

Approved \_\_\_\_\_

3/6/89  
Date

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs

The meeting was called to order by Senator Edward F. Reilly at  
Chairperson

11:08 a.m./~~p.m.~~ on March 2, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Emalene Correll, Legislative Research Department  
Marty Robison, Secretary

Conferees appearing before the committee:

Lou Brune, National Rifle Association  
Robert Dowlut, General Counsel, NRA  
Dr. Robert Robel, Kansas Wildlife Federation  
Judith Nagel, Hunter Education Instructor  
Dale Sanders, Kansas Rifle Association, Berryton  
Roy Jackson, Central Kansas Gun Club, Hutchinson  
Donald Strawn, Central Kansas Gun Club, Hutchinson  
Jim Kaup, General Counsel, League of Kansas Municipalities  
Mayor Doug Wright, Topeka  
Paul Goward, Wichita Police Department  
Linton Bartlett, City of Kansas City  
Jack Pearson, Kansas Association of Chiefs of Police  
John Foster, Chief of Police, Lenexa  
Delbert Fowler, Chief of Police, Derby  
Michael Akins, Hutchinson

Chairman Reilly called the meeting to order.

A hearing was held for SB 312 which deals with the state preemption of firearm regulation.

Proponents:

Lou Brune told members that preemption is necessary to prevent the passage of overly-restrictive firearms laws at the local level. He said passage would not alter a local jurisdiction's ability to regulate the discharge of firearms, or to enforce state statutes regarding firearms (Attachment 1).

Robert Dowlut told members that 35 states have preemption and stressed the need for a uniform approach (Attachment 2). He said Kansas case law indicates that some ordinances were declared unconstitutional because they were so unreasonable and oppressive.

Robert Robel said enactment of SB 312 would allow sportspersons to move freely across the state without fear of unwittingly violating local laws and ordinances that restrict firearms acquisition and possession. He believed the bill should be amended to: 1) allow a city to regulate or prohibit reckless discharge of firearms within the city, or carrying of loaded firearms in public places within the city, and 2) allow a city or county to enact enforcing ordinances or regulations which duplicate state law. He also provided a summary of laws regulating firearms in Kansas (Attachment 3).

Judith Nagel said local level ordinances create a confusing patchwork of laws. They may be enacted on short notice with little or no public input (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs,  
room 254-E, Statehouse, at 11:08 a.m. ~~Approx~~ on March 2, 1989.

Dale Sanders said the control of firearms, ammunition, or their components should rest solely with the State. Cities would still regulate the discharge of a firearm or carrying loaded firearms inside city limits (Attachment 5).

Roy Jackson said laws are too hard for the ordinary citizen to follow because of their variance. He believes the laws would only affect law abiding citizens (Attachment 6).

Donald Strawn said local communities do not have the experience or expertise required to set up a feasible gun control ordinance. He thinks enforcement of stricter guidelines on criminals abusing the right of our Second Amendment needs to be addressed (Attachment 7).

The committee was instructed that written testimony in their packets also includes letters of support from the Shawnee County Sheriff's Department (Attachment 8), Gary Twineham, Hutchinson (Attachment 9), and Hutchinson Fraternal Order of Police (Attachment 10).

Opponents:

Jim Kaup opposed SB 312 because his League believes in local self-government and considers this bill anti-local government. They would oppose any direct or indirect attempt to limit or restrict the constitutionally granted home rule authority of cities. The consequences of passage of this bill would burden the state court system, would strike laws passed to protect the public, and lead to more restrictive firearm control laws that are unwanted or not needed (Attachment 11).

Mayor Wright told the committee that he believes governing bodies of cities should be allowed to retain the right to enact and enforce ordinances of this nature (Attachment 12).

Paul Goward said local control in the matter of municipal law enforcement is very important to Wichita. Local officials are familiar with the needs within their jurisdiction and have refined their regulations over the years to serve their city. The same regulations would not be needed by rural or less urban areas (Attachment 13).

Linton Bartlett reiterated that this bill would violate the principle of home rule. Situations exist in Kansas City which do not exist elsewhere in the state and they need to have the freedom to enact ordinances that do not erode the authority of their Police Department (Attachment 14).

Jack Pearson appeared on behalf of the Chiefs of Police Association to oppose this bill. New statutes would have to be enacted which might be more restrictive, might apply to cities having no problem, and all prosecutions would have to be handled through the district court system (Attachment 15).

John Foster supported the testimony of Chief Jack Pearson (Attachment 16).

Delbert Fowler said home rule control is allowed to be more restrictive than State law. Current law does not address the issue of training for individuals carrying firearms (Attachment 17).

Michael Akins said each community has a unique character and should have the authority to make their own ordinances based on their known needs. The further you remove representation from the local unit, the less direct representation the individual citizen has. He urged members to resist the trend to centralize authority (Attachment 18).

A pamphlet entitled "Your State Firearms Laws" is on file in Senator Reilly's office.

A request from Senator Burke was read for introduction. Senator Bond moved Interstate Highway 435 be designated as the Harry Darby Memorial Highway. Senator Strick seconded and the motion passed.

The meeting was adjourned at 11:47.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: 3/2/89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
John L. FOSTER	LEMEXA, KS.	LEMEXA POLICE
Jack Jackson Jr.	Hutchinson, Ks.	:
John P. Wolf	LAWRENCE, KS	
Ronald E. Pickman	Atchison, Ks.	KANSAS ASSOC. CHIEFS OF POLICE
DELBERT E. FOWLER	DERBY, KS	KANSAS PEACE OFFICERS ASSOC
JACK C. PEARSON	KC, Ks	KANSAS ASSOC. CHIEFS OF POLICE
William Childs	Hutchinson	UOAB
Angie AKINS	Hutchinson	NONE
MIKE AKINS	Hutchinson	NONE
Virginia Newboles	Hutchinson	NONE
MIKE AKINS JR	Hutchinson	NONE
Al Thimmesch	Wichita	Ks Peace Off. Assn.
Jeff Mearns	Lawrence, Ks.	Student
Paul Goward	Wichita, Ks.	Police Department
Cathy Hildeman	Wichita	City of Wichita
KAREN LIETZ	TOPEKA	SEN DANIELS, (SEC)
Douglas S. Wingst	Topeka	City of Topeka
Jon Raup	Topeka	League of Municipalities
Terry Stevens	Topeka	City of Topeka
Jon Sanford	Topeka	KTOPradio
Judith Nagel	Wichita	Ks Hunter <sup>INRPT</sup> Kd
RJ Robel	Manhattan	Kansas <del>State</del> Wildlife Fed
Walter Dale Sanders	Berryton	Ks. St Rifle Association
Linton Bartlett	Kansas City, KS	City of Kansas City
Jacque Oakes	Topeka	KPOA



TESTIMONY OF LOUIS J. BRUNE, III  
KANSAS STATE LIAISON

STATE AND LOCAL AFFAIRS DIVISION  
NATIONAL RIFLE ASSOCIATION  
INSTITUTE FOR LEGISLATIVE ACTION

ON  
FIREARMS PREEMPTION LEGISLATION  
S.B. 312

BEFORE THE  
KANSAS SENATE STATE AND FEDERAL AFFAIRS COMMITTEE

MARCH 2, 1989

SFO SA  
3-2-89

Attachment 1

Mr. Chairman and Members of the Committee,

On behalf of the National Rifle Association and our 33,000 members in Kansas, I thank you for this opportunity to appear before you representing law-abiding firearm owners and sportsmen.

We strongly support S.B. 312, firearms preemption legislation. Preemption is necessary to prevent the passage of overly-restrictive firearms laws at the local level. Just this year, the City Councils of Hutchinson, Wichita, and Salina have considered overly-harsh ordinances that would severely jeopardize law-abiding firearms owners' rights.

