawful Possession of a Firearm (K.S.A. 21-4204).

1. Coffeyville.

**Sec. 17-191. Unlawful possession of a firearm.**

(a) Unlawful possession of a firearm is:

(1) Possession of any firearm by an habitual drunkard or narcotics addict; or

(2) Possession of a firearm with a barrel less than twelve (12) inches long by a person who, within five (5) years preceding such violation, has been convicted of a felony under the laws of Kansas or any other jurisdiction or has been released from imprisonment for a felony.

(b) Unlawful possession of firearms is a class two offense.

State law reference—Similar provisions, K.S.A. 21-4204.



F. Carrying Concealed Weapon (also included in "unlawful use of Weapons", K.S.A. 21-4201).

1. Wichita.

5.88.010 Carrying concealed; forfeiture and destruction.<sup>5</sup> (a) Any person who, within the corporate limits of the city, knowingly carries concealed on his person or possesses with intent to use the same unlawfully against another a dagger, dirk, billy, blackjack, slingshot, 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 blades less than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon, shall be deemed guilty of a misdemeanor.

(b) Any person who, within the corporate limits of the city, knowingly carries any pistol, revolver or other firearm concealed on the person, except when on his land or in his abode or fixed place of business, shall be deemed guilty of a misdemeanor.

(c) Subsections (a) and (b) 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 officers;

(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 subdivisions (1) through (3) of this subsection to possess such weapons.

(d) In addition to the penalty for violation of this section, it shall be the duty of the police judge to order any such concealed weapons to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence. (Ord. No. 39-768, § 1.)



G. Possession of Firearm With Silencer (K.S.A. 1987 Supp. 21-4201(f)).

1. Wichita.

5.88.040 **Sawed off rifles and shotguns; forfeiture and destruction.** (a) It is unlawful for any person, other than a sheriff or other peace officer or any military unit of the state or of the United States, or any common carrier for hire, to transport or have in his possession or under his control, any firearm known as a shotgun or rifle with a barrel less than eighteen inches in length, or any silencer; provided, that banks, trust companies or other institutions or corporations subject to unusual hazard from robbery or holdup who have secured permits from the sheriff of the county in which they are located for one or more of their employees to have such firearms, may possess such firearms; provided, further, that museums, American Legion posts and other similar patriotic organizations may possess such firearms when not used as a weapon and when possessed as a curiosity, ornament or keepsake.

(b) Any person violating the provisions of this section is guilty of a misdemeanor. In addition to the penalty for the violation of this section, it shall be the duty of the police judge to order any such weapons as provided in this section to be forfeited to the city, and the same shall be destroyed or caused to be destroyed by the chief of police whenever such weapon is no longer needed as evidence. (Ord. No. 32-938, (part); Ord. No. 11-592, §§ 71, 72.)

H. Possession of Sawed-off Shotgun or Rifle (K.S.A. 1987 Supp. 21-4201(g)).

1. Wichita.

5.88.040 **Sawed off rifles and shotguns; forfeiture and destruction.** (a) It is unlawful for any person, other than a sheriff or other peace officer or any military unit of the state or of the United States, or any common carrier for hire, to transport or have in his possession or under his control, any firearm known as a shotgun or rifle with a barrel less than eighteen inches in length, or any silencer; provided, that banks, trust companies or other institutions or corporations subject to unusual hazard from robbery or holdup who have secured permits from the sheriff of the county in which they are located for one or more of their employees to have such firearms, may possess such firearms; provided, further, that museums, American Legion posts and other similar patriotic organizations may possess such firearms when not used as a weapon and when possessed as a curiosity, ornament or keepsake.

(b) Any person violating the provisions of this section is guilty of a misdemeanor. In addition to the penalty for the violation of this section, it shall be the duty of the police judge to order any such weapons as provided in this section to be forfeited to the city, and the same shall be destroyed or caused to be destroyed by the chief of police whenever such weapon is no longer needed as evidence. (Ord. No. 32-938, (part); Ord. No. 11-592, §§ 71, 72.)



