

Approved: March 10, 2009

Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:30 p.m. on March 2, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Broderick Henderson- excused  
Representative Mike Peterson- excused  
Representative Lisa Benlon

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Jason Long, Office of the Revisor of Statutes  
Julian Efird, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Nikki Feuerborn, Committee Assistant

Conferees appearing before the committee:

Ed Klumpp, Kansas Association of Chiefs of Police

Others attending:

See attached list.

Attachments:

Recommendations from Subcommittee report on **SB 19 - Concealed weapons; U.S. attorneys, county district attorneys and assistants** (Attachment 1)  
Proposed Balloon Amendment A (Attachment 2)  
Proposed Balloon Amendment B (Attachment 3)  
Proposed Balloon Amendment C (Attachment 4)  
Ed Klumpp, Kansas Association of Chiefs of Police (Attachment 5)

Recommendations and discussion of Subcommittee report on **SB 19 - Concealed weapons; U.S. attorneys, county and district attorneys and assistants**

Representative Knox, Chairman of the Subcommittee on **SB 19** reported the findings and recommendations of the members as noted in Attachment 1. This bill would authorize certain prosecutors to carry concealed firearms or exempt certain prosecutors from the crime of discharge of a firearm while engaged in their duties.

Representative Knox presented three suggested balloon amendments as noted in Attachment 2 (A), Attachment 3 (B), and Attachment 4 (C).

Representative Knox moved for the adoption of Balloon A (Attachment 2). Motion was seconded by Representative Carlson. Motion carried.

Representative Knox moved to adopt Balloon B (Attachment 3). Motion was seconded by Representative Carlson.

During Committee discussion, members appeared to be confused as to the exact intent of the proposed amendments and also who would have the authority over the courtroom, the chief judge or the county commissioners if they were in disagreement. Chairman Neufeld suspended action on the bill with the motion on the table. The bill will be revisited at a date to be announced.

**Hearing on SB 53 - Licensure of cereal malt beverage retailers**

Ed Klumpp, representing the Kansas Association of Chiefs of Police, explained that the bill would amend the Liquor Control Act by allowing a county or a city discretion on whether to issue a retail liquor license to any person, partnership, or corporation if any member or stockholder of such entities owns or has owned a 25 percent aggregate of stock of such corporation and has had their retailer's license revoked, or has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of the State (Attachment 5). In his testimony, Mr. Klumpp explained their objections to changing "shall" to "may" in that the current "shall" language has been the only reason some cities have upheld some licensing sanctions for

CONTINUATION SHEET

Minutes of the House Federal And State Affairs Committee at 1:30 p.m. on March 2, 2009, in Room 143-N of the Capitol.

serious violations of cereal malt beverage licensees.

There were no other proponents nor opponents. Chairman Neufeld closed the hearing on **SB 53**.

The next meeting is scheduled for March 4, 2009.

The meeting was adjourned at 2:37 p.m.

House Federal and State Affairs  
Guest list

Date 3-2-09

Name

Organization

Ed Klumpp

KACP KPOA

CW KEEBE

AG

Gandy Jugnot

LKM

Collie Coco

Hearney + Associates, Inc.

Leigh Keck

Hein Law firm

Amy Gynessell

KABR

Katey Burt

Judicial Branch

House Committee on Federal and State Affairs

**SUBCOMMITTEE REPORT ON SB 19**

March 2, 2009

  
\_\_\_\_\_  
Representative Forrest Knox, Chairperson

  
\_\_\_\_\_  
Representative Richard Carlson

\_\_\_\_\_  
Representative Louis Ruiz

## SUBCOMMITTEE REPORT ON SB 19

SB 19, as amended and passed by the Senate, would authorize certain prosecutors to carry concealed firearms or exempt certain prosecutors from the crime of discharge of a firearm while engaged in their duties.

### Background

In 2006 and 2007, the Office of Judicial Administration conducted vulnerability assessments on 127 Kansas district court facilities and the Kansas Judicial Center. These facilities were 110 courthouses (including the 105 counties, plus five counties with two courthouses) and 17 annex facilities, the majority of which house court services staff, and the Sedgwick County Juvenile Courthouse.