Kansans have long believed that the government most representative of the people is best, however Wichita's call for gun control, in spite of the fact that Wichita's homicide rate has dropped since last year, the recent experience in Hutchinson, and the effort to pass restrictive gun control ordinances in the face of opposition from the Hutchinson Lodge of the Fraternal Order of Police has created a need for Kansans to join (35) other states, and Kansas' neighbors: Missouri, Oklahoma, and Nebraska to pass preemption legislation and restrict such ill-conceived efforts.

S.B. 312 does not alter a local jurisdiction's ability to regulate the discharge of firearms, or to enforce state statutes regarding firearms.

The current patchwork of local firearms ordinances in Kansas, places gun owners in jeopardy of running the risk of arrest, prosecution and confiscation of personal property for unwitting violation of local ordinances. We ask that you consider S.B. 312 favorably for passage today.

1-3

# Kansas

## State Law

### KS Stat. Ann.

#### CHAPTER 21. CRIMES AND PUNISHMENT

#### Article 21-42. Crimes Against the Public Safety

##### 21-4201. Unlawful use of weapons.

###### SECTION 1.

(1) Unlawful use of weapons is knowingly:

\* \* \* \*

(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% lead by weight.

(2) Subsections (1) \* \* \* (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. \* \* \*

(4) Subsection (1) \* \* \* (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. \* \* \*

21-4202. Aggravated weapons violations. An aggravated weapons violation is a violation of any of the provisions of K.S.A. 21-4201 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.

Aggravated weapons violation is a class E felony.

##### 21-4203. 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 narcotic 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.

##### 21-4204. Unlawful possession of a firearm.

(1) Unlawful possession of a firearm is:

(a) Possession of any firearm by an habitual drunkard or narcotics addict; or

(b) 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.

(2) Violation of subsection (1)(a) of this section is a class B misdemeanor; violation of subsection (1)(b) is a class D felony.

**21-4205. Defacing identification marks of a firearm.**

(1) Defacing identification marks of 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.

**COMPILER'S NOTES:**

1. The following jurisdictions prohibit the sale, possession, or receipt of any type of firearm to or by any of a particular class of persons (e.g., convicted felons, fugitives from justice, illegal aliens, mental

**Incompetents, unlawful drug users and addicts) [An asterisk (\*) next to a name indicates another listing]**

Junction City\*  
Kansas City\*

Lawrence\*

2. The following jurisdictions restrict the sale, possession, or receipt of firearms, such as destructive devices [i.e., (a) grenades (or other explosive or incendiary devices), or (b) fully automatic weapons, or (c) short-barreled rifles, or (d) short-barreled shotguns, or (e) silencers, or (f) other (specified)] [An asterisk (\*) next to a name indicates another listing]

Kansas City\*(d),(e),  
certain plastic-coated  
bullets.

Wichita (c),(d),(e)

3. The following jurisdictions require waiting periods or notifications to law enforcement officials before weapons may be delivered to purchasers [An asterisk (\*) next to a name indicates another listing]

Junction City\* (48 hrs.)  
Kansas City\* (Certain  
short-barreled firearms:  
3-15 days)

Lawrence\* (72 hrs.)

4. A permit to purchase must be obtained before a firearm may be sold or delivered to a purchaser or recipient in the following jurisdictions [An asterisk (\*) next to a name indicates another listing]

Junction City\*  
(Firearms w/barrels  
under 10 in. must be  
registered)

Kansas City\*(Permit to  
purchase required for  
firearms w/barrels  
under nine in. or able  
to accept same)

5. The following jurisdictions restrict the age at which it is lawful for a person to purchase or receive a firearm [An asterisk (\*) next to a name indicates another listing]

Junction City\*

Lawrence\*

6. The following jurisdictions restrict the sale of firearms [i.e., (a) requirement for a State or local license to sell firearms, or (b) recordkeeping requirements imposed as a condition of lawful sale of firearms, or (c) other (specified)] [An asterisk (\*) next to a name indicates another listing]

Junction City\* (b)  
Kansas City\* (b)

Lawrence\* (b)



Table 6.—Number of Offenses Known to the Police, Cities and Towns 10,000 and over in Population, 1987—Continued

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City by State	Population	Crime Index total	Modified* Crime Index total	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson*
<b>KANSAS</b>											
Arkansas City.....	13,072	766	769	.....	1	3	43	174	516	29	3
Atchison.....	11,472	553	560	.....	2	3	24	112	392	20	7
Chanute.....	10,255	345	348	1	5	2	7	77	233	20	3
Coffeyville.....	14,059	881	886	.....	6	11	44	191	600	29	5
Derby.....	13,022	353	362	.....	2	2	13	44	285	7	9
El Dorado.....	11,060	512	512	1	2	3	10	99	373	24	.....
Emporia.....	24,766	1,465	1,480	2	12	8	67	257	1,080	39	15
Garden City.....	22,914	2,007	2,033	1	10	26	134	369	1,403	64	26
Great Bend.....	17,500	926	929	.....	5	2	69	174	651	25	3
Hays.....	17,923	780	781	.....	1	2	10	141	603	23	1
Hutchinson.....	41,763	3,006	3,013	.....	22	26	180	631	2,071	76	7
Independence.....	10,436	684	691	.....	1	2	29	147	486	19	7
Junction City.....	20,419	1,994	2,006	2	14	27	162	313	1,426	50	12
Kansas City.....	163,098	16,672	16,866	31	160	680	1,506	4,550	7,994	1,751	194
Lawrence.....	56,848	3,978	3,997	2	14	34	204	742	2,813	169	19
Leavenworth.....	36,460	1,651	1,667	2	9	32	108	294	1,125	81	16
Lawwood.....	16,172	521	527	.....	2	3	18	142	339	17	6
Liberal.....	16,665	1,772	1,781	1	3	2	27	504	1,190	45	9
Manhattan.....	33,964	1,676	1,679	.....	2	11	70	275	1,265	53	3
McPherson.....	12,267	300	302	1	4	1	9	35	238	12	2
Merriam.....	12,096	836	841	1	1	10	47	138	581	58	5
Newton.....	16,484	709	716	.....	2	3	31	128	522	23	7
Olathe.....	52,511	2,698	2,718	.....	24	27	144	481	1,872	150	20
Parsons.....	12,781	608	610	.....	1	2	22	112	464	7	2
Pittsburg.....	18,426	1,374	1,390	.....	.....	2	40	340	951	41	16
Prairie Village.....	23,971	498	499	.....	2	12	8	90	367	19	1
Salina.....	43,102	2,235	.....	1	10	9	46	311	1,814	44	.....
Waxham.....	30,432	1,444	1,462	.....	6	21	78	268	992	79	18
Topeka.....	119,331	10,941	10,985	4	71	261	545	2,866	6,795	399	44
Wichita.....	290,702	24,843	.....	24	240	591	711	5,601	16,326	1,350	.....
Winfield.....	11,724	432	433	.....	3	.....	10	90	321	8	1

*48 hr. WP*  
*REG., 15-DAY PERMIT*  
*7.2 hr. WP TO POLICE*

**TESTIMONY OF ROBERT DOWLUT  
DEPUTY GENERAL COUNSEL**

**OFFICE OF THE GENERAL COUNSEL  
NATIONAL RIFLE ASSOCIATION**

**ON  
FIREARMS PREEMPTION LEGISLATION  
S.B. 312**

**BEFORE THE  
KANSAS SENATE STATE AND FEDERAL AFFAIRS COMMITTEE**

**MARCH 2, 1989**

*SFO SA  
3-2-89*

*Attachment 2*

Mr. Chairman and Members of the Committee,

My name is Bob Dowlut. I am the Deputy General Counsel of the National Rifle Association. I thank you for giving me the opportunity to appear before you in support of Senate Bill 312, the firearms preemption bill.