II. ORDINANCES WHICH SUPPLEMENT STATE FIREARM REGULATORY LAW.

A. Registration and/or Waiting Period for Handguns.

1. Lawrence.

- 6-201. PUBLIC POLICY. The city commission finds as a matter of public policy and fact that it is necessary to promote handgun safety and to curb and prevent the use of handguns in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes. (Ord. 5677)
- 6-202. DEFINITIONS. Definitions of terms used in this article, unless the context otherwise requires, shall be as follows:
- (a) Antique handgun means any handgun manufactured in or before the year 1898; and any replica of any such firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.
  - (b) Chief of Police means the chief of the City of Lawrence Police Department or his or her designated agent.
  - (c) Dealer means any person who holds himself or herself out as a buyer and seller of handguns on a regular and continuing business basis.
  - (d) Felony means any crime punishable by imprisonment in a state penitentiary for a term exceeding one year.
  - (e) Handgun means any firearm with a barrel length of less than 12 inches that is designed, made, or adapted to be fired with one hand.
  - (f) Person applies to and includes firm, partnership, association, corporation, or individual.
  - (g) Sell and Purchase and the various derivatives of such words, as used in this chapter, includes letting on hire, giving, lending, borrowing, and otherwise transferring.
- (Ord. 5677)
- 6-203. HANDGUN SALES RECORDS. Every dealer engaged in the business of selling handguns at retail shall keep a sales record in which shall be entered the name, age, residence, and phone number of each and every purchaser of handguns, together with the number or other mark of identification, if any, on the handgun which sales record shall be open to the inspection of all law enforcement officers during regular business hours. (Ord. 5677)
- 6-204. WAITING PERIOD REQUIRED FOR HANDGUN. (a) The person to whom such handgun is sold, leased or otherwise transferred shall wait, and the dealer shall require him or her to wait, a period of 72 hours (excluding Sundays and holidays) prior to such person acquiring possession of such handgun. The chief of police shall provide an information form to each dealer which shall be filled out by each handgun purchaser.
- (b) Dealers licensed to sell handguns shall forward a copy of each sales receipt and city information form to the chief of police by first class mail or personal delivery, not later than 24 hours after the close of the business day in which the transaction took place.
- (Ord. 5677)



- 6-205. RESTRICTIONS. It shall be unlawful for any dealer knowingly and willfully to sell, lend, lease, rent, give or deliver any handgun to any person under the age of 21. It shall be unlawful for any dealer to sell, loan, give, furnish or transfer any handgun to any person whom the dealer knows or has reasonable cause to believe is under the influence of intoxicating liquor or drugs; or has been convicted of a felony. (Ord. 5677)
- 6-206. EXCEPTION. The provisions of this article shall not apply to:  
(a) Law enforcement officers or agents of any state of the United States, or any political subdivision, municipal corporation, department or agency.  
(b) Wholesale dealers in their business intercourse with retail dealers or retail dealers in their business intercourse with other retail dealers or to wholesale or retail dealers in the regular or ordinary transportation of any unloaded firearms, merchandise by mail, express or other mode of shipment to points outside the country.  
(c) Purchasers who are designated by any governmental agency (United States of America, State of Kansas) as special police officers.  
(d) The sale of antique handguns.  
(Ord. 5677)
- 6-207. PENALTIES. Any person who violates any provision of this article shall upon conviction be fined not more than \$500 or be imprisoned for not more than six months, or both. (Ord. 5677)

