

SESSION OF 2005

**SUPPLEMENTAL NOTE ON
HOUSE SUBSTITUTE FOR SENATE BILL NO. 195**

As Recommended by House Committee on
Federal and State Affairs

Brief*

House Substitute for SB 195 would amend statutes dealing with seizure and disposal of firearms, training in a course of fire for active and qualified retired law enforcement officers in order to carry a firearm, and restrictions of city and county ordinances involving firearms.

The substitute bill would:

- Authorize confiscated and forfeited weapons by law enforcement agencies to be sold to a properly registered licensed federal firearms dealer for cash or traded to a federal firearms dealer for new or used firearms or accessories for use by the seizing agency (the proceeds of such sale would be credited to the asset and forfeiture fund of the seizing agency);
- Require the Kansas Law Enforcement Training Commission to adopt rules and regulations to ensure law enforcement officers are adequately trained. Such rules and regulations would include the establishment of a course of fire for active and qualified retired law enforcement officers in order to carry a firearm pursuant to federal law. The Director of the Commission would be required to provide qualification opportunities for retired officers at least twice a year and collect fees that are limited to the actual costs of the course;
- Authorize the sheriff of any county of the State to execute a warrant issued by the Secretary of Revenue to seize and dispose of firearms from a taxpayer who is delinquent in payment of income, controlled substances, sales or compensating taxes;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- State that the appraised value of the firearm, which would be applied to the taxpayer's liability to pay tax, would not be considered as a collection of moneys;
- State that a taxpayer's request for an informal conference or an appeal would stay the sale of real or personal property seized, including firearms, as a result of the delinquency of taxes in question. If the correctness of the assessment has been ascertained, the seized firearm may be sold at a public auction or if it is not sold, then the appraised value of the firearm would be credited against the taxpayer's outstanding liability. The firearm can then be transferred to the Kansas Historical Society if such firearm has historical significance, the Kansas Department of Wildlife and Parks, the Kansas Bureau of Investigation, or to the city or county where the firearm was seized. The taxpayer may appeal the appraised value and request a hearing before a district court;
- Prohibit a city or county from adopting any ordinance, resolution or regulation governing the purchase, possession, transfer, ownership, storage, or transportation of a firearm other than those authorized in state statutes. Any ordinance, resolution or regulation adopted prior to the enactment would be null and void. The prohibition would not apply to a city or county from: adopting any zoning measure relating to firearm licensees, allowing a law enforcement officer to carry out that officer's official duties, authorizing a city or county to regulate the carrying of a firearm on one's person, authorizing a city or county to regulate the carrying or possession of any firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall; and
- Authorize a city or a county to adopt a less restrictive ordinance or resolution for transporting a firearm in any air, land, or water vehicle. A person could not be prosecuted if the firearm is unloaded and fully encased in a container.

Background

House Substitute for SB 195 is a compilation of several bills: SB 195, HB 2177, HB 2303, and HB 2439, that were referred to the House Committee on Federal and State Affairs. The bills were referred to a

subcommittee which recommended that the bills be inserted into one bill. The House Committee on Federal and State Affairs adopted the amendments recommended by the subcommittee and recommended the bill favorably as amended. The following information is the background of the individual bills.

SB 195, as introduced, would authorize the Department of Revenue to dispose of firearms, seized in conjunction with various tax warrants, by transfer to the Kansas State Historical Society, the Secretary of Wildlife and Parks, the Director of the Kansas Bureau of Investigation or to the local law enforcement agencies where the firearms were seized. Proponents included Secretary of Revenue Joan Wagnon and Secretary of Wildlife and Parks Mike Hayden, who said that a number of weapons currently held by the Department of Revenue could be utilized in hunter safety and education programs if transferred to Wildlife and Parks. There were no opponents to the bill. A fiscal note indicated that any reduction in future State General Fund revenues as a result of fewer firearms being sold at public auctions would be minimal.

HB 2177, as introduced, would authorize local law enforcement agencies to dispose of a firearm by the additional means of trading confiscated weapons no longer needed for evidentiary purposes to a properly licensed federal firearms dealer for new or used firearms or accessories. Proponents included representatives from the Brown County Sheriff's Office, the Kansas Bureau of Investigation and the Kansas Sheriff's Association. There were no opponents to the bill.

The subcommittee recommended adding the option to sell a firearm to a properly licensed federal firearms dealer with the proceeds of the sale credited to the asset seizure and forfeiture fund of the seizing agency.

A fiscal note on HB 2177 indicated that the bill would probably reduce expenditures but an accurate estimate could not be made.

HB 2303, as introduced, would require the Kansas Law Enforcement Training Commission (KLETC) to adopt and enforce rules and regulations to ensure that law enforcement officers are adequately trained in a course of fire in order to carry a firearm. The bill would authorize the KLETC to charge and collect a fee from retired officers equivalent to the cost of the course. The subcommittee made technical

amendments to the bill. The fiscal note does not indicate any impact on the State General Fund.

HB 2439, as introduced, would prohibit any political subdivision from adopting any ordinance or resolution, or from taking any administrative action, governing the purchase, ownership, storage, or transportation of firearms or ammunition. Proponents of the bill included Representative L. Candy Ruff, a representative from the Attorney General's Office, several students from Washburn University, a private investigator and an attorney. The proponents stated that the bill would simplify the law by creating a state standard.

The opponents of HB 2439 included representatives from the City of Wichita and the City of Overland Park and the Kansas League of Municipalities. The opponents stated that the bill would invalidate existing ordinances that impact all aspects of local firearms control such as waiting periods and local background checks, and is a direct attack on the cities' Constitutional Home Rule authority to govern their communities.

The subcommittee made the following changes to HB 2439:

- Changed "political subdivision" to "city or county" and made the corresponding changes to the laws each could pass;
- Amended the original language of the bill to allow cities or counties to adopt zoning measures related to firearms licensees;
- Clarified that the bill does not prohibit the cities or counties from regulating the carrying of any firearm on one's person;
- Clarified that the bill does not prohibit the cities or counties from regulating the carrying or possession of a firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall;
- Clarified that the bill prohibits prosecution under any ordinance, resolution or regulation for transporting a firearm in any air, land or water vehicle if the firearm is unloaded and encased in a container.

The fiscal note indicates that the Office of Judicial Administration is unable to estimate the number of additional hearings that would be held as a result of enacting HB 2439 and, therefore, concluded that the fiscal effect of the bill is unknown.