Presently 35 states have preemption. Many of them have a constitutionally guaranteed home rule provision. Nevertheless, their legislatures have concluded that gun control is of state-wide concern and that a uniform approach is preferential to a patchwork quilt approach. Congress has also been cognizant of the pitfalls posed by a patchwork of local ordinances to persons traveling with firearms. It enacted 18 U.S.C.A. §926A (1988 Pocket Part) in order to allow travelers to pass through a locale notwithstanding its gun laws.

Kansas case law indicates that ordinances have been enacted that were so unreasonable and oppressive that they were declared to be unconstitutional, notwithstanding the fact that the city police usually did not find a violation by those citizens who could show that the purpose or reason for transporting the gun was either for recreation or business purposes. See Junction City v. Mevis, 226 Kan. 526, 601 P.2d 1145 (1975).

It is my understanding that the committee will address with amendments the areas of concern expressed by the League of Kansas Municipalities and Kansas law enforcement.

I hope the committee gives the bill a favorable report.

Testimony on S. 312

Before the  
Senate Committee on Federal and State Affairs  
2 March 1989

Mr. Chairman, ladies and gentlemen, my name is Robert J. Robel and I reside at 211 Cedar Drive, Manhattan, Kansas. I am here to speak in support of S. 312. I am the Chairman of the Conservation Issues Committee of the 8,000-member Kansas Wildlife Federation (plus 18,000 Kansas affiliates of the National Wildlife Federation), and a member of the Board of Directors of the National Rifle Association, a national organization with 31,000 members in Kansas. I also serve as a Director of the United State Shooting Team, Inc., the entity responsible for training the athletes who represent the United States in the Olympic Games and other international shooting sports. I speak today in my capacity as Chairman of the Conservation Issues Committee of the Kansas Wildlife Federation.

Your enactment of S. 312 will allow sportsmen and sportswomen in Kansas to move freely across the state without fear of unwittingly violating local laws and ordinances that restrict firearms acquisition and possession. S. 312 fosters the uniform application of law principle that benefits the sportsmen and sportswomen of Kansas.

Thirty-five other states already have seen the need to protect their citizens by adopting the type of legislation proposed in S. 312. Three of our neighboring states (Oklahoma, Missouri, and Nebraska) have firearm preemption laws like you are considering today.

Well-meaning local authorities sometime propose, and even adopt, ordinances that infringe on constitutional rights of Kansas Citizens. These efforts are often emotionally charged and intended to impact only the criminal element. Such local actions result in a patchwork of laws, ordinances and regulations that do not reduce crime, but do increase time-consuming paperwork by law enforcement personnel and inconvenience law-abiding citizens. These local restrictions also cause Kansas citizens travelling through those localities to unwittingly violate those regulations.

There is broad support for adoption of the legislation before you. The following groups favor enactment of S. 312. In total, they represent over 400,000 sportsmen and sportswomen in Kansas.

Kansas Wildlife Federation  
Kansas State Rifle Association  
Mill Creek Rifle Club  
Kansas Wildlife and Parks Department  
Department of Civilian Marksmanship  
National Association of Federally  
Licensed Firearms Dealers  
Hays City Sportsmen's Club  
Kansas 4-H Shooting Program  
Capitol City Gun Club  
Young Hunter Safety Instructors  
Leavenworth Rod and Gun Club  
Air Capitol Gun Club  
Central Kansas Smallbore League

NRA Instructor Training Counselors  
Geary County Rod and Gun Club  
Tri-County Rod and Gun Club  
National Bench Rest Shooters Association  
KAW Valley Quail Unlimited  
Kansas Trapshooters Association  
Mill Creek Rod and Gun Club  
International Handgun Metallic  
Silhouette Association  
Kansas Hunter Safety Instructors Association  
Kansas Furharvesters Association  
Delphos Rifle Club  
Riley County Fish and Game Association  
Old Trooper Rifle Club

I believe S. 312 should be amended to (1) allow a city to regulate or prohibit reckless discharge of firearms within the city, or carrying of loaded firearms in public places within the city, and (2) allow a city or county to enact enforcing ordinances or regulations which duplicate state law.

Ladies and gentlemen, the organizations to which I referred in my opening remarks and those listed above, and I personally, strongly endorse S. 312. Enactment of this legislation will insure uniform firearms laws across the state.

Thank you for the opportunity to convey my position to you today.

SF o SA  
3-2-89  
Attachment 3

SUMMARY OF LAWS REGULATING  
FIREARMS IN KANSAS

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.

TESTIMONY ON HB312

March 2, 1989

To: House Federal and State Affairs Committee

Fm: Judith Nagel, Sportswomen, Hunter Education Instructor,  
South Central District Director for Kansas Wildlife  
Federation, and NRA Life Member

As a hunter, target shooter, and concerned citizen, I strongly urge the members of this committee to give their full support to the passage of HB312. Ordinances at the local level regarding the sale, possession, and transportation of firearms serve only to create a confusing patchwork of laws ineffective in their intended purpose that can turn a unwary honest citizen into a law breaker. This can result in legitimate gun owners, hunters, and target shooters risking arrest, prosecution and confiscation of possessions for an unwitting violation.

These ordinances may be enacted on short notice with little or no public input. One example is the ordinance considered in Barton County in August of 1987 which would have prohibited all shooting within a half-mile of any residence. This would have effectively shut down all legitimate hunting and target shooting in Barton County and was the result of a complaint at a County Commission meeting. A second example is the City of Wichita's weapon ordinance which, until October of 1987, prohibited the ownership of a rifle with a barrel less than eighteen (18) inches; thus making most youth model 22-caliber rifles illegal.

Just this week an attempt was made to piggy-back an assault rifle ban and confiscation ordinance in the City of Hutchison on what seemed to be a simple 48 hour waiting period proposal. This ordinance would have outlawed most semi-auto hunting and target rifles and pistols and even some shotguns. This is the kind of thing that firearm owners face daily. This legislation would have made law breakers of honest citizens passing through the city on their way to hunt or compete in a target competition. They could be arrested if their firearm was deemed an assault rifle by a law enforcement officer. A final decision on whether a particular firearm was or was not an assault rifle would have been determined at the gun owners trial. Naturally court litigation is expensive and in these cases an unnecessary burden on law abiding citizens.

Greg Ferris, a Wichita City Councilman, proposed a three day waiting period which expanded to seven days and was then dropped after the Committee on Firearms, that he chaired, showed him that an ordinance would be ineffective.

In conclusion I again strongly urge support for the passage of this bill.

Topeka, Kansas  
2 March 1989

Mr..Chairman, I would like to thank you and the committee for the opportunity to testify..My name is Augustus Dale Sanders, I am currently the Legislative chairman and Life Member of the Kansas State Rifle Association and the National Rifle Association, also Honorary Life Member of Capital City Gun Club of Topeka.

I believe that the control of firearms, ammunition, or their components should rest solely with the State. Exception; Senate Bill No. 312 does not prohibit a city or town to regulate the discharge of a firearm or carrying loaded firearms inside city limits. The cities and towns should regulate this.

I believe the State Legislature has the ability to best judge the control over firearms laws. I feel their judgement would be best of the concern for the majority of firearms owners, whether they are hunters, collectors, or competitive shooters.

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

SF & SA  
3-2-89

Attachment 5



My name is Roy Jackson, I live at 14 Sunnydell Terrace, So. Hutchinson, Kansas.

I am a life member of NRA, KSRA, Central Kansas Gun Club. I am against local ordnances that restrict or ban certain firearms. The laws would be too hard for the ordinary citizen to follow because of their variance. In our City we don't have a history of violent crimes. This is supported by the FBI crime report. We don't have a problem, so why create laws that would only affect law abiding citizens.

Criminals have methods of acquiring firearms so laws won't prevent them form getting one.

I belive that the judicial system has fallen down and has let the criminals go free to plague citizens. This is our real problem!