## 2. Junction City.

### ARTICLE 3. FIREARMS

**18-301—SALE OF FIREARMS. REGULATIONS.** Section 1. Every person, firm, partnership or corporation engaged in the business of selling firearms, or who as an incident to their business may sell firearms, shall keep at such place of business a register in which shall be entered in writing a minute description of any such firearm so sold, including the serial number of such firearm, together with the time and name and place of residence (giving street and number if within a city and if within a military post, the name and unit) of the person purchasing said firearm, and shall require the purchaser thereof to sign his name at the place indicated on a form to be prepared by the city manager for that purpose and furnished to all such persons, firms, partnerships or corporations engaged in the sale of firearms; and it shall be the duty of every such person, firm, partnership or corporation to make out and deliver to the chief of police of the city of Junction City, before the hour of twelve noon each Monday of every week, a legible and correct copy from said register of all such firearms sold during the preceding week. It is stipulated that this section shall not apply to cap-pistols or other instruments designed exclusively for the use of infants. (R. O. 1956)

**18-302—PENALTY.** Section 2. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be deemed guilty of a misdemeanor and be fined in a sum not exceeding One Hundred Dollars. (R. O. 1956)



### 3. Junction City.

#### ARTICLE 3a REGISTRATION OF FIREARMS.

18-3a101—REGISTRATION. Section 1. From and after the effective date of this Ordinance, no pistol, revolver or other firearm with a barrel less than 10 inches in length shall be sold in the City of Junction City, Kansas, unless the purchaser thereof shall have first obtained a registration certificate to be issued by the Chief of Police of the City.

18-3a102—REGISTRATION CERTIFICATE. Section 2. The registration certificate herein required shall be on such form as the Chief of Police may require and shall include, but not be limited to the following information:

- a. Serial number of the firearm, caliber of the same, and the make or manufacturer of the same.
- b. The purchasers name, address, telephone number; drivers license number and state issuing the same; purchasers date of birth, occupation and social security number.
- c. Date and time the certificate is issued.

18-3a103—PERSONS NOT ELIGIBLE FOR CERTIFICATE OF REGISTRATION. No certificate of registration shall be issued to any of the following classes of persons:

- a. Any person under the age of Twenty-One (21) years.
- b. Any person convicted of a felony as defined in K.S.A. 21-2105 (1).
- c. Any person who is addicted to the use of narcotics or is mentally retarded or is a habitual drunkard. (G-612; 4/2/85)

18-3a104—WAITING PERIOD. Section 4. No firearm as herein described shall be delivered into the possession of the purchaser thereof until a period of 48 hours shall have transpired from the time of issuance of such certificate of registration and said certificate shall have been presented to the seller.

18-3a105—EXCLUSIONS. Section 5. The provisions of this Ordinance shall not apply to any duly authorized police officer, marshal, sheriff, constable, or other law enforcement officer designated by the federal, state, county or municipal governments, who purchase weapons to be used in the performance of their duties.

18-3a106—PENALTY. Section 6. Any person who shall violate or fail to comply with the provisions of this Ordinance, or any person, firm or corporation who shall either directly or indirectly or by agent or employee, violate or fail to comply with any of the provisions of this Ordinance, shall upon conviction be fined not more than \$100.00 or imprisoned in the City Jail for not more than 90 days, or both such fine and imprisonment.



4. Kansas City.

**Sec. 39-4. Permit to purchase or receive pistol or revolver—Required; exceptions.**

It shall be unlawful for any person to sell, loan for a consideration or give, or purchase, borrow for a consideration or accept as a gift, any pistol, revolver, or gun capable of propelling a metallic projectile, with a barrel less than nine (9) inches long, or with the capacity of accepting a barrel of less than nine (9) inches long, unless the purchaser, borrower or person accepting the same has then and there a permit, dated less than ten (10) days prior to such sale, loan or gift, issued by the chief of police, authorizing such person to purchase or accept a pistol or revolver. Such permit must be retained by the vendor and returned to the chief of police with a complete description of the gun and within three (3) days of the sale.