At that time, there were 14 courthouses with controlled entries, including magnetometers (metal detectors). These were the Kansas Judicial Center, Courthouses in Wyandotte County, Sedgwick County, Shawnee County, Douglas County, Johnson County, Leavenworth County, Franklin County, Butler County, Lyon County, Cherokee County, Labette County, and the Crawford County Courthouses in Pittsburg and Girard. One annex, the Sedgwick County Juvenile Courthouse, has a controlled entry.

### Subcommittee Recommendation

1. The Subcommittee makes recommendations to amend SB 19 in the following manner:
  - Add clarifying language on page 5 in line 43 that would change the word "courthouse" to "facility" in order to broaden the application to all courthouses, annexes, and any other county building or office.
  - Add new language on page 5 after the word "facility" to include any restrictions or prohibitions imposed in any courtroom as ordered by the chief judge of any judicial district.
  - Delete language on page 4 in each case where reference is made to "while actually engaged in the duties of their employment" in order to remove such restriction.
  - Delete language on page 6 that requires certification "at their own expense" in line 9.
2. In addition, the Subcommittee offers the following suggestion for additional changes to amend SB 19 regarding secure facilities:
  - Add an opt-out provision for the county commission of any county and for the chief judge of any judicial district in order that each may declare the new provisions of SB 19 do **NOT** apply in those locations having secure facilities and secure courtrooms as determined by the appropriate governing body or chief judge to be "gun free" areas with controlled entry.

A

House Federal and State Affairs Subcommittee on SB 19  
Recommended amendments - General Recommendation

*As Amended by Senate Committee*

*Session of 2009*

**SENATE BILL No. 19**

By Senator D. Schmidt

1-12

10 AN ACT concerning crimes and punishment; relating to the criminal use  
11 of weapons; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008  
12 Supp. 21-4201 and repealing the existing sections.

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

15 Section 1. K.S.A. 2008 Supp. 21-4201 is hereby amended to read as  
16 follows: 21-4201. (a) Criminal use of weapons is knowingly:

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

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

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

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

37 (5) setting a spring gun;

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

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

House Fed & State Affairs

Date: 3/2/09

Attachment 2

1 (8) possessing, manufacturing, causing to be manufactured, selling,  
2 offering for sale, lending, purchasing or giving away any cartridge which  
3 can be fired by a handgun and which has a plastic-coated bullet that has  
4 a core of less than 60% lead by weight.

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

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

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

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

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

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

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

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

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

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

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

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

38 (7) *the United States attorney for the district of Kansas, **the attorney***  
39 *general, any district attorney or county attorney, any assistant United*  
40 *States attorney if authorized by the United States attorney for the district*  
41 *of Kansas, **any assistant attorney general if authorized by the attor-***  
42 *ney general, or any assistant district attorney or assistant county attor-*  
43 *ney if authorized by the district attorney or county attorney by whom*

2-2



1 *such assistant is employed. The provisions of this paragraph shall not*  
2 *apply to any person not in compliance with section 4, and amendments*  
3 *thereto.*

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

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

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

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

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

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

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

31 (h) Subsection (a)(4) shall not apply to any person carrying a con-  
32 cealed weapon as authorized by K.S.A. 2008 Supp. 75-7c01 through 75-  
33 7c17, and amendments thereto.

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

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

38 (k) Violation of subsections (a)(1) through (a)(5) is a class A nonper-  
39 son misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a se-  
40 verity level 9, nonperson felony.

41 (l) As used in this section, "throwing star" means any instrument,  
42 without handles, consisting of a metal plate having three or more radiating  
43 points with one or more sharp edges and designed in the shape of a

2-3



1 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-  
2 tured for use as a weapon for throwing.

3 Sec. 2. K.S.A. 21-4217 is hereby amended to read as follows: 21-  
4 4217(a) Criminal discharge of a firearm is the discharge of any firearm:

5 (1) Upon any land or nonnavigable body of water of another, without  
6 having obtained permission of the owner or person in possession of such  
7 land; or

8 (2) upon or from any public road, public road right-of-way or railroad  
9 right-of-way that adjoins land of another without having first obtained  
10 permission of the owner or person in possession of such land.

