

HOUSE BILL No. 2055

By Committee on Federal and State Affairs

1-23

Ballon #1 for HB 2055
Incorporating HB 2098
Prepared by Jason Long
Office of the Revisor of Statutes
February 8, 2013

1 AN ACT concerning the personal and family protection act; amending
2 K.S.A. 2012 Supp. 21-6309 and 75-7c10 and repealing the existing
3 sections. 75-7c05

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The carrying of a concealed handgun as
7 authorized by the personal and family protection act shall not be prohibited
8 in state or municipal buildings unless such building has adequate security
9 measures to ensure that no weapons are permitted to be carried into such
10 building.

11 (b) Any state or municipal building which contains both public access
12 entrances and restricted access entrances shall provide adequate security at
13 the public access entrances in order to prohibit the carrying of a concealed
14 handgun in such public areas.

15 (c) No state agency or municipality shall prohibit an employee who is
16 licensed to carry a concealed handgun under the provisions of the personal
17 and family protection act from carrying such concealed handgun at the
18 employee's work place unless the building has adequate security measures
19 and is properly posted prohibiting concealed carry.

20 (d) It shall not be a crime for a person to carry a concealed handgun
21 into such building so long as that person is licensed to carry a concealed
22 handgun under the provisions of the personal and family protection act and
23 has authority to enter through a restricted access entrance into such
24 building which provides adequate security measures and is properly posted
25 prohibiting concealed carry.

26 (e) A state agency or municipality which provides adequate security
27 in a public building and which properly posts a sign prohibiting the
28 carrying of a concealed handgun on the premises of such building as
29 authorized by the personal and family protection act, such state agency or
30 municipality shall not be liable for any wrongful act or omission relating
31 to actions of persons licensed to carry a concealed handgun concerning
32 acts or omissions regarding such handguns.

33 (f) A state agency or municipality which does not provide adequate
34 security in a public building and which allows the carrying of a concealed
35 handgun as authorized by the personal and family protection act shall not
36 be liable for any wrongful act or omission relating to actions of persons

1 licensed to carry a concealed handgun concerning acts or omissions
2 regarding such handguns.

3 (g) The governing body or the chief administrative officer, if no
4 governing body exists, of a state or municipal-owned medical care facility
5 as defined in K.S.A. 65-425, and amendments thereto, may exempt itself
6 from this section for a period of four years by stating the reasons for such
7 exemption. Notice of this exemption shall be sent to the Kansas attorney
8 general.

9 (h) The governing body or the chief administrative officer, if no
10 governing body exists, of a state or municipal-owned adult care home as
11 defined in K.S.A. 39-923, and amendments thereto, may exempt itself
12 from this section for a period of four years by stating the reasons for such
13 exemption. Notice of this exemption shall be sent to the Kansas attorney
14 general.

15 (i) The governing body or the chief administrative officer, if no
16 governing body exists, of a post secondary educational institution, as
17 defined in K.S.A. 74-3201b, and amendments thereto, may exempt the
18 institution from this section for a period of four years by stating the
19 reasons for such exemption. Notice of this exemption shall be sent to the
20 Kansas attorney general.

21 (j) Subject to provisions of subsection (b), nothing in this act shall
22 limit the ability of a corrections facility, a jail facility or a law enforcement
23 agency to prohibit the carrying of a concealed handgun by any person on
24 such premises.

25 (k) For purposes of this section:

26 (1) "Adequate security measures" means the use of electronic
27 equipment and personnel at public entrances to detect and restrict the
28 carrying of any weapons into the state or municipal building, including,
29 but not limited to, metal detectors, metal detector wands or any other
30 equipment used for similar purposes to ensure that weapons are not
31 permitted to be carried into such building by members of the public.

32 (2) The terms "municipality" and "municipal" are interchangeable
33 and have the same meaning as the term "municipality" is defined in
34 K.S.A.75-6102, and amendments thereto, but does not include school
35 districts.

36 (3) "Restricted access entrance" means an entrance that is restricted to
37 the public and requires a key, keycard, code, or similar device to allow
38 entry to authorized personnel.

39 (4) "State" means the same as the term is defined in K.S.A. 75-6102,
40 and amendments thereto.

41 (5) "State or municipal building" means a building owned or leased
42 by such public entity. It does not include a building owned by the state or a
43 municipality which is leased by a private entity whether for profit or not-

1 for-profit or a building held in title by the state or a municipality solely for
2 reasons of revenue bond financing.

3 (6) "Weapon" means a weapon described in K.S.A. 2012 Supp. 21-
4 6301, and amendments thereto.

5 (1) This section shall be a part of and supplemental to the personal
6 and family protection act.