This section shall not apply to sales of collector's items made and consummated at hobbyists' conventions. (Ord. No. 39984, §§ 1—3, 9-14-55; Ord. No. 49557, § 1, 4-29-71; Ord. No. 57171, § 1, 11-22-77)

**Sec. 39-5. Same—Application.**

Each person desiring a permit to purchase or accept a pistol, revolver, or gun of any kind with a barrel less than nine (9) inches long shall apply to the chief of police for a permit, and the application shall contain the name, signature, address, age, height, weight, occupation, photograph and fingerprints of the applicant. The photograph and fingerprints shall be taken free of charge by the police department. In addition thereto, the application as set out above must be accompanied by three (3) letters of recommendation from business or professional people stating that the applicant has a good reputation in the community and is qualified to have said permit, and that the applicant has a need for such a weapon. (Ord. No. 39984, § 4, 9-14-55; Ord. No. 49258, § 1, 12-17-70)

**Amendment note**—Ord. No. 49258, § 1, amended § 39-5 by adding the requirement that the application be accompanied by three letters of recommendation.

**Sec. 39-6. Same—Issuance.**

After fifteen (15) days, the chief of police may, in his discretion, issue such permit required by section 39-4 to any person filing the proper application, except dope addicts, alcoholics, or persons having been convicted of a crime involving violence or the use of firearms, and upon obtaining a clearance from the F.B.I. Identification Division for the applicant. (Ord. No. 39984, § 5, 9-14-55; Ord. No. 49258, § 2, 12-17-70)

**Amendment note**—Ord. No. 49258, § 2, amended § 39-6 by adding provisions relative to the issuance of a permit in the police chief's discretion after 15 days and upon obtaining clearance from the F.B.I. Identification Division.



B. Notification of Handgun Purchase to Police.

1. Dodge City.

11-204.

**FIREARMS; INFORMATION TO BE FURNISHED POLICE DEPARTMENT AFTER SALE.** It shall be unlawful for any person who is in the business of selling pistols or revolvers or any other type of firearms with an over-all length of less than 13 inches within the city to fail to make a record of each sale or fail to furnish such record to the police department whenever requested to do so by the chief of police. (Code 1983, 20-123; Code 1986)

C. Carrying Loaded Weapons on Public Property or a Public Place.

1. Topeka.

**Sec. 15-91. Carrying of deadly weapons.**

(a) It shall be unlawful for any person who is not an officer of the law, or an deputy to such officer:

- (1) To be found within the city limits carrying upon his/her person a concealed deadly weapon. A deadly weapon includes, by illustration, but not limited to: pistols, knives, not including an ordinary pocket knife with a blade not more than four (4) inches in length, dirks, sling shots and knucks; or
- (2) To carry on his/her person or have within the immediate control of his/her person on or about public property or a public place within the city limits, any loaded firearm or automatic firearm with the magazine loaded, detached or attached, which when used is likely to cause death or great bodily harm.

(b) This section shall not apply to those persons exempt under the provisions of K.S.A. 21-4201 or amendments thereto, or to those persons licensed under the provisions of article VIII of chapter 34.

(c) The municipal judge shall, upon conviction, order any such weapons to be confiscated and the same shall, whenever the weapon is no longer needed for evidentiary purposes in the discretion of the trial court, be destroyed, returned to the owner thereof, preserved as police department property, or sold and the proceeds of such sale shall be deposited in the funds available to the police department. Unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion may direct. (Code 1975, §§ 12-212, 12-213; Ord. No. 14021, § 1, 5-10-77)

**State law reference—Unlawful use of weapons, K.S.A. 21-4201.**



## 2. Junction City.

### ORDINANCE NO. G 692

AN ORDINANCE AMENDING AND REPEALING SECTION 12-901 OF CHAPTER 12, ARTICLE 9 OF THE REVISED ORDINANCES OF THE CITY OF JUNCTION CITY, KANSAS PERTAINING TO UNLAWFUL USE OF WEAPONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

Section 1. Section 12-901 of Chapter 12, Article 9 of the Revised Ordinances of the City of Junction City, Kansas, is hereby amended to read as follows:

#### 12-901. UNLAWFUL USE OF A WEAPON.

##### (1) Unlawful Use of a Weapon Is Knowingly:

(a) selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles 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;

(b) carrying concealed on or about one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung shot, dangerous knife, straight-edge 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;

(c) carrying on or about 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;

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

(e) setting a spring gun;

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

(g) carrying a pistol, revolver or other firearm, with ammunition in the chamber or magazine on or about one's person or in a motor vehicle except when on the person's land or in the person's abode or fixed place of business.