11 (b) This section shall not apply to any of the following:

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

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

19 (3) members of the armed services or reserve forces of the United  
20 States or the national guard while in the performance of their official  
21 duty;

22 (4) watchmen, while actually engaged in the performance of the du-  
23 ties of their employment;

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

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

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

34 (8) *the United States attorney for the district of Kansas, **the attorney***  
35 ***general, or any district attorney or county attorney*** ~~[while actually en-~~  
36 ~~gaged in the duties of their employment]~~ *any assistant United States at-*  
37 *torney if authorized by the United States attorney for the district of Kan-*  
38 *sas* ~~[and while actually engaged in the duties of their employment]~~ *any*  
39 *assistant attorney general if authorized by the attorney general* ~~[and~~  
40 ~~while actually engaged in the duties of their employment]~~ *; or any*  
41 *assistant district attorney or assistant county attorney if authorized by*  
42 *the district attorney or county attorney by whom such assistant is em-*  
43 *ployed* ~~[and while actually engaged in the duties of their employment]~~ *The*

to-2

2-5

1 *provisions of this paragraph shall not apply to any person not in compli-*  
2 *ance with section 4, and amendments thereto.*

3 (c) Criminal discharge of a firearm is a class C misdemeanor.

4 Sec. 3. K.S.A. 21-4218 is hereby amended to read as follows: 21-  
5 4218. (a) Possession of a firearm on the grounds of or in the state capitol  
6 building, within the governor's residence, on the grounds of or in any  
7 building on the grounds of the governor's residence, within the state  
8 office building at 915 Harrison known as the Docking state office build-  
9 ing, within the state office building at 900 Jackson known as the Landon  
10 state office building, within the Kansas judicial center at 301 West 10th,  
11 within any other state-owned or leased building if the secretary of ad-  
12 ministration has so designated by rules and regulations and conspicuously  
13 placed signs clearly stating that firearms are prohibited within such build-  
14 ing, and within any county courthouse, unless, by county resolution, the  
15 board of county commissioners authorize the possession of a firearm  
16 within such courthouse, is possession of a firearm by a person other than  
17 a commissioned law enforcement officer, a full-time salaried law enforce-  
18 ment officer of another state or the federal government who is carrying  
19 out official duties while in this state, any person summoned by any such  
20 officer to assist in making arrests or preserving the peace while actually  
21 engaged in assisting such officer or a member of the military of this state  
22 or the United States engaged in the performance of duties who brings a  
23 firearm into, or possesses a firearm within, the state capitol building, any  
24 state legislative office, any office of the governor or office of other state  
25 government elected official, any hearing room in which any committee  
26 of the state legislature or either house thereof is conducting a hearing,  
27 the governor's residence, on the grounds of or in any building on the  
28 grounds of the governor's residence or the Landon state office building,  
29 Docking state office building, Kansas judicial center, county courthouses  
30 unless otherwise allowed, or any other state-owned or leased building, so  
31 designated.

32 (b) It is not a violation of this section for the governor, the governor's  
33 immediate family, or specifically authorized guests of the governor to  
34 possess a firearm within the governor's residence or on the grounds of or  
35 in any building on the grounds of the governor's residence.

36 (c) *It is not a violation of this section for the United States attorney*  
37 *for the district of Kansas, **the attorney general**, any district attorney or*  
38 *county attorney, any assistant United States attorney; if authorized by*  
39 *the United States attorney for the district of Kansas, **any assistant at-***  
40 ***torney general if authorized by the attorney general**, or any assistant*  
41 *district attorney or assistant county attorney; if authorized by the district*  
42 *attorney or county attorney by whom such assistant is employed, to pos-*  
43 *sess a firearm within any county [courthouse]. The provisions of this par-*

facility, subject to any restrictions or prohibitions imposed in any courtroom by  
the chief judge of the judicial district

2-6

1 *agraph shall not apply to any person not in compliance with section 4,*  
2 *and amendments thereto.*

3 ~~(c)~~ (d) Violation of subsection (a) is a class A misdemeanor.

4 ~~(d)~~ (e) This section shall be part of and supplemental to the Kansas  
5 criminal code.

