

March 26, 2014

The Honorable Ralph Ostmeyer, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 447 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 447 is respectfully submitted to your committee.

SB 447 would address concealed carrying of handguns; open carrying of firearms; regulation of firearms and knives by local governments; forfeiture, return, and buy back of firearms; criminal use of weapons; and criminal possession of weapons.

The bill would prohibit municipal employers from requiring their employees to disclose if they have a concealed carry license. Employees could not be discriminated against based on their refusal to disclose their status as a concealed carry license holder. In addition, no license records could be maintained and existing ones would have to be destroyed. No municipality would be liable for wrongful acts relating to the actions of any person carrying a firearm. The bill would add a conviction for criminal possession of a weapon, including a knife, as a reason the Attorney General could deny an application for a concealed carry handgun license.

SB 447 would add new posting requirements for buildings where the open carrying of firearms could be prohibited. It would be a violation of statute to carry an unconcealed firearm into a building that was conspicuously posted according to the new requirements and posted in accordance with the rules and regulations of the Attorney General. However, there would be no criminal penalty associated with a violation of this law, but the person could be ejected from the premises.

The bill replaces current law concerning the operation, possession, or carrying of a concealed handgun when under the influence of alcohol or drugs with a new provision applying the penalties for operating, possession, or carrying any firearm under the influence, not just concealed handguns. SB 447 would make it a class A nonperson misdemeanor to knowingly possess or carry a loaded firearm within a person's immediate access while in a vehicle if the

person is under the influence to such a degree as to render the person incapable of safely operating the firearm. The bill prescribes standards for how a court would weigh evidence of intoxication, and provides for the revocation of a concealed carry license when an individual refuses or fails a test for intoxication.

Under current law, cities and counties were excluded from many aspects of the governing and regulation of firearms. SB 447 would allow cities and counties to adopt ordinances, resolutions, or regulations relative to the personnel policies governing concealed carry of handguns by city or county employees, so long as they are in compliance with current law (KSA 2013 Supp. 75-7c20). The bill would repeal statutory provisions delegating to local government the authority to regulate open carry and transportation of a firearm.

Municipalities could not enact or enforce rules or regulation of knives that are more restrictive than regulation on any other commercial product. Individuals could not be prosecuted for violating municipal regulation on knives or knife making components until the effective date of the bill. The bill would allow an individual to petition for expungement if he or she was convicted of a violation of any ordinance, if that ordinance was adopted prior to July 1, 2014.

The bill would repeal certain provisions concerning the forfeiture of firearms, adding new language that weapons or ammunition not covered elsewhere by statute must be at the discretion of the court:

1. Forfeiture to the law enforcement agency that seized the weapon for sale or trade to a licensed federal firearms dealer;
2. Forfeiture to the Kansas Bureau of Investigation for law enforcement, testing, or comparison by the forensic laboratory;
3. Forfeiture to a county forensic laboratory for law enforcement, testing, or comparison; or
4. Forfeiture to the Kansas Department of Wildlife, Parks and Tourism.

The bill also addresses the return of seized weapons. Individuals without a prior conviction could retrieve their weapon after law enforcement has verified that it is not stolen. Weapons that cannot be returned are destroyed.

SB 447 would prohibit local government taxes from being used to implement, administer, or operate a firearms buyback program.

Daggers, dirks, dangerous knives, straight-edged razors, and stilettos would be added to the list of prohibited weapons, and the possession of any such dangerous weapon with the intent to use it against another person would be a crime. The bill would modify the definition of “criminal possession of a firearm by a convicted felon” to “criminal possession of a weapon by a convicted felon.”

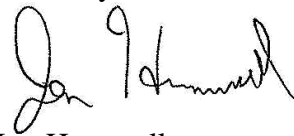
The Office of the Attorney General and the Kansas Bureau of Investigation reported that enactment of SB 447 would have no fiscal effect on their agencies.

The Office of Judicial Administration states the redefinition of “criminal possession of a firearm by a convicted felon” to “criminal possession of a weapon by a convicted felon” could have a fiscal effect on the Judicial Branch. “Weapon” would include knives, as defined in the bill. This provision has the potential to result in the filing of a significant number of new cases in the district courts and potential appeals of those cases in the appellate courts. Because criminal possession of a weapon is a severity level 8 felony, persons convicted of those crimes would likely be supervised by court services officers employed by the Judicial Branch. In addition, the bill could result in an increase in docket fee. However, until the courts have had an opportunity to operate under the provisions of SB 447, an accurate estimate of the fiscal effect cannot be given.

The Kansas Sentencing Commission states that this bill would have no immediate effect on admission and prison bed need. It would have an effect on the probation population due to expansion of the definition from firearm to weapons. It would also result in additional journal entries for the Commission’s staff. However, the fiscal effect on probation and the Commission’s workload cannot be determined. Any fiscal effect associated with SB 447 is not reflected in *The FY 2015 Governor’s Budget Report*.

The League of Kansas Municipalities states that in its opinion this bill would have an adverse fiscal effect on cities. Those cities that have adopted written personnel policies to address employees carrying handguns on the job and employee disclosure of being licensed for concealed carry would be required to change such policies. Also, any city that has adopted ordinances regulating guns and knives would have to repeal all such ordinances. Staff time would be required to redraft policies and prepare ordinances to repeal any conflicts. Because it is unknown how many cities may have conflicting policies and ordinances, it is not possible to quantify what the impact to Kansas cities would be.

Sincerely,



Jon Hummell,
Interim Director of the Budget

cc: Larry Baer, LKM
Melissa Wangemann, KAC
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