(2) Subsection (1) (a), (b), (c), (d), and (g) shall not apply to or affect any of the following:

(a) 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;

(b) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for

the detention of persons accused or convicted of a crime, while acting within the scope of their authority;

(c) 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

(d) manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of the subsection to possess such weapons.

(3) Subsection (1) (d) and (g) shall not apply to or affect the following:

(a) watchmen, while actually engaged in the performance of the duties of their employment;

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

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

(d) 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;

(e) 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. 1982 Supp. 31-157, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 1982 Supp. 31-157.

(4) Subsections (1) (a) and (g) 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.

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

(6) Violation of subsections (1) (a) through (g) is a Class B misdemeanor.

Section 2. Existing Section 12-901 of Chapter 12, Article 9 of the Revised Ordinances of the City of Junction City, Kansas, is hereby repealed.

Section 3. This Ordinance shall take effect and be in full force from and after its publication once in the Junction City Daily Union.

PASSED AND ADOPTED THIS 2nd DAY OF February, 1988

T. MICHAEL FEGAN,  
MAYOR

ATTEST:  
KRISTINE B. SILVER,  
ACTING CITY CLERK  
A-797

Feb-8



D. Carrying Unconcealed Handgun.

1. McPherson.

**12-403. FIREARMS AND OTHER WEAPONS, CARRYING.** It shall be unlawful for any person to carry on or about his person, any pistol, revolver, bowie knife, slingshot, dirk, or any other dangerous or deadly weapon. This section shall not apply to any person designated or authorized to carry such weapons by the chief of police or to police officers or other law enforcement officers while on duty. (R.O., 9-406)

E. Discharging Firearms Within City Limits.

1. Topeka.

**Sec. 15-92. Discharging of firearms.**

It shall be unlawful for any person, other than a peace officer in the performance of duty, to discharge any cannon, gun, pistol, rifle or other firearm, or to discharge or use any air gun, spring gun or sling shot within the corporate limits of this city. (Code 1975, § 12-214)

2. McPherson.

**12-404. FIREARMS, DISCHARGING.** It shall be unlawful for any person to discharge any firearm within the limits of this city except officers of the law in the course of their duties. The chief of police may authorize the discharge of firearms on special occasions or celebrations when blank cartridges are used. (R.O., 9-407)



### 3. El Dorado.

**7-1011. UNLAWFUL DISCHARGE OF FIREARMS.** (a) Unlawful discharge of a firearm is the discharge of any firearm upon any land of another or from any public road or railroad right-of-way that adjoins land of another without having first obtained permission of the owner or person in possession of such land.

(b) This section shall not apply to 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;

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

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

(6) 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; or

(7) 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 which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(c) Unlawful discharge of a firearm is a Class C misdemeanor.  
(Ord. G-568, Sec. 2)

### 4. Coffeyville.

#### **Sec. 17-188. Discharging firearms prohibited.**

(a) It shall be unlawful for any person not a police officer or under the direction and authority of a police officer to discharge any firearm within the city.

(b) This section shall not apply to any duly authorized firing range or gallery established under the approval and subject to the supervision of the police chief. Any firing range established under such authority shall have written authorization from the chief of police setting forth the hours, conditions and circumstances under which said range may operate, and said authorization shall be conspicuously posted at said range.

(c) Unlawfully discharging a firearm is a class two offense.

**Cross reference—Discharging firearms in parks, § 18-39.**



5. Wichita.

5.88.030 **Discharging.** Any person, other than an authorized peace officer in the performance of his duty, who discharges or shoots off any gun, pistol or other firearm within the corporate limits of the city, except at any properly licensed shooting gallery or upon a pistol range or a gun club, either of which shall be approved by the chief of police, shall be deemed guilty of a misdemeanor. In addition to the penalty for the violation of this section, it shall be the duty of the police judge to order such weapon to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence. (Ord. No. 32-938, (part); Ord. No. 26-344, § 1.)