6 New Sec. 4. Any person not subject to the provisions of subsection  
7 (a) of K.S.A. 21-4201, and amendments thereto, under the authority of  
8 paragraph (7) of subsection (c) of K.S.A. 21-4201, and amendments  
9 thereto, shall obtain ~~at their own expense~~ and maintain a license to carry  
10 concealed weapons permit as authorized by K.S.A. 75-7c01 through 75-  
11 7c17, and amendments thereto. In addition, such person shall complete  
12 a firearms training course as determined by the director of police training  
13 of the law enforcement training center.

14 Sec. 5. K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201  
15 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its  
17 publication in the statute book.

SENATE BILL No. 19

(B)

By Senator D. Schmidt

1-12

House Federal and State Affairs Subcommittee on SB 19  
Recommended amendments - Opt out provision for counties

House Fed & State Affairs  
Date: 3/2/09  
Attachment 3

10 AN ACT concerning crimes and punishment; relating to the criminal use  
11 of weapons; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008  
12 Supp. 21-4201 and repealing the existing sections.

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

15 Section 1. K.S.A. 2008 Supp. 21-4201 is hereby amended to read as  
16 follows: 21-4201. (a) Criminal use of weapons is knowingly:

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

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

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

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

37 (5) setting a spring gun;

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

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

# 3

1 *provisions of this paragraph shall not apply to any person not in compli-*  
2 *ance with section 4, and amendments thereto.*

3 (c) Criminal discharge of a firearm is a class C misdemeanor.

4 Sec. 3. K.S.A. 21-4218 is hereby amended to read as follows: 21-  
5 4218. (a) Possession of a firearm on the grounds of or in the state capitol  
6 building, within the governor's residence, on the grounds of or in any  
7 building on the grounds of the governor's residence, within the state  
8 office building at 915 Harrison known as the Docking state office build-  
9 ing, within the state office building at 900 Jackson known as the Landon  
10 state office building, within the Kansas judicial center at 301 West 10th,  
11 within any other state-owned or leased building if the secretary of ad-  
12 ministration has so designated by rules and regulations and conspicuously  
13 placed signs clearly stating that firearms are prohibited within such build-  
14 ing, and within any county courthouse, unless, by county resolution, the  
15 board of county commissioners authorize the possession of a firearm  
16 within such courthouse, is possession of a firearm by a person other than  
17 a commissioned law enforcement officer, a full-time salaried law enforce-  
18 ment officer of another state or the federal government who is carrying  
19 out official duties while in this state, any person summoned by any such  
20 officer to assist in making arrests or preserving the peace while actually  
21 engaged in assisting such officer or a member of the military of this state  
22 or the United States engaged in the performance of duties who brings a  
23 firearm into, or possesses a firearm within, the state capitol building, any  
24 state legislative office, any office of the governor or office of other state  
25 government elected official, any hearing room in which any committee  
26 of the state legislature or either house thereof is conducting a hearing,  
27 the governor's residence, on the grounds of or in any building on the  
28 grounds of the governor's residence or the Landon state office building,  
29 Docking state office building, Kansas judicial center, county courthouses  
30 unless otherwise allowed, or any other state-owned or leased building, so  
31 designated.

32 (b) It is not a violation of this section for the governor, the governor's  
33 immediate family, or specifically authorized guests of the governor to  
34 possess a firearm within the governor's residence or on the grounds of or  
35 in any building on the grounds of the governor's residence.

36 (c) *It is not a violation of this section for the United States attorney*  
37 *for the district of Kansas, **the attorney general**, any district attorney or*  
38 *county attorney, any assistant United States attorney; if authorized by*  
39 *the United States attorney for the district of Kansas, **any assistant at-***  
40 ***torney general if authorized by the attorney general**, or any assistant*  
41 *district attorney or assistant county attorney; if authorized by the district*  
42 *attorney or county attorney by whom such assistant is employed, to pos-*  
43 *sess a firearm within any county courthouse. The provisions of this par-*

3-2

1 *agraph shall not apply to any person not in compliance with section 4,*  
2 *and amendments thereto.*

3 ~~(e)~~ (d) Violation of subsection (a) is a class A misdemeanor.

4 ~~(d)~~ (e) This section shall be part of and supplemental to the Kansas  
5 criminal code.

