

HOUSE BILL No. 2033

By Committee on Federal and State Affairs

1-18

1 AN ACT concerning regulation of knives; relating to carrying or using
2 weapons; amending K.S.A. 2012 Supp. 21-6301 and 21-6302 and
3 repealing the existing sections.
4

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

6 New Section 1. (a) A municipality shall not enact any ordinance,
7 resolution, rule or tax relating to the transportation, possession, carrying,
8 sale, transfer, purchase, gift, devise, licensing, registration or use of a knife
9 or knife making components.

10 (b) A municipality shall not enact any ordinance, resolution or rule
11 relating to the manufacture of a knife that is more restrictive than any such
12 ordinance, resolution or rule relating to the manufacture of any other
13 commercial goods.

14 (c) As used in this section:

15 (1) "Knife" means a cutting instrument and includes a sharpened or
16 pointed blade.

17 (2) "Municipality" has the same meaning as defined in K.S.A. 75-
18 6102, and amendments thereto.

19 Sec. 2. K.S.A. 2012 Supp. 21-6301 is hereby amended to read as
20 follows: 21-6301. (a) Criminal use of weapons is knowingly:

21 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
22 sand club, metal knuckles or throwing star, ~~or any knife, commonly~~
23 ~~referred to as a switch blade, which has a blade that opens automatically~~
24 ~~by hand pressure applied to a button, spring or other device in the handle~~
25 ~~of the knife, or any knife having a blade that opens or falls or is ejected~~
26 ~~into position by the force of gravity or by an outward, downward or~~
27 ~~centrifugal thrust or movement;~~

28 (2) possessing with intent to use the same unlawfully against another,
29 ~~a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged~~
30 ~~razor, stiletto or any other dangerous or deadly weapon or instrument of~~
31 ~~like character, except that an ordinary pocket knife with no blade more~~
32 ~~than four inches in length shall not be construed to be a dangerous knife,~~
33 ~~or a dangerous or deadly weapon or instrument;~~

34 (3) setting a spring gun;

35 (4) possessing any device or attachment of any kind designed, used or
36 intended for use in suppressing the report of any firearm;

1 (5) selling, manufacturing, purchasing or possessing a shotgun with a
2 barrel less than 18 inches in length, or any firearm designed to discharge or
3 capable of discharging automatically more than once by a single function
4 of the trigger, whether the person knows or has reason to know the length
5 of the barrel or that the firearm is designed or capable of discharging
6 automatically;

7 (6) possessing, manufacturing, causing to be manufactured, selling,
8 offering for sale, lending, purchasing or giving away any cartridge which
9 can be fired by a handgun and which has a plastic-coated bullet that has a
10 core of less than 60% lead by weight, whether the person knows or has
11 reason to know that the plastic-coated bullet has a core of less than 60%
12 lead by weight;

13 (7) selling, giving or otherwise transferring any firearm with a barrel
14 less than 12 inches long to any person under 18 years of age whether the
15 person knows or has reason to know the length of the barrel;

16 (8) selling, giving or otherwise transferring any firearms to any
17 person who is both addicted to and an unlawful user of a controlled
18 substance;

19 (9) selling, giving or otherwise transferring any firearm to any person
20 who is or has been a mentally ill person subject to involuntary
21 commitment for care and treatment, as defined in K.S.A. 59-2946, and
22 amendments thereto, or a person with an alcohol or substance abuse
23 problem subject to involuntary commitment for care and treatment as
24 defined in K.S.A. 59-29b46, and amendments thereto;

25 (10) possession of any firearm by a person who is both addicted to
26 and an unlawful user of a controlled substance;

27 (11) possession of any firearm by any person, other than a law
28 enforcement officer, in or on any school property or grounds upon which is
29 located a building or structure used by a unified school district or an
30 accredited nonpublic school for student instruction or attendance or
31 extracurricular activities of pupils enrolled in kindergarten or any of the
32 grades 1 through 12 or at any regularly scheduled school sponsored
33 activity or event whether the person knows or has reason to know that such
34 person was in or on any such property or grounds;