6. Leawood.

11-105. SAME. Section 10.5 of the uniform code incorporated in section 11-101 above is hereby amended to read as follows:

**10.5 Unlawful Discharge of Firearms.**

(a) It shall be unlawful for any person, within the limits of the City of Leawood, to shoot or discharge any gun, revolver, air rifle or air gun, pistol or spring gun, longbow or crossbow, or any other firearm of any description, whether the same be loaded with powder and ball or shot, with loaded or "blank" cartridges or any kind of explosives, or expansive propellants whatsoever: provided, that nothing contained in this section shall apply to persons discharging appropriate firearms or other weapons:

(1) In the defense of person or property;

(2) By legally qualified sheriffs or police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace;

(3) At an established trap or skeet range upon the premises of any private club, which club was in existence upon the same property prior to the date of the incorporation of the city, from 10 a.m. to 5 p.m., solely for recreational purposes, provided that club rules and changes therein related to the types of weapons and loads will be first submitted to the chief of police for approval; provided further, however, that the distance from the muzzle direction of the appropriate firearm so used shall not be less than 1,000 feet from the boundary line of any adjacent property owned by another.

(b) Unlawful discharge of firearms is a Class B violation.  
(Ord. 492; Code 1984)

7. Uniform Public Offense Code (UPOC).

10.5 UNLAWFUL DISCHARGE OF FIREARMS. Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to apply:

(a) to the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;

(b) to the discharge of firearms in any licensed shooting gallery;

(c) to firing squads for ceremonials, nor

(d) to a legitimate gunsmith in pursuit of his or her trade.

Unlawful discharge of firearms is a Class B violation.



F. Drawing a Weapon.

1. El Dorado.

**7-1002. DRAWING A WEAPON UPON ANOTHER.** Drawing a weapon upon another person is the drawing of a pistol, revolver, knife or other deadly weapon upon another person by a person not an officer of the law in execution of his or her duty. (Ord. G-294, 7-1002)

Drawing a weapon upon another person is a Class A misdemeanor.

2. Topeka.

**Sec. 15-93. Drawing a weapon upon another.**

It shall be unlawful for any person, not a peace officer in the execution of duty, to draw a pistol, revolver, knife or any other deadly weapon upon another person. (Code 1975, § 12-215)

3. Wichita.

**5.88.050 Drawing upon another.** Any person not an officer of the law in the execution of his duty, who draws a pistol, revolver, knife or any other deadly weapon upon any person is guilty of a misdemeanor. In addition to the penalty for the violation of this section, it shall be the duty of the police judge to order any weapon used in such manner to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever such weapon is no longer needed as evidence. (Ord. No. 32-938, (part); Ord. No. 11-592, § 4.)

4. Uniform Public Offense Code (UPOC).

10.2

**DRAWING A WEAPON UPON ANOTHER.** Drawing a weapon upon another person is the drawing of a pistol, revolver, knife or other deadly weapon upon another person by a person not an officer of the law in execution of his or her duty.

Drawing a weapon upon another person is a Class A violation.



III. CITIES WHICH HAVE ADOPTED THE UNIFORM PUBLIC OFFENSE CODE,  
PREPARED AND PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES.