7 Sec. 2. K.S.A. 2012 Supp. 21-6309 is hereby amended to read as
8 follows: 21-6309. (a) It shall be unlawful to possess, with no requirement
9 of a culpable mental state, a firearm on the grounds in any of the following
10 places:

11 (1) Within any building located within the capitol complex;

12 (2) within the governor's residence;

13 (3) on the grounds of or in any building on the grounds of the
14 governor's residence;

15 (4) *subject to section 1, and amendments thereto*, within any other
16 state-owned or leased building if the secretary of administration has so
17 designated by rules and regulations and conspicuously placed signs clearly
18 stating that firearms are prohibited within such building; or

19 (5) *subject to section 1, and amendments thereto*, within any county
20 courthouse, unless, by county resolution, the board of county
21 commissioners authorize the possession of a firearm within such
22 courthouse.

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

24 (c) This section shall not apply to:

25 (1) A commissioned law enforcement officer;

26 (2) a full-time salaried law enforcement officer of another state or the
27 federal government who is carrying out official duties while in this state;

28 (3) any person summoned by any such officer to assist in making
29 arrests or preserving the peace while actually engaged in assisting such
30 officer;

31 (4) a member of the military of this state or the United States engaged
32 in the performance of duties; or

33 (5) a person with a license issued pursuant to or recognized under
34 K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto, except in
35 buildings posted in accordance with K.S.A. 2012 Supp. 75-7c10, and
36 amendments thereto, and in the areas specified in subsections (a)(2) and
37 (a)(3).

38 (d) It is not a violation of this section for the:

39 (1) Governor, the governor's immediate family, or specifically
40 authorized guest of the governor to possess a firearm within the governor's
41 residence or on the grounds of or in any building on the grounds of the
42 governor's residence; or

43 (2) United States attorney for the district of Kansas, the attorney

1 general, any district attorney or county attorney, any assistant United
2 States attorney if authorized by the United States attorney for the district
3 of Kansas, any assistant attorney general if authorized by the attorney
4 general, or any assistant district attorney or assistant county attorney if
5 authorized by the district attorney or county attorney by whom such
6 assistant is employed, to possess a firearm within any county courthouse
7 and court-related facility, subject to any restrictions or prohibitions
8 imposed in any courtroom by the chief judge of the judicial district. The
9 provisions of this paragraph shall not apply to any person not in
10 compliance with K.S.A. 2012 Supp. 75-7c19, and amendments thereto.

11 *(e) It is not a violation of this section for a person to possess a*
12 *handgun as authorized under the personal and family protection act.*

13 ~~(f)~~ *(f)* Notwithstanding the provisions of this section, any county may
14 elect by passage of a resolution that the provisions of subsection (d)(2)
15 shall not apply to such county's courthouse or court-related facilities if
16 such:

17 (1) Facilities have adequate security measures to ensure that no
18 weapons are permitted to be carried into such facilities;

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

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

27 (4) Facilities have a sign conspicuously posted at each entryway into
28 such facility stating that the provisions of subsection (d)(2) do not apply to
29 such facility.

30 ~~(g)~~ *(g)* As used in this section:

31 (1) "Adequate security measures" means the use of electronic
32 equipment and personnel *at public entrances* to detect and restrict the
33 carrying of any weapons into the facility, including, but not limited to,
34 metal detectors, metal detector wands or any other equipment used for
35 similar purposes;

36 (2) "possession" means having joint or exclusive control over a
37 firearm or having a firearm in a place where the person has some measure
38 of access and right of control; and

39 (3) "capitol complex" means the same as in K.S.A. 75-4514, and
40 amendments thereto.

41 ~~(h)~~ *(h)* For the purposes of subsection (a)(1), (a)(4) and (a)(5),
42 "building" and "courthouse" shall not include any structure, or any area of
43 any structure, designated for the parking of motor vehicles.

See Insert for Page 5

Sec. 3. K.S.A. 2012 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. (a) Subject to the provisions of section 1, and amendments thereto, provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the attorney general as premises where carrying a concealed handgun is prohibited, no license issued pursuant to or recognized by this act shall authorize the licensee to carry a concealed handgun into the building of:

And by renumbering remaining sections accordingly

(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, except that nothing in this section would preclude a judge from carrying a concealed handgun or determining who may carry a concealed handgun in the judge's courtroom;

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

(6) any state office;

(7) any facility hosting an 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;

(8) any facility hosting a professional athletic event not related to or involving firearms;

(9) any drinking establishment as defined by K.S.A. 41-2601, and amendments thereto;

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

(11) any community college, college or university;

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

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

(14) any public library operated by the state;

(15) 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; or

(16) any place of worship.

(b) (1) Any private entity which provides adequate security in a private building or facility and which properly posts a sign prohibiting the carrying of a concealed handgun on the premises of such building or

1 facility as authorized by the personal and family protection act shall not
2 be liable for any wrongful act or omission relating to actions of persons
3 licensed to carry a concealed handgun concerning acts or omissions
4 regarding such handguns.

