

SESSION OF 2013

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 102**

As Agreed to April 4, 2013

Brief*

SB 102 would establish the Second Amendment Protection Act.

First, the bill would exclude from federal regulation any personal firearm, firearm accessory, or ammunition manufactured commercially or privately and owned in Kansas. The bill would provide that for as long as any such personal firearm, firearm accessory, or ammunition would remain within the borders of Kansas, it would not be subjected to any federal law, regulation, or authority.

Second, the bill would prevent any federal agent or contracted employee, any state employee, or any local authority from enforcing any federal regulation or law governing any personal firearm, firearm accessory, or ammunition manufactured commercially or privately and owned in Kansas, provided it remained within the borders of Kansas. In the process of a criminal prosecution, the bill would preclude any arrest or detention prior to a trial for a violation of the Act.

Finally, the bill would allow a county or district attorney or the Attorney General to seek injunctive relief in court to enjoin certain federal officials from enforcing federal law regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The second Conference Committee removed the contents of SB 102 and inserted the contents of HB 2199 as passed by the House Committee of the Whole. The Conference Committee amended the bill to permit a trial for a violation of the Act; prohibit an official, agent, or employee from being arrested or detained prior to a trial; and authorize a county or district attorney or the Attorney General to seek injunctive relief in court from enforcing federal law in Kansas.

Background

On HB 2199 as introduced, proponents for the bill present at the House Committee hearing and presenting testimony included Representatives Rubin and Howell, Kris W. Kobach (in his personal capacity), representatives of the Kansas State Rifle Association and the Kansas Sovereignty Coalition, and a private citizen. Other written testimony in support of the bill was submitted by four other citizens, two Sedgwick County Commissioners, and one medical doctor.

A representative of the Attorney General's Office provided neutral written testimony, and cited several sections of the bill to scrutinize closely. The testimony indicated those sections could lead to future litigation and might risk exposing the State of Kansas to financial liability resulting from monetary awards to plaintiffs resulting from federal civil rights lawsuits under 42 U.S.C. 1983.

Testimony in opposition to the bill was provided by representatives of Kansas Action for Children and the Kansas Chapter of the American Academy of Pediatrics.

A representative of the Kansas Medical Society offered a suggested amendment to Section 9, dealing with inquiries into whether a patient has firearms at home (suggesting that references to “physician” and “psychiatrist” in the bill as introduced be changed to “health care provider,” along with other changes to the original language in Section 9).

The House Committee amended HB 2199 to:

- Delete Section 9 that addressed health care providers;
- Add a reference to “any political subdivision” in order to include employees of local authorities, in addition to state and federal employees, as prohibited from enforcing federal firearms provisions;
- Eliminate reference to dealers selling firearms; and
- Make adjustments in the wording of several provisions in order to keep consistent the language used when referring to:
 - Ownership of firearms, firearms accessories, and ammunition; and
 - Firearm products that are manufactured commercially or privately.

According to the Division of the Budget, the Attorney General estimated the original bill’s fiscal impact due to defending legal challenges could cost approximately \$25,000 in FY 2013, \$100,000 to \$350,000 in FY 2014, and \$100,000 in FY 2015. The Attorney General noted that if the State lost any litigation, there could be additional costs if ordered to pay the attorneys’ fees of the prevailing party.

Second Amendment; firearms; state officials; federal officials

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