<u>City</u>	<u>Year</u>	<u>City</u>	<u>Year</u>
Anthony	1984	Maple Hill	1986
Attica	1984	Marysville	1986
Baldwin City	1984	McLouth	1984
Bel Aire	1986	Miltonvale	1984
Beloit	1986	Mission	1986
Benton	1984	Neodesha	1984
Brewster	1986	New Strawn	1984
Buhler	1984	North Newton	1984
Caney	1984	Norton	1984
Chapman	1986	Oakley	1980
Chase	1984	Oberlin	1984
Claflin	1984	Ogden	1986
Clay Center	1984	Osborne	1986
Columbus	1984	Park City	1984
Conway Springs	1984	Parker	1984
Council Grove	1984	Phillipsburg	1986
Deerfield	1984	Plainville	1986
Dodge City	1986	Pratt	1984
Douglass	1984	Prescott	1984
Eastborough	1986	Pretty Prairie	1980
Edgerton	1984	Roeland Park	1986
Edwardsville	1986	Rose Hill	1984
Elwood	1984	Rossville	1984
Enterprise	1984	Russell	1984
Eudora	1986	Sabetha	1986
Gardner	1984	St. George	1986
Glen Elder	1984	St. Marys	1980
Hays	1984	Solomon	1980
Hill City	1986	South Hutchinson	1986
Hillsboro	1986	Sterling	1984
Hoisington	1984	Stockton	1984
Holcomb	1984	Valley Falls	1980
Holton	1986	Wamego	1986
Hoxie	1986	Waverly	1986
Humboldt	1984	Wellington	1984
Iola	1986	Westwood	1977
Kanopolis	1986	Whitewater	1986
Kechi	1984		
LaCrosse	1984		
LaCygne	1984		
Lakin	1986		
Leawood	1984		
Lecompton	1986		
Lenexa	1977		
Liberal	1984		
Little River	1984		
Logan	1986		
Louisburg	1984		
Maize	1984		



# League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

February 16, 1988

## MEMORANDUM

### Federal and State Constitutional Restrictions on Firearms Regulations

- A. The Second Amendment to the federal constitution, according to the intent of the Founding Fathers and the interpretations of the U.S. Supreme Court, guarantees states the right to maintain a well-armed militia, not individuals the right to bear arms.

The Second Amendment states: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

The intent of the framers of the Second Amendment was to establish a collective right of the people to bear arms so that the states, through their militias, could check the national standing army. In interpreting the Second Amendment, the U.S. Supreme Court has consistently held that the Second Amendment was intended to protect members of a state militia from being disarmed by the federal government. In Presser v. Illinois, 116 U.S. 252 (1886), the U.S. Supreme Court ruled that an Illinois law prohibiting fraternal military groups drilling with firearms did not violate the Second Amendment. The court held that the Second Amendment limited only federal firearm regulations, not state regulations. Unlike other Bill of Rights provisions, the Second Amendment to the constitution has not been interpreted as applying to the states through the Fourteenth Amendment due process clause. See Adamson v. California, 332 U.S. 46 (1947). In United States v. Miller, 307 U.S. 174 (1939), the Supreme Court again reaffirmed that the purpose of the Second Amendment was to assure a continuation of state militia. In addition the Court established a standard to determine which firearms the Second Amendment protects. The Court stated that the Second Amendment does not apply unless a weapon "has some reasonable relationship to the preservation or efficiency of a well-regulated militia." Lower federal court decisions have subsequently followed the Miller court's standards.

- B. Section 4 of the Kansas Bill of Rights does not limit the legislative power to enact laws prohibiting the promiscuous carrying of arms or other deadly weapons. Similar to the U.S. Constitution, there is no guarantee of an individual's "right" to bear arms found in the Kansas Constitution.

Section 4 of the Kansas Bill of Rights states: "The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power."

In its first interpretation of Section 4, the Kansas Supreme Court in 1905 upheld a municipal conviction of a person carrying a pistol while intoxicated. Salina v.



Blaksley, 72 Kan. 230 (1905). The Court noted that: "The provision in Section 4 of the bill of rights that 'the people have the right to bear arms for their defense and security' refers to the people as a collective body. It was the safety and security of society that were being considered when this provision was put into our constitution. It is followed immediately by the declaration that standing armies in time of peace are dangerous to liberty and should not be tolerated, and that 'the military shall be in strict subordination to the civil power.' It deals exclusively with the military; individual rights are not considered in this section." 72 Kan. 231-232. (Emphasis added)

In City of Junction City v. Lee, 216 Kan. 495 (1975), the Kansas Supreme Court rejected the argument that Section 4 of the Bill of Rights is worded sufficiently different from the Second Amendment to the U.S. Constitution to create the right of an individual to carry a gun under the Kansas Constitution. Noting that the Court had long since laid the matter to rest, the Court reaffirmed the interpretation that Section 4 of the Kansas Bill of Rights refers to the people as a collective body, not as individuals.