SF-SA

3-2-89

Attachment 6

I Donald W. Strawn, have experienced the phenomenon on the firearms control at a local level, such as in the Hutchinson area. The City Counsel of Hutchinson was considering an ordinance on banning our rights to bear firearms. Due to an outstanding turn out by concerned citizens, the ordinance was tabled indefinitely.

I strongly support the passing of the S.B. 312 Bill, due to the fact that local communities do not have the experience or expertise required to set up a feasible gun control ordinance.

For example: The City Attorney of Hutchinson, drafted an ordinance on assault rifles, unknowing to him that the ordinance was written so that it would have included almost all semi-automatic handguns, some shot guns, hunting rifles and even some 22 caliber guns.

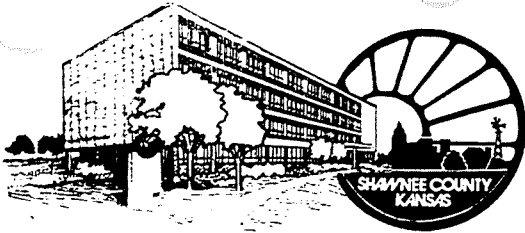
This is just one of the many good reasons of why we need a statewide ordinance to save our rights to the Second Amendment. And I firmly believe we need to enforce stricter guidelines on criminals abusing the right of our Second Amendment.



Donald W. Strawn  
Hutchinson, Kansas

SFO SA  
3-2-89

Attachment 7



**Shawnee County  
Sheriff's Dept.**

200 East 7th, Topeka, KS 66603-3973

ED RITCHIE  
SHERIFF  
291-4047

DALE COLLIE  
UNDERSHERIFF  
291-4050

March 1, 1989

Senator Ed Reilly, Chairman  
Senate Federal and State Affairs Committee  
Kansas State House  
Topeka, Kansas 66612

Re: Senate Bill No. 312 (Firearms Control)

Dear Senator Reilly:

Please consider this letter as written testimony from us, supporting Senate Bill No. 312, which was introduced through your committee on 2/21/89. As you know, this bill relates to the State legislative control of firearms, ammunition or their component parts regarding ownership, possession, transportation, carrying, transfer, sale, purchase, purchase delay, licensing, registration and taxation. Essentially, we are in agreement that it is most appropriate that the state government -- as opposed to varying (and sometimes conflicting) acts of various units of local government across the state -- regulate and control, uniformly, this important matter.

As members of the law enforcement community, we believe that administration of the criminal justice system could be enhanced by having firearm control laws and provisions 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 enacted by the State. In addition to increased uniformity and decreased confusion, a state preemption law would enhance fundamental fairness in the application of firearms laws. For example, under the current system in Kansas, only two cities have waiting-period ordinances -- Junction City (48 hours) and Lawrence (72 hours). Similarly, Kansas City has an application and permit requirement, resulting in 15 day issuance delays. However, with a patchwork approach such as that, not only are many citizens of Kansas completely immune from such requirements, but those that should not be (such as residents of

SF = SA  
3-2-89

Attachment 8

Senator Ed Reilly  
March 1, 1989  
Page Two

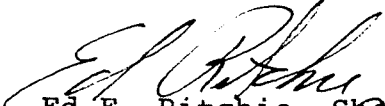

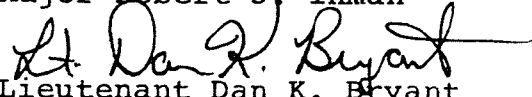

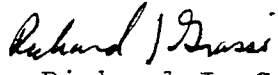
the particular city involved) can escape or circumvent the provisions by simply traveling to a nearby city free from such provisions. Such a situation is fundamentally inefficient and unfair, and tends to make a mockery of important regulations.


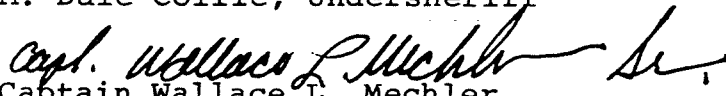
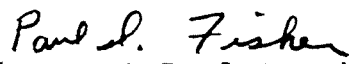

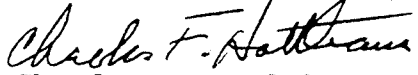
There are other good reasons for the implementation of this type of preemption legislation, such as avoiding unwitting violations of diverse local prohibitions by someone traveling through the State. Our Department is approached occasionally by persons seeking information about the firearms laws of this state. Often, the information is sought by persons planning to travel through the state who want to know how they can legally transport firearms (such as gun collectors who are traveling to gun shows and so on). As the laws currently exist, we must tell these people that the information we give them concerning Shawnee County may differ from county to county and city to city within the State.

Finally, we believe that preemption legislation such as this would enable the state legislature to intelligently and effectively address serious firearm control problems across the board. The state legislature is designed and suited to represent the legitimate interests of all citizens throughout the state, and can use this type of legislation as a vehicle to implement any necessary additional statewide restrictions on serious and genuine concerns surrounding the improper use of firearms (such as carrying a firearm while intoxicated, or reckless discharge of a firearm).

If you have any questions or comments, please do not hesitate to contact us.

Respectfully,

  
Ed E. Ritchie, Sheriff  
  
Major Robert J. Inman  
  
Lieutenant Dan K. Bryant  
  
Corporal Michael W. Rafferty  
  
Deputy Richard J. Grassi

  
M. Dale Collie, Undersheriff  
  
Captain Wallace L. Mechler  
  
Sergeant Paul D. Fisher  
  
Deputy Charles L. Bloss Jr.  
  
Deputy Charles F. Holthaus

Senator Edward F. Reilly, Jr.  
Chairman of the Federal and State  
Affairs Committee  
State House  
Topeka, Kansas 66612

Dear Senator Reilley,

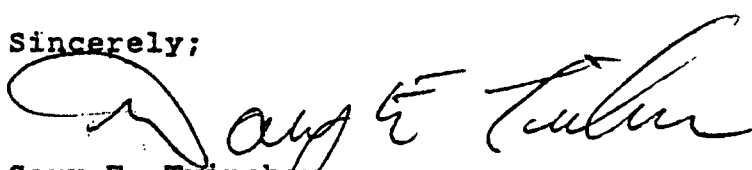
I am an American citizen, a registered voter, a gun owner, and a gun sportsman. I strongly support your S.B. 312 , preemption legislation. The State of Kansas needs our congress to lead the people in the future of gun control.

The city commission of Hutchinson is presently proposing an ordinance to ban assault rifles from private ownership. I see this ban as an assault of my constitutional rights and a highly unenforceable and worthless law targeted at law abiding citizens. Citing use by drug dealers as one reason to consider this ban, the commission has overlooked the black and white facts and statistics that criminals do not buy and register guns from a reputable dealer, but procure their weapons from the black market.

I would like to see more time and energy being spent on changing our laws, enforcing them, and giving harsher sentences to anyone committing a crime with any kind of gun.

Do not punish the law abiding citizen, Kansas needs CRIME CONTROL. NOT GUN CONTROL.