5 (2) Any private entity which does not provide adequate security in a
6 private building or facility and which allows the carrying of a concealed
7 handgun as authorized by the personal and family protection act shall not
8 be liable for any wrongful act or omission relating to actions of persons
9 licensed to carry a concealed handgun concerning acts or omissions
10 regarding such handguns.

11 (c) Nothing in this act shall be construed to prevent:

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

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

24 (e) (d) (1) It shall be a violation of this section to carry a concealed
25 handgun in violation of any restriction or prohibition allowed by
26 subsection (a) or (b) if the premises are posted in accordance with rules
27 and regulations adopted by the attorney general pursuant to subsection (f).
28 Any person who violates this section shall be guilty of a misdemeanor
29 punishable by a fine of: (A) Not more than \$50 for the first offense; or (B)
30 not more than \$100 for the second offense. Any third or subsequent
31 offense is a class B misdemeanor.

32 (2) Notwithstanding the provisions of subsection (a) or (b), it is not a
33 violation of this section for the United States attorney for the district of
34 Kansas, the attorney general, any district attorney or county attorney, any
35 assistant United States attorney if authorized by the United States attorney
36 for the district of Kansas, any assistant attorney general if authorized by
37 the attorney general, or any assistant district attorney or assistant county
38 attorney if authorized by the district attorney or county attorney by whom
39 such assistant is employed, to possess a handgun within any of the
40 buildings described in subsection (a) or (b), subject to any restrictions or
41 prohibitions imposed in any courtroom by the chief judge of the judicial
42 district. The provisions of this paragraph shall not apply to any person who
43 is not in compliance with K.S.A. 2012 Supp. 75-7c19, and amendments

1 therefo.

2 ~~(e)~~ (e) For the purposes of this section, "building" shall not include
3 any structure, or any area of any structure, designated for the parking of
4 motor vehicles.

5 ~~(f)~~ (f) Nothing in this act shall be construed to authorize the carrying
6 or possession of a handgun where prohibited by federal law.

7 ~~(g)~~ (g) The attorney general shall adopt rules and regulations
8 prescribing the location, content, size and other characteristics of signs to
9 be posted on premises where carrying a concealed handgun is prohibited
10 pursuant to subsections (a) and (b). Such regulations shall prescribe, at a
11 minimum, that:

12 (1) The signs be posted at all exterior entrances to the prohibited
13 buildings;

14 (2) ~~they~~ *the signs* be posted at eye level of adults using the entrance
15 and not more than 12 inches to the right or left of such entrance;

16 (3) the signs not be obstructed or altered in any way; and
17 (4) signs which become illegible for any reason be immediately
18 replaced.

19 Sec. 4. K.S.A. 2012 Supp. 21-6309 and 75-7c10 are hereby repealed.

20 Sec. 5. This act shall take effect and be in force from and after its
21 publication in the statute book.

75-7c05

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Sec. 3 K.S.A. 2012 Supp. 75-7c05 is hereby amended to read as follows: 75-7c05. (a)

The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion;

(B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 2012 Supp. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2012 Supp. 21-5903, and amendments thereto;
and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) The applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

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(1) A completed application described in subsection (a);

(2) ~~except as provided by subsection (g)~~, a nonrefundable license fee of \$132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of \$32.50 payable to the sheriff of the county where the applicant resides and \$100 payable to the attorney general;

(3) a photocopy of a certificate or an affidavit or document as described in subsection (b) of K.S.A. 2012 Supp. 75-7c04, and amendments thereto, or if applicable, of a license to carry a firearm as described in subsection (d) of K.S.A. 2012 Supp. 75-7c03, and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) The sheriff, upon receipt of the items listed in subsection (b) of this section, shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward to the attorney general a copy of the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff. Notwithstanding anything in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 2012 Supp. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general

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containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) Within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

- (1) Issue the license and certify the issuance to the department of revenue; or
- (2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 2012 Supp. 75-

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7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) Each person issued a license shall pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, shall be: (A) Required to pay an original license fee of ~~\$75, which fee shall be in the form of two cashier checks or money orders, \$25 payable to the sheriff of the county where the applicant resides and \$50 payable to the attorney general, to be forwarded by the sheriff to the attorney general~~ as provided in subsection (b)(2); (B) exempt from the required completion of a ~~weapons~~ handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) required to pay the license renewal fee; (D) required to pay to the department of revenue the fees required by subsection (f); and (E) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

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(h) A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay an original license fee as provided in subsection (b)(2); (2) exempt from the required completion of a handgun safety and training course if such person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; (3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5) required to comply with the criminal history records check requirement of this section.