It should be noted that while there is no federal or state constitutional provision which prevents the regulation of firearms, an ordinance regulating firearms must meet the same constitutional standards all local legislation must, including reasonableness and compliance with equal protection and due process of law, see Junction City v. Mevis, 226, Kan. 526 (1979).



# League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

February 16, 1988

## MEMORANDUM

### Federal and State Constitutional Restrictions on Firearms Regulations

- A. The Second Amendment to the federal constitution, according to the intent of the Founding Fathers and the interpretations of the U.S. Supreme Court, guarantees states the right to maintain a well-armed militia, not individuals the right to bear arms.

The Second Amendment states: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

The intent of the framers of the Second Amendment was to establish a collective right of the people to bear arms so that the states, through their militias, could check the national standing army. In interpreting the Second Amendment, the U.S. Supreme Court has consistently held that the Second Amendment was intended to protect members of a state militia from being disarmed by the federal government. In Presser v. Illinois, 116 U.S. 252 (1886), the U.S. Supreme Court ruled that an Illinois law prohibiting fraternal military groups drilling with firearms did not violate the Second Amendment. The court held that the Second Amendment limited only federal firearm regulations, not state regulations. Unlike other Bill of Rights provisions, the Second Amendment to the constitution has not been interpreted as applying to the states through the Fourteenth Amendment due process clause. See Adamson v. California, 332 U.S. 46 (1947). In United States v. Miller, 307 U.S. 174 (1939), the Supreme Court again reaffirmed that the purpose of the Second Amendment was to assure a continuation of state militia. In addition the Court established a standard to determine which firearms the Second Amendment protects. The Court stated that the Second Amendment does not apply unless a weapon "has some reasonable relationship to the preservation or efficiency of a well-regulated militia." Lower federal court decisions have subsequently followed the Miller court's standards.

- B. Section 4 of the Kansas Bill of Rights does not limit the legislative power to enact laws prohibiting the promiscuous carrying of arms or other deadly weapons. Similar to the U.S. Constitution, there is no guarantee of an individual's "right" to bear arms found in the Kansas Constitution.

Section 4 of the Kansas Bill of Rights states: "The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power."

In its first interpretation of Section 4, the Kansas Supreme Court in 1905 upheld a municipal conviction of a person carrying a pistol while intoxicated. Salina v.

Blaksley, 72 Kan. 230 (1905). The Court noted that: "The provision in Section 4 of the bill of rights that 'the people have the right to bear arms for their defense and security' refers to the people as a collective body. It was the safety and security of society that were being considered when this provision was put into our constitution. It is followed immediately by the declaration that standing armies in time of peace are dangerous to liberty and should not be tolerated, and that 'the military shall be in strict subordination to the civil power.' It deals exclusively with the military; individual rights are not considered in this section." 72 Kan. 231-232. (Emphasis added)

In City of Junction City v. Lee, 216 Kan. 495 (1975), the Kansas Supreme Court rejected the argument that Section 4 of the Bill of Rights is worded sufficiently different from the Second Amendment to the U.S. Constitution to create the right of an individual to carry a gun under the Kansas Constitution. Noting that the Court had long since laid the matter to rest, the Court reaffirmed the interpretation that Section 4 of the Kansas Bill of Rights refers to the people as a collective body, not as individuals.

It should be noted that while there is no federal or state constitutional provision which prevents the regulation of firearms, an ordinance regulating firearms must meet the same constitutional standards all local legislation must, including reasonableness and compliance with equal protection and due process of law, see Junction City v. Mevis, 226, Kan. 526 (1979).