Sincerely;

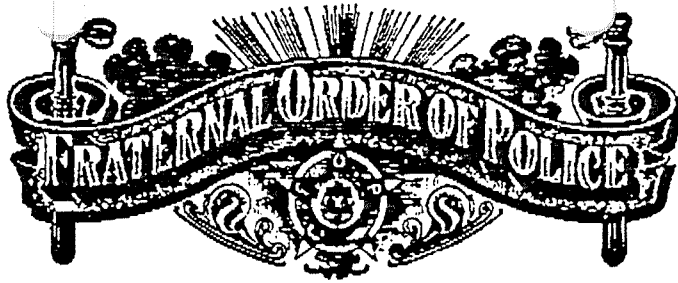


Gary E. Twineham  
5626 Johnson Drive  
Hutcinson, Kansas 67502

SF & SA  
3-2-89

Attachment 9

HUTCHINSON LODGE



210 West First  
HUTCHINSON, KANSAS 67501

February 22, 1989

Senator Edward F. Reilly, Jr.  
Chairman of the Federal & State  
Affairs Committee  
State House  
Topeka, Kansas 66612

Dear Senator Reilly:

As you are well aware, recent turmoil in several communities nation wide has brought about the passage of several ordinances, restricting the rights of citizens to possess certain firearms. Although, these problems exist elsewhere in the nation, the City of Hutchinson is feeling the pinch from an ill-conceived proposal, which if passed into ordinance, would require a waiting period on the purchase of a handgun. I, and others, both citizen and cop, have strong suspicions this is only the first step of many by a small majority of anti-gun advocates to impose their will on the majority of pro-gun citizens. These makeshift, spur of the moment, ill-conceived laws, do nothing but trap the good citizens of this state in a twilight zone. Honest, law-abiding citizens won't know exactly from one jurisdiction to the next, if they are violating the law or abiding by it in relation to the purchase and possession of firearms.

The time has come for the State to intercede on behalf of the public and insure that such arbitrary laws are not imposed on the citizens of Kansas.

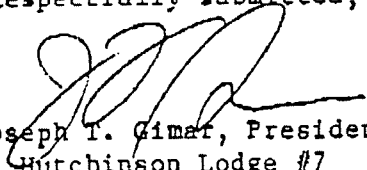
Hutchinson Lodge #7, Fraternal Order of Police, feels there is a great need for the State of Kansas to regulate at the state level, the statutes concerning firearms. Local ordinances tend to be conceived by a single person or a small minority and those in office at the community level tend to ignore the majority voice. We feel, at the state level, the public as a whole or as a majority, would be better heard and represented.

SFO SA  
3-2-89

Attachment 10

Hutchinson Lodge #7, Fraternal Order of Police, hereby offers its endorsement of the State Pre-emption Bill which concerns firearms relating to regulation thereof:

Respectfully submitted,



Joseph T. Gimar, President  
Hutchinson Lodge #7  
Fraternal Order of Police

JTG:or



# League of Kansas Municipalities

# Municipal Legislative Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

**TO:** Senate Committee on Federal and State Affairs  
**FROM:** Jim Kaup, General Counsel  
**DATE:** March 2, 1989  
**RE:** SB 312 — State Preemption of Local Regulation of Firearms

## I. INTRODUCTION

The League of Kansas Municipalities does not oppose SB 312 because we are advocates of gun control. We oppose SB 312 because we believe strongly in local self-government, and consider SB 312 one of the most anti-local government, anti-Home Rule bills the Kansas Legislature has ever considered.

SB 312 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 position in opposition to SB 312 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 1988-1989 Statement of Municipal Policy:

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

This Committee should recognize that favorable action on this bill would undo legislative decisions, lawmaking decisions, already made by the people in communities across the state. Passage of SB 312 amounts to 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 believes that state laws should not be 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 SB 312 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" exist, do they justify the sudden and absolute removal of authority of all cities (as well as counties) 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?

President: Douglas S. Wright, Mayor, Topeka \* Vice President: Irene B. French, Mayor, Merriam \* Past President: Carl Dean Holmes, Mayor, Plains  
\* Directors: Margo Boulanger, Mayor, Sedan \* Nancy R. Denning, Commissioner, Manhattan \* Ed Eiert, Mayor, Overland Park \* Greg Ferris, SF & SA  
Councilmember, Wichita \* Frances J. Garcia, Commissioner, Hutchinson \* William J. Goering, City Clerk/Administrator, McPherson \* Jesse Jackson,  
Commissioner, Chanute \* Richard U. Nienstedt, City Manager, Concordia \* David E. Retter, City Attorney, Concordia \* Judy M. Sargent, City Manager, 3-2-89  
Russell \* Joseph E. Steiniger, Mayor, Kansas City \* Bonnie Talley, Commissioner, Garden City \* Executive Director: E.A. Mosher Attachment # 11



## II. KANSAS CONSTITUTIONAL HOME RULE

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 excerpts from the League's convention-adopted 1988-1989 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.

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.

### A. Home Rule in General.

Home rule, granted to cities by the voters of Kansas in 1960, 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 adopt different measures to address the problem. Those local solutions, undertaken in compliance with the Kansas Constitution, should remain free from interference by those who disagree with the particular approach chosen by the people of a particular community.

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 relationship in Kansas is analogous to the federal-state relationship 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 enacting laws relating to city local affairs and government. The state and a city may both legislate on the same subject. In the event of conflict between local law and state law, the state law prevails. 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.

## 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. The fact that 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.

The Junction City v. Lee decision stands not only 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 the 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 conceal, 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 measure, the extent of city regulation of firearms has been modest. Many cities have ordinances that follow word-for-word state law on firearm offenses and regulation. Other cities have used their home rule powers to enact laws that have no state law counterpart.

Attachment A provides examples of the types of ordinances that have been passed by locally 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 SB 312 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. We read SB 312 as invalidating city ordinances which parallel state law "...regarding ownership, possession, transportation, carrying..." of firearms. Therefore, these ordinances would be repealed by state legislative enactment.

Without question, ordinances such as those under the heading of "II.", found at pages A-13 through A-23 of Attachment A, would be invalidated by SB 312.

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 passage of SB 312.

#### IV. CONSEQUENCES OF PASSAGE OF SB 312

SB 312 represents a radical change in Kansas law that will precipitate serious consequences for the public. Some consequences will be felt immediately, others over the long-term, as explained below.

##### A. Short-Term Consequences.

Passage of SB 312 will invalidate most, if not all, the ordinances noted in I and II, above, and Attachment A. The more immediate consequences of the sudden removal of this body 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 could only be able to be brought under the state statute, in district court. Cases could not be heard by the municipal courts, and prosecuted by city attorneys. 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 local law (e.g. carrying a loaded firearm, in public places, or drawing a firearm) passage of SB 312 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 SB 312 should note one certain, and ironic, 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 need to request state 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 state-wide handgun registration is the only way that particular city's needs can be met, the cities of Kansas would work for passage of that state law. Passage of SB 312 would set the stage for many legislative battles. The end-product of SB 312 will likely be more firearm control laws than now exists under a system of Home Rule, where citizens are able to determine the proper level of local regulations. In short, a long-term consequence of SB 312 would be municipal 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 needs and demands of their citizens.

#### IV. SUMMARY

The League offers this Committee the following major points in opposition to SB 312:

- (1) The present system of joint state-local regulation of firearms is serving the people of Kansas well.
- (2) Advocates of SB 312 can offer no compelling justification for state preemption of firearm regulation.
- (3) While the State Legislature unquestionably can remove local government's authority to enact laws regulating firearms, passage of SB 312 would be adverse to the public interest for at least the following reasons --
  - (a) It is destructive of Home Rule and would greatly harm the ability of local governments to pass the laws needed to protect the interests 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 strike wholesale from the books numerous laws passed to protect the public.
  - (d) It would ultimately lead to more restrictive firearm control laws, applicable state-wide, than is wanted, or needed, in many communities.

We respectfully request this Committee to kill SB 312.

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, stilleto, 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 persons'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.

11-14

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 consumated 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 Divison.