6 New Sec. 4. Any person not subject to the provisions of subsection  
7 (a) of K.S.A. 21-4201, and amendments thereto, under the authority of  
8 paragraph (7) of subsection (c) of K.S.A. 21-4201, and amendments  
9 thereto, shall obtain at their own expense, and maintain a license to carry  
10 concealed weapons permit as authorized by K.S.A. 75-7c01 through 75-  
11 7c17, and amendments thereto. In addition, such person shall complete  
12 a firearms training course as determined by the director of police training  
13 of the law enforcement training center.

14 Sec. 5. K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201  
15 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its  
17 publication in the statute book.

(d) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (c) shall not apply to such county's facilities; provided, that such facilities have adequate security measures to ensure that no weapons are permitted to be carried into such facilities and that a sign be conspicuously posted at each entryway into such facility stating that the provisions of subsection (c) do not apply to such facility. For the purposes of this section, "adequate security measures" means the use of electronic equipment and personnel to detect and restrict the carrying of any weapons into the facility, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes.

SENATE BILL No. 19 C

By Senator D. Schmidt

1-12

10 AN ACT concerning crimes and punishment; relating to the criminal use  
11 of weapons; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008  
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16 follows: 21-4201. (a) Criminal use of weapons is knowingly:

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19 monly referred to as a switch-blade, which has a blade that opens auto-  
20 matically by hand pressure applied to a button, spring or other device in  
21 the handle of the knife, or any knife having a blade that opens or falls or  
22 is ejected into position by the force of gravity or by an outward, downward  
23 or centrifugal thrust or movement;

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

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

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

37 (5) setting a spring gun;

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

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

House Federal and State Affairs Subcommittee on SB 19

Recommended amendments - Opt out provision for courtrooms

House Fed & State Affairs

Date: 3/2/09

Attachment 4



1 *provisions of this paragraph shall not apply to any person not in compli-*  
2 *ance with section 4, and amendments thereto.*

3 (c) Criminal discharge of a firearm is a class C misdemeanor.

4 Sec. 3. K.S.A. 21-4218 is hereby amended to read as follows: 21-  
5 4218. (a) Possession of a firearm on the grounds of or in the state capitol  
6 building, within the governor's residence, on the grounds of or in any  
7 building on the grounds of the governor's residence, within the state  
8 office building at 915 Harrison known as the Docking state office build-  
9 ing, within the state office building at 900 Jackson known as the Landon  
10 state office building, within the Kansas judicial center at 301 West 10th,  
11 within any other state-owned or leased building if the secretary of ad-  
12 ministration has so designated by rules and regulations and conspicuously  
13 placed signs clearly stating that firearms are prohibited within such build-  
14 ing, and within any county courthouse, unless, by county resolution, the  
15 board of county commissioners authorize the possession of a firearm  
16 within such courthouse, is possession of a firearm by a person other than  
17 a commissioned law enforcement officer, a full-time salaried law enforce-  
18 ment officer of another state or the federal government who is carrying  
19 out official duties while in this state, any person summoned by any such  
20 officer to assist in making arrests or preserving the peace while actually  
21 engaged in assisting such officer or a member of the military of this state  
22 or the United States engaged in the performance of duties who brings a  
23 firearm into, or possesses a firearm within, the state capitol building, any  
24 state legislative office, any office of the governor or office of other state  
25 government elected official, any hearing room in which any committee  
26 of the state legislature or either house thereof is conducting a hearing,  
27 the governor's residence, on the grounds of or in any building on the  
28 grounds of the governor's residence or the Landon state office building,  
29 Docking state office building, Kansas judicial center, county courthouses  
30 unless otherwise allowed, or any other state-owned or leased building, so  
31 designated.

32 (b) It is not a violation of this section for the governor, the governor's  
33 immediate family, or specifically authorized guests of the governor to  
34 possess a firearm within the governor's residence or on the grounds of or  
35 in any building on the grounds of the governor's residence.

36 (c) *It is not a violation of this section for the United States attorney*  
37 *for the district of Kansas, **the attorney general**, any district attorney or*  
38 *county attorney, any assistant United States attorney; if authorized by*  
39 *the United States attorney for the district of Kansas, **any assistant at-***  
40 ***torney general if authorized by the attorney general**, or any assistant*  
41 *district attorney or assistant county attorney; if authorized by the district*  
42 *attorney or county attorney by whom such assistant is employed, to pos-*  
43 *sess a firearm within any county courthouse. The provisions of this par-*

4-2

1 *agraph shall not apply to any person not in compliance with section 4,*  
2 *and amendments thereto.*

3 ~~(e)~~ (d) Violation of subsection (a) is a class A misdemeanor.

