

SESSION OF 2013

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2052**

As Agreed to April 3, 2013

Brief*

Senate Sub. for HB 2052 would enact new law and amend existing law concerning firearms, criminal law, and the Personal and Family Protection Act.

Specifically, the bill would:

- Prohibit the unlawful discharge of a firearm within or into the corporate limits of any city. The bill would provide exemptions for when a firearm may be discharged within or into a city and also classify the unlawful discharge of a firearm as a class B, nonperson misdemeanor;
- Modify the Personal and Family Protection Act (Act) to allow the possession of firearms on certain governmental property, including in state and municipal buildings;
- Require adequate security measures at public entrances of state and municipal buildings in order to prohibit the carrying of any weapon into a building;
- Prevent a state agency or municipality from prohibiting a licensed employee from carrying a concealed handgun at the employee's workplace,

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unless the building has adequate security measures;

- Provide that it will not be a violation of the Act for a licensed person to carry a concealed handgun through a restricted access entrance into a state or municipal building with adequate security measures;
- Enact liability protections for entities allowing concealed carry in state or municipal buildings;
- Allow corrections facilities, jail facilities, or law enforcement agencies to prohibit the carrying of handguns or firearms, concealed or unconcealed, into the secured areas of such buildings, except any other area of such building, outside a secured area and readily accessible to the public, shall be subject to provisions in the Act;
- Allow the chief judge of each judicial district to prohibit the carrying of a concealed handgun into courtrooms or ancillary courtrooms within the district provided other means of security are employed;
- Allow the governing body or chief administrative officer of any state or municipal building to exempt the building for four years, subject to developing a plan for security measures and filing notification of the exemption;
- Provide a specific four-year exemption for any state or municipal building if the governing body or chief administrative officer follows specified procedures for exempting certain entities: public medical care facilities, public adult care homes, community mental health centers, indigent health care clinics, and post-secondary educational institutions.

- Exclude the buildings of the Kansas School for the Blind and School for the Deaf from application of this exemption;
- Define, for the purposes of the bill, the terms “adequate security measures,” “municipality,” “restricted access entrance,” “state,” “state or municipal building,” and “weapon”;
- Exclude school districts from the definition of municipality when used in the bill;
- Exclude the State Capitol from the definition of “state and municipal building” as used in the bill;
- Add law enforcement officers from another state and qualified retired law enforcement officers to a list of individuals exempted from the law prohibiting the criminal carrying of a weapon;
- Strike language prohibiting the possession of a firearm on the grounds of certain government buildings, including the State Capitol;
- Exempt the State Capitol from provisions of the Act on and after July 1, 2014, and allow a licensee to carry a concealed handgun in the State Capitol, unless the Legislative Coordinating Council determines the Statehouse does have adequate security measures;
- Update statutes by striking a reference to the Ombudsman of Corrections;
- Unless otherwise required by law, prohibit the release of records that would disclose the name, home address, zip code, e-mail address, phone number or cell number, or other contact information of any person licensed to carry concealed

handguns. The provision also would apply to applicants for a license;

- Delete a reduced fee for a concealed carry license for retired law enforcement officers;
- Allow corrections officers, parole officers, and corrections officers employed by the Federal Bureau of Prisons to apply professional firearms certification toward training requirements for a concealed carry license;
- Remove a specific listing of buildings where concealed carrying is prohibited and insert the new language of “any building”;
- Include liability protections regarding concealed carry and private businesses;
- Permit school districts, post-secondary educational institutions, public medical care facilities, public adult care homes, community mental health centers, and indigent health care clinics to allow a licensed employee to concealed carry a handgun if the employee meets the entity’s policy requirements;
- Establish that it shall not be a crime for a person to carry a concealed handgun into a public building if properly posted and allow for the denial to or removal from buildings where concealed carry is prohibited;
- Allow law enforcement officers from other states and qualified retired law enforcement officers to possess handguns within buildings where concealed carry may be prohibited;
- Change references either to premise or premises and facility or facilities to either building or buildings; and

- Make most provisions in the bill effective on July 1, 2013, and the provisions pertaining to the State Capitol on July 1, 2014 (unless the Legislative Coordinating Council determines the Statehouse does not have adequate security measures as defined in the bill).

Conference Committee Action

The Conference Committee agreed to:

- Retain most language from HB 2052 as passed by the House and Senate concerning unlawful discharge of a firearm into or within a city;
- Retain two Senate-passed clarifying changes, one referring to private or “public” shooting ranges and the other to a firearm discharged by special permit of the chief of police, “or by the sheriff when the city has no police department”;
- Reinsert House-passed language from HB 2052 concerning discharge of a firearm in self-defense involving animals “if a reasonable person would believe that deadly force against an animal was necessary under the circumstances”;
- Reinsert House-passed language regarding four-year exemptions for certain entities specifically identified in the bill, including certain medical care facilities, adult care homes, mental health centers, and indigent health care clinics;
- Clarify that the School for the Blind and School for the Deaf are excluded from this exception;
- Add a global exemption for four years similar to the Senate-passed provision to allow exemption for any other state or municipal building if a governing body or other authority would take the required

actions of notification and adoption of a security plan for each building;