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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)

11-20<sup>4</sup>

### 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).

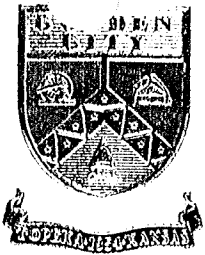
10.2

**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>Edition</u>	<u>City</u>	<u>Edition</u>	<u>City</u>	<u>Edition</u>
Abilene	1988	Hoisington	1984	Rose Hill	1984
Andover	1986	Holcomb	1988	Rossville	1984
Anthony	1986	Holton	1986	Russell	1984
Attica	1984	Hoxie	1986	Sabetha	1986
Baldwin City	1984	Hugoton	1988	St. George	1986
Baxter Springs	1986	Humboldt	1988	St. Marys	1980
Bel Aire	1986	Inman	1986	Scranton	1986
Belle Plaine	1986	Iola	1988	Solomon	1980
Belleville	1988	Kanopolis	1986	South Hutchinson	1986
Beloit	1986	Kechi	1984	Sterling	1984
Benton	1984	LaCrosse	1984	Stockton	1984
Blue Rapids	1988	LaCygne	1984	Udall	1988
Brewster	1986	Lakin	1986	Ulysses	1988
Buhler	1984	Leawood	1986	Valley Falls	1980
Burlington	1986	Lecompton	1986	Victoria	1986
Caney	1988	Lenexa	1977	Wamego	1986
Canton	1988	Lenora	1988	Waverly	1986
Centralia	1988	Liberal	1984	Weir	1986
Chapman	1988	Little River	1984	Wellington	1988
Chase	1984	Logan	1986	Wellsville	1988
Claflin	1984	Louisburg	1986	Westwood	1977
Clay Center	1984	Maize	1984	Whitewater	1986
Colony	1986	Maple Hill	1986	Winchester	1988
Columbus	1984	Marquette	1984		
Conway Springs	1984	Marysville	1986		
Council Grove	1988	McLouth	1984	TOTAL	121 Cities
Deerfield	1984	Miltonvale	1984		
Denison	1988	Minneola	1988		
Derby	1986	Mission	1986		
Dodge City	1986	Neodesha	1984		
Douglass	1984	Ness City	1988		
Eastborough	1986	New Strawn	1986		
Edgerton	1984	North Newton	1988		
Edwardsville	1986	Norton	1984		
Effingham	1988	Norwich	1986		
El Dorado	1988	Oakley	1980		
Ellis	1986	Oberlin	1984		
Elwood	1984	Ogden	1986		
Enterprise	1986	Osborne	1986		
Eudora	1988	Oxford	1986		
Galena	1988	Park City	1986		
Gardner	1984	Parker	1984		
Glen Elder	1986	Phillipsburg	1986		
Goodland	1988	Plainville	1988		
Halstead	1988	Potwin	1988		
Hays	1988	Pratt	1988		
Highland	1988	Prescott	1984		
Hill City	1986	Pretty Prairie	1980		
Hillsboro	1986	Roeland Park	1986		



# CITY OF TOPEKA

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Douglas S. Wright, Mayor  
215 E. 7th Street Room 352  
Topeka, Kansas 66603  
Phone 913-295-3895  
Fax Number 913-295-3850

March 2, 1989

TO: Federal and State Affairs Committee

FROM: Mayor Douglas S. Wright

RE: S.B. 312

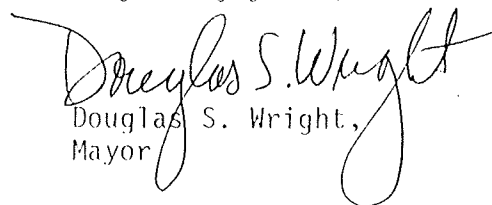
DATE: March 2, 1989

I am writing to express my opposition to S.B. 312 in its current form. This measure would preempt all municipal regulations of firearms.

If this measure becomes law, the City of Topeka will not be able to control possession of loaded firearms by individuals, the discharging of firearms within the city limits or the licensing of security guards who carry firearms. These laws exist as a reasonable exercise of municipal authority and offer protection to our citizens. S.B. 312 voids these laws.

The adoption of this measure would invade the traditional home rule authority of cities to prohibit the carrying of loaded firearms and discharge of firearms within city limits. I believe that the Governing Bodies of cities should be allowed to retain the right to enact and enforce ordinances of this nature. I urge your opposition to this bill.

Very truly yours,

  
Douglas S. Wright,  
Mayor

DSW:dao

SF & SA

3-2-89

Attachment 12

# THE CITY OF WICHITA



POLICE DEPARTMENT  
OFFICE OF THE CHIEF OF POLICE  
CITY HALL — FOURTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

March 2, 1989

Senator Edward F. Reilly, Chairperson  
Committee on Federal and State Affairs  
State Capitol  
Topeka, Kansas 66612

Re: S.B. 312 - Firearms Regulation

Ladies and Gentlemen:

I am appearing today on behalf of the City of Wichita and its police department in opposition to Senate Bill 312. I first want to make clear that the City of Wichita is not taking a position on "gun control." Rather, it is opposing S.B. 312 out of concern for continued local control in a matter of municipal law enforcement that is very important to our city.

This bill seeks to take the regulation of firearms out of the jurisdiction of locally elected officials, who are familiar with local concerns and needs, and place it in the State. We respectfully suggest that the State is not able to regulate all aspects of firearm control in a manner that recognizes the diversity of local needs in Kansas.

Currently, Wichita has a number of regulations which have been developed and refined over the years as a result of specific needs and desires of the citizenry through their elected representatives. Some of these ordinances do not have comparable statutory sanction. Examples of such local ordinances include discharge of a weapon in the City and carrying unconcealed weapons.

We would readily agree that all of these are not necessarily needed or applicable in rural or less urban areas. These ordinances are needed by law enforcement officials in Wichita for their own protection as well as for the security of the citizens of the State's largest city.

SFO SA

3-2-89

Attachment 13

Senator Edward F. Reilly

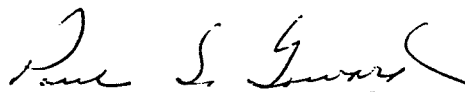
March 2, 1989

Page 2

Senate Bell 312 would not only abolish decades of work by cities in refining local legislation to their specific needs, but it would also inhibit inquiries and studies that are currently under consideration. All elements of the community have an opportunity for input into the process when new ordinances are considered or old ordinances revised.

In conclusion, I submit that there has been no showing that the ordinances of the City of Wichita have not done their job or that the Municipal Court has not been able to administer justice under these ordinances. There is no need for this type of statewide legislation. On behalf of the City of Wichita and local law enforcement officials, I ask you to reject S.B. 312.

Very truly yours,



Paul Goward, Colonel  
Deputy Chief of Operations  
Wichita Police Department

cc: Chris Cherches, City Manager

**TESTIMONY OF LINTON H. BARTLETT**

**REPRESENTING THE CITY OF KANSAS CITY, KANSAS**

**MARCH 2, 1989**

The City of Kansas City, Kansas opposes SB 312 because we feel it violates the principle of home rule, which enables cities to pass laws thought necessary to protect their citizens. The City has had since 1964 a number of ordinances in regards to possession and use of firearms which are not a part of the state law and would, therefore, be invalidated by passage of SB 312.(see attachment) We feel these ordinances are a necessary part of our law enforcement program, and losing them would erode the authority of our Police Department and endanger our citizens. In a large two state metropolitan area such as Kansas City, we share crime situations that simply do not exist elsewhere in the state. We must be able to work with our neighbors in Missouri to control crime, and our firearms ordinances are part of this effort.

SF & SA  
3-2-89  
Attachment 14

(3) Exposing, abandoning or otherwise leaving any explosive or dangerous substance in a place accessible to the public.

(b) Creating a hazard is a misdemeanor.

(Code 1964, § 23-01; Ord. No. 48744, § 1, 5-14-70)

**State law reference**—Similar provisions, K.S.A. 21-4212.

**Sec. 22-92. Throwing stones, bricks, wood, etc., generally.**

It shall be unlawful for any person to throw stones, bricks, pieces of wood or other hard substances in or across any street, avenue or alley or within any public place or at or against any house, building, vehicle or person within the city.