4 ~~(e)~~ (e) This section shall be part of and supplemental to the Kansas  
5 criminal code.

6 New Sec. 4. Any person not subject to the provisions of subsection  
7 (a) of K.S.A. 21-4201, and amendments thereto, under the authority of  
8 paragraph (7) of subsection (c) of K.S.A. 21-4201, and amendments  
9 thereto, shall obtain at their own expense, and maintain a license to carry  
10 concealed weapons permit as authorized by K.S.A. 75-7c01 through 75-  
11 7c17, and amendments thereto. In addition, such person shall complete  
12 a firearms training course as determined by the director of police training  
13 of the law enforcement training center.

14 Sec. 5. K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201  
15 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its  
17 publication in the statute book.

(d) The provisions of subsection (c) shall not apply to any courtroom  
where the chief judge of the judicial district overseeing such courtroom has  
issued an order prohibiting weapons in such courtroom; provided, that such  
courtroom has adequate security measures to ensure that no weapons are  
permitted to be carried into such courtroom and that a sign be  
conspicuously posted at each entryway into such courtroom stating that the  
provisions of subsection (c) do not apply to such courtroom. For the  
purposes of this section, "adequate security measures" means the use of  
electronic equipment and personnel to detect and restrict the carrying of  
any weapons into the courtroom, including, but not limited to, metal  
detectors, metal detector wands or any other equipment used for similar  
purposes.

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## OFFICERS

Todd Ackerman  
President  
Marysville Police Dept.

Ron Olin  
Vice President  
Lawrence Police Dept.

Frank Gent  
Sergeant at Arms  
Beloit Police Dept.

Mike Keller  
Treasurer  
Andover Police Dept.

Sean Wallace  
Recording Secretary  
Ark City Police Dept.

James Hill  
SACOP Representative  
Salina Police Dept.

Bob Sage  
Immediate Past President  
Rose Hill Police Dept.

Doyle King  
Executive Director  
KACP

## REGIONAL REPRESENTATIVES

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KU Public Safety Dept.

Sam Budreau  
Region II  
Chanute Police Dept.

Ronnie Grice  
Region III  
KSU Public Safety Dept.

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Region IV  
Newton Police Dept.

James Braun  
Region V  
Hays Police Dept.

Vernon Ralston  
Region VI  
St. John Police Dept.

March 2, 2009

## Testimony to the House Federal and State Affairs Committee In Support of SB 53, With Modification

The Kansas Association of Chiefs of Police supports SB53 in principle. Section 2 of the bill is the area of our greatest interest. This is the section dealing with the cities' ability to revoke or suspend the license of a cereal malt beverage establishment and where the bill proposes more flexibility for cities and counties.

We believe the change from "shall" to "may" for some of the reasons for revocation or suspension of the license is proper, but is not necessarily good for all of the violations listed. We agree that cities need that flexibility in dealing with violations where the owner may not be aware of the violations committed by employees or patrons. We also believe the proposal allows the city or county to use a progressive approach to resolving problems with the CMB licensees.

However, it has been our experience in dealing with many CMB establishments that the current "shall" language has been the only reason some cities have upheld some licensing sanctions for serious violations of CMB licensees. It is based on that experience that we suggest a modification to the changes in section 2. We respectfully request the committee to consider a change in section 2 that would leave the "shall" provision for suspension or revocation for violating the following paragraphs of section 2:

- (1) The licensee has fraudulently obtained the license by giving false information in the application therefor; [page 2, lines 41-42]
- (3) the licensee has become ineligible to obtain a license under this act; [page 3, lines 3-4]
- (6) nonpayment of any license fees [page 3, line 9]
- (7) permitting any gambling in or upon the licensee's place of business; [page 3, lines 10-11]
- (9) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;
- (10) the employment of continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; [page 3, lines 16-20]

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Date: 3/2/09

Attachment 5

(13) there has been a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, in or upon the licensee's place of business. [page 3, lines 26-27]

Those violations are actions that are more serious or knowing violations which should result in suspension or revocation in every case. We have attached a balloon which would accomplish these changes.

