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House Federal and State Affairs Committee
HB 2111
Assistant Attorney General Charles W. Klebe
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Mr. Chairman and members of the Committee, thank you for allowing me to provide written testimony regarding HB 2111 ("Bill"). I am the Assistant Attorney General responsible for the Concealed Carry Licensing Unit (Unit) and its administration of the Kansas Personal and Family Protection Act (KPFPA). If you wish, I am happy to stand for any questions. Our position here is that the contents of this Bill is a policy determination which rests within the discretion of the Legislature and, therefore, we stand neutral and merely offer technical considerations for the Bill.

The Attorney General has recently offered two formal Opinions regarding KSA 12-16,124. See AG Opinions 2011-006 and 2011-024. As interpreted by our Office, currently this statute allows cities and counties limited regulation of (1) the "manner" (way, mode or method) of openly carrying a loaded firearm on the person of anyone; or (2) a loaded firearm from being openly carried within the immediate control of a non-CCH licensee. But, according to those Opinions, the current law would not allow a city or county to completely prohibit the open carry of a loaded firearm; and the current law would not allow a city or county to regulate the open carry of an *unloaded* firearm by anyone. The current law also allows cities and counties to require firearms being transported in motor vehicles to be unloaded and in a container that completely encloses the firearm (or cities and counties can choose to be less restrictive than that – for instance, they could allow a firearm to be transported in a loaded and open manner).

HB 2111

Section 1:

One technical consideration that the Attorney General wishes to highlight here is the interplay between the proposed changes of section 1 and the provisions of the Personal and Family Protection Act (PFPA), K.S.A. 75-7c01 *et seq.* For example, HB 2111 proposes to strike the language, "... and subsection (a) of K.S.A. 2012 Supp. 75-7c11, and amendments thereto," from paragraph (a) (found on lines 11-13 of the Bill). K.S.A. 75-7c11 is itself no longer in existence - it was stricken in 2010 when its provisions were moved within current subsection (b) of K.S.A. 75-7c10. So striking the reference to "75-7c11" in favor of a reference to current law would certainly make sense; but completely striking the reference with no further substitution may lead to a statutory conflict as explained below.

HB 2111 says cities and counties cannot take any "administrative action" concerning, among other actions, the "carrying" of firearms "on one's person[.]" Meanwhile, 75-7c10 (as it is unaffected by this Bill) would still give cities and counties the authority to post signage (an "administrative action") on their buildings which would restrict the licensed concealed carry [on one's person] of a handgun within that building. See, 75-7c10(a) and (b). Further, under 75-7c10(b), employers (which would include cities and counties) would still be allowed to restrict the licensed concealed carry of handguns by employees at the place of business or while the employee is otherwise engaged in the duties of their employment – no matter where they are. The restriction of an employee's licensed CCH while engaged in employment activities

would appear to be an “administrative action” that would seemingly be disallowed by HB 2111 but also allowed expressly by 75-7c10(b).

The intent of my technical highlight here is not to suggest that a striking of 75-7c10(b) should also be considered. In fact, such an action may lead to a lot of other confusion in the context of the employment relationship and licensees (confusion that has been clarified over the years of amendments to the KPFFPA). Those are policy considerations for the Legislature to make. I only suggest that a wholesale striking of a city or county’s ability to regulate firearms under KSA 12-16,124 needs to be carefully reconciled with current allowances within state law, such as the PFPA, that allow CCH action by cities and counties.

Finally, for the law to be clear that any current, former or prior “ordinance, resolution or regulation adopted” is within the reach of paragraph (a) – as appears to be the intent, the Committee may want to consider adding language such as “Further, . . .” or “In addition, . . .” to lead-in the last sentence of that paragraph. Along that same line, the “2007” effective date should probably be updated as well – otherwise any enactments that occurred between July 1, 2007 and July 1, 2013 could fall into a grey area of applicability.

Again, I appreciate the Committee’s time and attention to my testimony. Hopefully my comments provide some clarity to technical issues that we foresee. If not, I will gladly stand for questions to clarify my comments.

Respectfully submitted,



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Concealed Carry Unit