(Code 1964, § 23-52)

**Sec. 22-93. Throwing objects from bridge or overpass.**

Any person who willfully throws, pushes, pitches or otherwise casts any rock, stone or other object, matter or thing from a bridge or overpass onto a street, roadway, highway, railroad right-of-way, or upon any vehicle, engine or car thereon, is guilty of a misdemeanor.

**State law reference**—Similar provisions, K.S.A. 21-3742.

**Secs. 22-94—22-105. Reserved.**

**DIVISION 2. WEAPONS**

*Part A. General Provisions*

**Sec. 22-106. Unlawful use of weapons.**

(a) Unlawful use of weapons is knowingly:

- (1) Selling, manufacturing, purchasing, carrying or possessing any bludgeon, sword cane, loaded cane, sandclub, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles, 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, a mailed fist, spiked knuckles, metal fist covers or any leather apparatus or device worn on the arms, legs, hands, feet and that contain metal spikes, studs or other metal attachments, sap gloves containing granulated metal or other ingredients designed to add weight to the gloves, or other dangerous or deadly weapon or instrument of like character:
- (2) Carrying or possessing on one's person or in any land, water or air vehicle a sword, dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edge razor, a lock-blade knife, belt or pocket pistol, fountain pistol or pen-like-tear gas or powder charge projection weapon, stiletto or any other dangerous or deadly weapon or instrument of like character; provided, an ordinary pocket knife with a blade less than three and one-half (3½) inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument.



- (3) Carrying or possessing 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 or possessing any pistol, revolver, shotgun, rifle or other firearm on the person or in any land, water or air vehicle, loaded or unloaded, except when on the person's own land or in the person's own abode, fixed place of business or office.
  - (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.
  - (7) **Selling, manufacturing, purchasing, carrying or possessing any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.**
  - (8) **Possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than sixty (60) percent lead by weight.**
  - (9) Carrying on one's person or in any land, air or water vehicle any martial arts weapon, including but not limited to a shuriken or throwing star, karate sticks, nunchaku, Chinese fighting sticks, throwing spikes, metal coverings for fist or foot, or any other dangerous weapon or instrument of like character, except a student currently enrolled in a formal martial arts class or a formal instructor of martial arts employed in a licensed martial arts studio or business while carrying with them their training uniform while going to or from their place of formal training.
  - (10) Drawing, using, or demonstrating or threatening to draw, use or demonstrate any object in a hostile manner.
  - (11) Carrying any object in any manner with the intent to go armed, except when on the person's own land or in the person's own abode, fixed place of business or office.
  - (12) Discharging or firing any air rifle, pellet gun or BB gun within the city limits while on the streets, alleys or public places.
- (b) Subsections (a)(1), (2), (3), (4), (7) 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 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 crimes.
  - (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 paragraphs (1) through (3) of this subsection to possess such weapons.
- (c) Subsections (a)(2), (4) and (11) of this section shall not apply to or affect the following:
  - (1) Watchmen or properly licensed security guards while actually engaged in the performance of the duties of their employment.
  - (2) Licensed hunters or fishermen while engaged in hunting or fishing and traveling to and from places to hunt and fish; those engaged in camping, scouting, trap, skeet or target shooting and instruction and training in safety and skillful use of weapons and traveling to and from places to engage in such activities.
  - (3) Persons licensed as private detectives by the state and detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service.
  - (4) 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.
  - (5) All persons carrying or transporting a pistol, revolver, rifle or other firearm to or from a place of business after purchase or for repair or between a person's abode or land and such person's place of business or office, provided that when transporting the same in any land, air or water vehicle, such firearm shall be unloaded and either stored or carried in that portion of the vehicle not accessible to the driver or passengers of the vehicle or when in a vehicle not containing a locked portion not accessible to the driver or the passengers then carried in a case or scabbard and behind or underneath an available seat, in a storage cabinet or closet or underneath the floorboard or carpeting; provided further that watchmen, private detectives and licensed security guards may carry their firearms on their persons or in an accessible portion of any land, air or water vehicle only while actually engaged in the performance of their duties and not when in transit to and from their jobs.
- (d) Subsections (a)(1), (6) and (7) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq., in the name of such person, and, if such person transfers such firearm, device or attachment to another person, it has been so registered in the transferee's name by the transferor.
- (e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.
- (f) It shall be a defense that the defendant is within an exemption.
- (g) No person shall unlawfully use weapons as defined herein. Any person unlawfully using weapons as defined herein shall, upon conviction thereof, be deemed guilty of a misdemeanor. In addition to the penalty for the violation of this section, it shall be the duty of the

municipal judge to order such weapon to be forfeited to the city. The same shall be destroyed or sold by the chief of police whenever the weapon is no longer needed for evidence.

(Code 1964, § 39-3; Ord. No. 64772, §§ 1-6, 12-27-84)

State law reference—Similar provisions, K.S.A. 21-4201.

**Sec. 22-107. 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 misdemeanor.

(Code 1964, § 39-7)

State law reference—Similar provisions, K.S.A. 21-4205.

**Sec. 22-108. Record of sales and purchases.**

No wholesale or retail dealer in firearms shall possess for the purpose of sale or sell any handgun unless such person keeps a full and complete record of the name of the maker, the model, the manufacturer's number, or other mark of identification of the firearm; the name and address of the person from whom purchased and to whom sold; and the date of such purchase or sale. Such record shall be open to inspection at all times to any police officer or other peace officer of the state.

(Code 1964, § 39-8)

**Secs. 22-109—22-125. Reserved.**

*Part B. Pistol Permit*

**Sec. 22-126. Required.**

(a) 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.

(b) Subsection (a) shall not apply to sales of firearms manufactured before 1897 for which ammunition is no longer produced.

(Code 1964, § 39-4; Ord. No. 39984, §§ 1-3, 9-14-55; Ord. No. 49557, § 1, 4-29-71; Ord. No. 57171, § 1, 11-22-77)

14-5

**Sec. 22-127. 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 the permit and that the applicant has a need for such a weapon.

(Code 1964, § 39-5; Ord. No. 39984, § 4, 9-14-55; Ord. No. 49258, § 1, 12-17-70)

**Sec. 22-128. Issuance.**

After fifteen (15) days, the chief of police may issue such permit required by this part to any person filing the proper application, except persons having been convicted of a crime involving violence or the use of firearms or the use or sale of controlled substances and upon obtaining a clearance from the F.B.I. identification division for the applicant.

(Code 1964, § 39-6; Ord. No. 39984, § 5, 9-14-55; Ord. No. 49258, § 2, 12-17-70)

**Secs. 22-129—22-145. Reserved.****ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS\*****DIVISION 1. GENERALLY****Sec. 22-146. Indecent exposure.**

It shall be unlawful for any person to expose in the presence or view of any person who is not the spouse of the offender and who has not consented thereto the following:

- (1) The person's genitals, pubic hair, penis, buttocks, vagina, anus.
- (2) Any portion of the areola of the female breast.

(Code 1964, § 23-30; Ord. No. 63427, § 1, 10-13-81)

State law reference—Lewd and lascivious behavior, K.S.A. 21-3508.

**Sec. 22-147. Lewd and lascivious behavior.**

(a) Lewd and lascivious behavior is:

- (1) The commission of an act of sexual intercourse or sodomy with any person or animal with knowledge or reasonable anticipation that the participants are being viewed by others; or

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\*Cross references—Lewd conduct in places selling alcohol, §§ 4-110, 4-163; massage parlors, Ch. 20.

- (2) The exposure of a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto with intent to arouse or gratify the sexual desires of the offender or another.

(b) Any person committing lewd and lascivious behavior shall be deemed guilty of a misdemeanor, and any person convicted thereof shall be punished by a fine of not more than five hundred dollars (\$500.00) or six (6) months' imprisonment or both such fine and imprisonment. (Code 1964, § 23-30.1; Ord. No. 63427, § 2, 10-13-81)

**State law reference**—Similar provisions, K.S.A. 21-3508.

**Sec. 22-148. Indecent solicitation of a child.**

(a) Indecent solicitation of a child is the accosting, enticing or soliciting of a child under the age of sixteen (16) years to commit or to submit to an unlawful sexual act.