There is another section of the current law we would like to ask the committee to also look at. That is the provision on page 1, lines 34-38, dealing with certain convictions. The current law requires no license to be issued if the applicant has a conviction within the last two years for certain convictions. The time point references for this two year period is a starting point at time of conviction and the ending point as the date of application. We ask two changes to this provision.

- (1) Change the ending date to the date of approval of the license. This will avoid a situation where a person is convicted after the date of application but prior to the approval action for the license.
- (2) Change the starting point to read “. . .has been convicted, released from incarceration, or release from probation or parole, whichever is the latter, of any felony or any crime. . .” This will prevent a person being convicted of a felony who serves two or more years in prison from being immediately eligible for a license upon release and/or while still on probation or parole for the offense in question.

Your consideration of these suggestions is appreciated. We believe these changes will accommodate the intent of the requested changes while preserving the integrity of the process for serious and intentional violations.



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1 reason other than the citizenship and residency requirements.

2 (8) A corporation, if any manager, officer or director thereof, or any  
3 stockholder owning in the aggregate more than 25% of the stock of such  
4 corporation, has been an officer, manager or director, or a stockholder  
5 owning in the aggregate more than 25% of the stock, of a corporation  
6 which: (A) Has had a retailer's license revoked under K.S.A. 41-2708, and  
7 amendments thereto; or (B) has been convicted of a violation of the drink-  
8 ing establishment act or the cereal malt beverage laws of this state.

9 (9) A person whose place of business is conducted by a manager or  
10 agent unless the manager or agent possesses all the qualifications of a  
11 licensee.

12 (10) (9) A person whose spouse would be ineligible to receive a re-  
13 tailer's license for any reason other than citizenship, residence require-  
14 ments or age, except that this subsection (b)(10) (9) shall not apply in  
15 determining eligibility for a renewal license.

16 (11) (10) A person whose spouse has been convicted of a felony or  
17 other crime which would disqualify a person from licensure under this  
18 section and such felony or other crime was committed during the time  
19 that the spouse held a license under this act.

20 (c) **After examination of an application for a retailer's license,**  
21 **the board of county commissioners or the governing body of a city**  
22 **may deny a license to a person, partnership or corporation if any**  
23 **manager, officer or director thereof, or any stockholder owning in**  
24 **the aggregate more than 25% of the stock of such corporation, has**  
25 **been an officer, manager, director or a stockholder owning in the**  
26 **aggregate more than 25% of the stock, of a corporation which has:**

27 (1) **Had a retailer's license revoked under K.S.A. 41-2708, and**  
28 **amendments thereto; or**

29 (2) **been convicted of a violation of the club and drinking estab-**  
30 **lishment act or the cereal malt beverage laws of this state.**

31 (d) Retailers' licenses shall be issued either on an annual basis or for  
32 the calendar year. If such licenses are issued on an annual basis, the board  
33 of county commissioners or the governing body of the city shall notify the  
34 distributors supplying the county or city on or before April 1 of the year  
35 if a retailer's license is not renewed.

36 Sec. 2. K.S.A. 2008 Supp. 41-2708 is hereby amended to read as  
37 follows: 41-2708. (a) The board of county commissioners or the governing  
38 body of any city, upon five days' notice to the persons holding a license,  
39 ~~shall~~ may revoke or suspend the license for any one of the following  
40 reasons:

41 ~~(1) The licensee has fraudulently obtained the license by giving false~~  
42 ~~information in the application therefor;~~

43 (2) the licensee has violated any of the provisions of K.S.A. 41-2701

Deleted and moved to new subsection (b)

1 et seq., and amendments thereto, or any rules or regulations made by the  
2 board or the city, as the case may be;

3 ~~(3) the licensee has become ineligible to obtain a license under this  
4 act;~~

5 (4) drunkenness of the licensee or permitting any intoxicated person  
6 to remain in or upon the licensee's place of business;

7 (5) the sale of cereal malt beverages to any person under the legal  
8 age for consumption of cereal malt beverage;

9 ~~(6) the nonpayment of any license fees;~~

10 ~~(7) permitting any gambling in or upon the licensee's place of  
11 business;~~

12 (8) permitting any person to mix drinks with materials purchased in  
13 or upon the place of business or brought in for that purpose;