- Add additional entities to a Senate-passed provision for school districts and post-secondary institutions that would allow employees of all the specifically identified entities to concealed carry handguns, if permitted by their employer. These additional entities would include medical care facilities, adult care homes, mental health centers, and indigent health care clinics, in addition to the school districts and post-secondary institutions;
- Exclude school districts from the definition of municipality as passed by the House and the State Capitol from the term “state and municipal buildings”;
- Make consistent two definitions of what constitutes adequate security measures in buildings as passed by the House and as reconciled in the Senate version, and add wording to permit gun lockers, rather than requiring them as in the Senate-passed bill, as part of the definition of adequate security measures;
- Retain a Senate-passed amendment to KSA 75-7c10 in the Personal and Family Protection Act which would delete a list of places where concealed carry could be prohibited and would replace current language with a reference to “any building”;
- Modify provisions and their placement in the bill as passed by both the House and Senate for out-of-state and retired law enforcement officers, allowing exemption from requiring a concealed carry license, if certain conditions would be met by such persons;
- Retain the Senate-passed provisions related to open records exceptions that were not included in

either of the House versions of two bills (HB 2052 or HB 2055) that would restrict release of information about concealed carry licensees;

- Restore deleted language in the Senate-passed bill pertaining to private businesses and liability protection, specifically adding the two House-passed provisions and adding the one provision adopted by the Senate Committee, all of which were deleted by the Senate Committee of the Whole. The restored provisions would provide liability protection for private businesses that either prohibit or permit the concealed carry of handguns by licensees;
- Make consistent the wording for all references to either “building” or “buildings,” and change other references for both “premise” or “premises” and “facility” or “facilities” to either “building” or “buildings”;
- Exempt the State Capitol from provisions in the Act on and after July 1, 2014, unless the Legislative Coordinating Council determines that the Statehouse has adequate security measures at that date. The Conference Committee recommendation would allow concealed carry of handguns in the State Capitol by licensees, but would continue to prohibit “open carry” in the Statehouse by reinserting the House-passed items that deleted the current prohibition in statute;
- Retain a provision addressing the chief judges of the district courts that was added by the Senate concerning control over courtrooms and other related facilities; and
- Delay the effective date to July 1, 2014, for provisions addressing the State Capitol and make all other provisions effective July 1, 2013.

Background

The House Committee on Federal and State Affairs considered the subject matter in Senate Sub. for HB 2052 as two different bills: HB 2052, which addressed unlawful discharge of firearms in cities, and HB 2055, which addressed most other provisions in the Senate version of the bill.

In the House Committee, proponents of HB 2052 included Representative Jim Howell, representatives of the Kansas State Rifle Association and the Kansas Association of Chiefs of Police, and two private citizens. No one else testified on the bill.

In the House Committee, proponents of HB 2055 included Senator Forrest Knox and Representative Jim Howell, a representative of the Kansas State Rifle Association, the Sedgwick County Clerk, a representative of the Kansas Association of Community Colleges (provided that an exemption is allowed for postsecondary institutions), the State Chairperson of the Libertarian Party of Kansas, and two private citizens.

Opponents included representatives of the City of Lenexa; the Unified Government of Wyandotte County and Kansas City, Kansas; the League of Kansas Municipalities; the City of Wichita; the Association of Mental Health Centers of Kansas, Inc.; the Office of Judicial Administration; the Kansas Community Corrections Association; the City of Overland Park; the Kansas Association of Court Service Officers; the Kansas Association of Counties; LeadingAge Kansas (formerly the Kansas Association of Homes and Services for the Aging); the Johnson County Board of County Commissioners; and the City of Overland Park.

The Attorney General's Office submitted neutral testimony, pointing out several areas of concern in HB 2055, suggesting clarifications depending upon legislative intent.

Neutral testimony was submitted by representatives of the Kansas Board of Regents and the Kansas Hospital Association, both asking that the bill include an option for a four-year exemption whereby the Regents' institutions and the hospitals may opt-out from provisions in the new law.

The Senate Committee on Federal and State Affairs held a hearing on HB 2052, as passed by the House. The bill contained the language on the unlawful discharge of a firearm within or into a city. At the Senate Committee hearing, proponent testimony was provided by Representative Jim Howell and representatives of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas State Rifle Association. No opponent or neutral testimony was provided.

The Senate Committee recommended a substitute bill. The substitute language contained numerous provisions from other firearms-related bills, including SB 157 (retired law enforcement), SB 158 (open records), and SB 186 (concealed carry in government buildings).

The fiscal note on HB 2052, as introduced, indicated its passage would have no fiscal impact on the Kansas Department of Wildlife, Parks and Tourism. The fiscal impact of the bill on Kansas cities could not be determined.

The fiscal note provided by the Division of the Budget on HB 2055, as introduced, indicated the Attorney General reported the fiscal effect would be negligible. There was no information provided by municipalities and nothing was included in the fiscal note about the potential municipal expenses.

firearms; weapons; concealed carry; concealed handgun; firearm discharge; municipal building; state building; state capitol; adequate security measures; school district; law enforcement officer; exemptions; personal and family protection act; records

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