(b) Indecent solicitation of a child is a misdemeanor.

(Code 1964, § 23-33; Ord. No. 42839, § 1, 5-11-61)

**State law reference**—Similar provisions, K.S.A. 21-3510.

**Sec. 22-149. Urinating upon public or private property.**

Any person within the corporate limits of the city who urinates upon any highway, street, alley or upon the premises of any public place or building or upon private property, in open view of any person, when the same has not been designated or designed as a restroom, shall be guilty of a misdemeanor.

(Code 1964, § 23-54.1; Ord. No. 61315, § 1, 4-24-80; Ord. No. 63428, § 1, 10-13-81)

**Sec. 22-150. Promoting obscenity.**

(a) Promoting obscenity is knowingly or recklessly:

- (1) Manufacturing, issuing, selling, giving, providing, lending, mailing, delivering, transmitting, publishing, distributing, circulating, disseminating, presenting, exhibiting or advertising any obscene material or obscene device; or
- (2) Possessing any obscene material or obscene device with intent to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise such material or device; or
- (3) Offering or agreeing to manufacture, issue, sell, give, provide, lend, mail, deliver, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise any obscene material or obscene device; or
- (4) Producing, presenting or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

(b) Evidence that materials or devices were promoted to emphasize their prurient appeal or sexually provocative aspect shall be relevant in determining the question of the obscenity

14-7

Senate Committee on Federal and State Affairs  
Senate Bill No. 312  
March 2, 1989

My name is Jack Pearson and I appear before this committee representing the Kansas Association of Chiefs of Police. It is the intent of the Chiefs Association to strongly oppose passage of Senate Bill 312.

Passage of this bill would circumvent the Home Rule provisions which have existed since statehood. Passage would also invalidate a number of municipal ordinances which have been enacted to control the localized problems of a community. Examples of these ordinances include openly carrying a firearm in public, which can cause considerable concern among the citizens of a community; and discharging a firearm within the city limits, which represents an immediate danger to individual safety.

To offset the loss of these and other ordinances, cities would have to approach the Legislature to enact new statutes. This would have a number of detrimental effects. First, the new laws might be more restrictive than the existing ordinances so that various concerns could be addressed. Second, new laws would encompass even those cities which have not historically had a problem and have had no need to create restrictions in a particular area. Finally, all prosecutions for firearms offenses would have to be handled through the district court system, instead of being shared with the municipal courts. This would overburden our district courts and might well prolong the adjudication of some very serious offenses.

In conclusion, I would like to say that there is no demonstrable need for this change. The Chiefs of Police Association encourages you to reject this measure.

Thank you for your time.

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3-2-89  
Attachment 15

Testimony of John L. Foster  
Chief of Police, Lenexa, KS  
Conferee on SB 312

Mr. Chairman, to avoid redundancy of testimony, I wish to go on record as supporting the testimony of Chief Jack Pearson and the position of the Kansas Chiefs of Police Association. Thank you.

SF-SA

3-2-89

Attachment 16

COMMITTEE ON FEDERAL AND STATE AFFAIRS

HEARING ON SENATE BILL NO. 312

MARCH 2, 1989

Chairperson Reilly and Members of the Committee,

I am Delbert Fowler, Chief of Police of Derby, Kansas and President of the Kansas Peace Officers Association. I am here today representing the Kansas Peace Officers Association in opposition to Senate Bill No. 312.

Our reason for opposing this bill, is the current State Statutes concerning the control of firearms do not address issues of great concern to many of our jurisdictions. Most cities have ordinances prohibiting certain acts affecting some type of control over the carrying of firearms. Current State law allows for home rule control to be more restrictive than State law.

There are some cities that have an ordinance prohibiting the carrying of firearms both concealed and unconcealed by people other than police officers or persons holding special licenses or permits, such as security guards etc.. Most of these cities require a need for carrying the firearm, background checks, and training and qualification by the police department before issuing licenses or permits to carry a firearm. Current State law does not address the issue of training or qualification or background status for these individuals.

If this bill was to pass, it would allow almost anyone to carry a firearm. Imagine if you will, people with guns strapped to their side, walking down the street, shopping at a store or riding around in vehicles with the potential to draw that weapon

SF-SA

3-2-89

Attachment 17



and start firing for whatever reason. It would be like going back in time to the nineteenth century when many people wore guns on their side.

We in law enforcement are confronted now with too many people carrying firearms without making it legal for most everyone to carry a firearm any where and any time the please. We must think of the officer's safety and the safety of the public we serve. We feel that certain controls of firearms should be left to Home Rule.

I am aware of the concern of uniformity across the state. However, until laws are passed by the State addressing our concerns, we will continue to oppose this bill or others like it.

Thank you for the opportunity to address you on this bill.

March 2, 1989

Testimony of Michael L. Akins before Senate Committee: proposed Bill 312

Mr. Chairman and Legislators:

Thank you for the opportunity to share my concerns with you about the Proposed Bill. I sincerely appreciate your previous record of being sensitive to the concerns and will of the people, and that of keeping an open mind until all opinions have been expressed. It is this attitude demonstrated by you that keeps our country free and strong.

Concerning the proposed Bill, I can understand the merits of placing legislative authority at state level on such matters to bring uniformity and equality to all citizens of Kansas. However, I have some serious concerns for you to consider. In reviewing your track record on the same attempts by the federal government to remove local authority from the state and place it at a federal level, I have found that you have resisted such efforts. I applaud you for this wisdom and agree with your reasoning. I believe after examination, you will find the same reasoning in keeping such authority at a local, city-county level.

I'm sure you will agree that each community has a unique character. Kansas City and Wichita have to face circumstances that Hutchinson and Buhler do not. One community may invest more in social programs and in law enforcement than another, or enforce the laws already on the books more than another community. Gun control laws may be more relevant in one community than another. Is it fair to treat all of them the same? The foundation and strength of our country has been built on the representation of the individual in the governing arena. The further you remove this from the local unit, the less direct representation the individual has. I believe you are more aware than most others of the strong tendency toward centralization of governing authority. Although it is through good intentions that higher levels of government endeavor to centralize authority.

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Please, resist this trend. You may have the insight and wisdom to be objective in determining the balance between the welfare of the various communities. Will others that follow you in the decades to come have the same insight? Are we gradually leading ourselves into a future where only a few individuals in high places determine what is best for the masses of common people with highly diversified needs and concerns? More and more laws are being passed daily and many of them are greatly needed, but where is the balance between liberty and trying to legislate our problems away? Society needs to solve more of its problems through other social efforts before we legislate ourselves into slavery.

Many of you have risked your lives and have had fathers and friends give their lives to protect our freedoms. Please, don't become a part, however innocently, of a process that will take these freedoms away. Many areas of our country and state necessitate more regulation because of the presence of more negative elements of society or special conditions. Please, let's not let these misfits determine the degree of freedom for all society. There is a time we must accept certain risks and say "no" to more control, legislation and eradication of our individual liberty. Please, be courageous enough to resist the easy road to centralization of government and authority. Please leave as much governing authority as possible at the local level, where you can better relate to the complex and individual needs and concerns of each individual. Leave a bright and proud heritage for our children and grandchildren. Preserve the freedoms as much as possible that so many have fought and died for, by allowing local representation to stand unmolested by higher state authority, where more people are represented by more people, more

intimately. Remember each of you come from a local community - let me ask you one question. Do you know more about the needs of your home town than other representatives scattered across the state - whenever possible would you rather make decisions pertaining to your home at a Thank you very much for your open-mindedness and honest consideration. Local Level?

Michael L. Akins  
611 Catalina Hutchinson, Ks.