14 ~~(9) the employment of persons under 18 years of age in dispensing  
15 or selling cereal malt beverages;~~

16 ~~(10) the employment or continuation in employment of a person in  
17 connection with the sale, serving or dispensing of cereal malt beverages  
18 if the licensee knows such person has been, within the preceding two  
19 years, adjudged guilty of a felony or of any violation of the intoxicating  
20 liquor laws of this state, another state or the United States;~~

21 (11) the sale or possession of, or permitting any person to use or  
22 consume on the licensed premises, any alcoholic liquor as defined by  
23 K.S.A. 41-102, and amendments thereto;

24 (12) the licensee has been convicted of a violation of the beer and  
25 cereal malt beverage keg registration act; or

26 ~~(13) there has been a violation of K.S.A. 21-4106 or 21-4107, and  
27 amendments thereto, in or upon the licensee's place of business.~~

28 (b) The provisions of subsections (a)(8) and (11) shall not apply if the  
29 place of business or premises also are currently licensed as a club or  
30 drinking establishment pursuant to the club and drinking establishment  
31 act.

32 (c) Within 20 days after the order of the board revoking or suspending  
33 any license, the licensee may appeal to the district court and the district  
34 court shall proceed to hear such appeal as though such court had original  
35 jurisdiction of the matter. Any appeal taken from an order revoking or sus-  
36 pending the license shall not suspend the order of revocation or sus-  
37 pension during the pendency of any such appeal. ~~In case of the revocation  
38 of the license of any licensee, no new license shall be issued to the former  
39 licensee, or to any person acting for or on the former licensee's behalf,  
40 for a period of six months thereafter.~~

41 Sec. 3. K.S.A. 2008 Supp. 41-2703 and 41-2708 are hereby repealed.

42 Sec. 4. This act shall take effect and be in force from and after its  
43 publication in the statute book.

Paragraphs (1), (3), (6), (7), (9), (10), and (13) have been deleted from subsection (a) and moved into new subsection (b). Remaining paragraphs in subsection (a) would need to be renumbered.

(b) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:  
(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;  
(2) the licensee has become ineligible to obtain a license under this act;  
(3) the nonpayment of any license fees;  
(4) permitting any gambling in or upon the licensee's place of business;  
(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;  
(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or  
(7) there has been a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, in or upon the licensee's place of business.

SENATE BILL No. 53

By Committee on Federal and State Affairs

1-21

10 AN ACT concerning cereal malt beverages; relating to discretion by cities
11 in granting and suspending or revoking a retailer's license; amending
12 K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing
13 sections.

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

15 Section 1. K.S.A. 2008 Supp. 41-2703 is hereby amended to read as
16 follows: 41-2703. (a) After examination of an application for a retailer's
17 license, the board of county commissioners or the director shall, if they
18 approve the same, issue a license to the applicant. Except as provided in
19 subsection (b), the The governing body of the city shall, if the applicant
20 is qualified as provided by law, issue a license to such applicant.

21 (b) No retailer's license shall be issued The board of county commis-
22 sions shall not be required to issue a retailer's license No retailer's license
23 shall be issued to:

24 (1) A person who is not a resident of the county in which the place
25 of business covered by the license is located, has not been a resident of
26 such county for at least six months or has not been a resident in good
27 faith of the state of Kansas.

28 (2) A person who has not been a resident of this state for at least one
29 year immediately preceding application for a retailer's license.

30 (3) A person who is not of good character and reputation in the com-
31 munity in which the person resides.

32 (4) A person who is not a citizen of the United States.

33 (5) A person who, within two years immediately preceding the date
34 of application, has been convicted of a felony or any crime involving moral
35 turpitude, drunkenness, driving a motor vehicle while under the influence
36 of intoxicating liquor or violation of any other intoxicating liquor law of
37 any state or of the United States.

38 (6) A partnership, unless all the members of the partnership are oth-
39 erwise qualified to obtain a license.

40 (7) A corporation, if any manager, officer or director thereof, or any
41 stockholder owning in the aggregate more than 25% of the stock of such
42 corporation, would be ineligible to receive a license hereunder for any
43

, released from incarceration for, or released from
probation or parole from,

PPR REV HL

5-2