

CHAPTER 92
SENATE BILL No. 19

AN ACT concerning crimes and punishment; relating to the criminal use of weapons; carrying a concealed weapon; amending K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201, 75-7c10 and 75-7c11 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 21-4201 is hereby amended to read as follows: 21-4201. (a) Criminal 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, slungshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

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

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

(5) setting a spring gun;

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

(7) 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; or

(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 60% lead by weight.

(b) Subsections (a)(1), (2), (3), (4) and (7) 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 subsections (b)(1), (2) and (3) to possess such weapons.

(c) Subsection (a)(4) shall 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;

(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. 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. 31-157 and amendments thereto; ~~or~~

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

(7) *the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

(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, 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) Subsection (a)(6) shall not apply to a law enforcement officer who is:

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

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

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

(g) Subsections (a)(6), (7) and (8) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(6), (7) and (8) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

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

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

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

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

(l) As used 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.

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

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

(2) upon or from any public road, public road right-of-way 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 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 in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto; ~~or~~

(8) *the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

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

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

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

(c) *It is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district*

attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.

(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 courthouse or court-related facilities if: (1) Such facilities have adequate security measures to ensure that no weapons are permitted to be carried into such facilities. 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;

(2) such facilities have adequate measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options;

(3) such county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

(4) such facilities have a sign conspicuously posted at each entryway into such facility stating that the provisions of subsection (c) do not apply to such facility.

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

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

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

Sec. 5. K.S.A. 2008 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. (a) Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed weapon is prohibited, no license issued pursuant to this act shall authorize the licensee to carry a concealed weapon into:

(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse;

(5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;

(6) any polling place on the day an election is held;

(7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;

(8) on the state fairgrounds;

(9) any state office building;

(10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(11) any professional athletic event not related to or involving firearms;

(12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;

(13) any elementary or secondary school, attendance center, administrative office, services center or other facility;

(14) any community college, college or university facility;

(15) any place where the carrying of firearms is prohibited by federal or state law;

(16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;

(17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatimie state hospital or Rainbow mental health facility;

(18) any city hall;

(19) any public library operated by the state or by a political subdivision of the state;

(20) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420;

(21) any church or temple; or

(22) any place in violation of K.S.A. 21-4218, and amendments thereto.

(b) (1) Violation of this section is a class A misdemeanor.

(2) *Notwithstanding the provisions of subsection (a), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

Sec. 6. K.S.A. 2008 Supp. 75-7c11 is hereby amended to read as follows: 75-7c11. (a) Nothing in this act shall be construed to prevent:

(1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a firearm in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed under this act from carrying a concealed weapon within a building or buildings of such entity, provided that the premises are posted, in accordance with rules and regulations adopted by the attorney general pursuant to this section, as premises where carrying a concealed weapon is prohibited.

(b) (1) Carrying a concealed weapon in violation of any restriction or prohibition allowed by subsection (a), if the premises are posted in accordance with rules and regulations adopted by the attorney general, is a class B misdemeanor.

(2) *Notwithstanding the provisions of subsection (a)(2), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse or court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person not in compliance with section 4, and amendments thereto.*

(c) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises where carrying a concealed weapon is prohibited pursuant to subsection (a) of K.S.A. 2008 Supp. 75-7c10 and paragraph (2) of subsection (a) of K.S.A. 2008 Supp. 75-7c11 and amendments thereto.

Sec. 7. K.S.A. 21-4217 and 21-4218 and K.S.A. 2008 Supp. 21-4201, 75-7c10 and 75-7c11 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2009.