35 (12) refusal to surrender or immediately remove from school property
36 or grounds or at any regularly scheduled school sponsored activity or event
37 any firearm in the possession of any person, other than a law enforcement
38 officer, when so requested or directed by any duly authorized school
39 employee or any law enforcement officer;

40 (13) possession of any firearm by a person who is or has been a
41 mentally ill person subject to involuntary commitment for care and
42 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
43 persons with an alcohol or substance abuse problem subject to involuntary

1 commitment for care and treatment as defined in K.S.A. 59-29b46, and
2 amendments thereto; or

3 (14) possessing a firearm with a barrel less than 12 inches long by
4 any person less than 18 years of age whether the person knows or has
5 reason to know the length of the barrel.

6 (b) Criminal use of weapons as defined in:

7 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a
8 class A nonperson misdemeanor;

9 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
10 felony;

11 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
12 misdemeanor;

13 (4) subsection (a)(13) is a severity level 8, nonperson felony; and

14 (5) subsection (a)(14) is a:

15 (A) Class A nonperson misdemeanor except as provided in subsection
16 (b)(5)(B);

17 (B) severity level 8, nonperson felony upon a second or subsequent
18 conviction.

19 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

20 (1) Law enforcement officers, or any person summoned by any such
21 officers to assist in making arrests or preserving the peace while actually
22 engaged in assisting such officer;

23 (2) wardens, superintendents, directors, security personnel and
24 keepers of prisons, penitentiaries, jails and other institutions for the
25 detention of persons accused or convicted of crime, while acting within the
26 scope of their authority;

27 (3) members of the armed services or reserve forces of the United
28 States or the Kansas national guard while in the performance of their
29 official duty; or

30 (4) the manufacture of, transportation to, or sale of weapons to a
31 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
32 such weapons.

33 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
34 sells, purchases, possesses or carries a firearm, device or attachment which
35 has been rendered unserviceable by steel weld in the chamber and
36 marriage weld of the barrel to the receiver and which has been registered
37 in the national firearms registration and transfer record in compliance with
38 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
39 transfers such firearm, device or attachment to another person, has been so
40 registered in the transferee's name by the transferor.

41 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
42 solid plastic bullets.

43 (f) Subsection (a)(4) shall not apply to a law enforcement officer who

1 is:

2 (1) Assigned by the head of such officer's law enforcement agency to
3 a tactical unit which receives specialized, regular training;

4 (2) designated by the head of such officer's law enforcement agency
5 to possess devices described in subsection (a)(4); and

6 (3) in possession of commercially manufactured devices which are:

7 (A) Owned by the law enforcement agency;

8 (B) in such officer's possession only during specific operations; and

9 (C) approved by the bureau of alcohol, tobacco, firearms and
10 explosives of the United States department of justice.

11 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
12 employed by a laboratory which is certified by the United States
13 department of justice, national institute of justice, while actually engaged
14 in the duties of their employment and on the premises of such certified
15 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
16 manufacture of, transportation to or sale of weapons to such certified
17 laboratory.

18 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
19 person or entity in compliance with the national firearms act, 26 U.S.C. §
20 5801 et seq.

21 (i) Subsection (a)(11) shall not apply to:

22 (1) Possession of any firearm in connection with a firearms safety
23 course of instruction or firearms education course approved and authorized
24 by the school;

25 (2) any possession of any firearm specifically authorized in writing
26 by the superintendent of any unified school district or the chief
27 administrator of any accredited nonpublic school;

28 (3) possession of a firearm secured in a motor vehicle by a parent,
29 guardian, custodian or someone authorized to act in such person's behalf
30 who is delivering or collecting a student;

31 (4) possession of a firearm secured in a motor vehicle by a registered
32 voter who is on the school grounds, which contain a polling place for the
33 purpose of voting during polling hours on an election day; or

34 (5) possession of a handgun by an individual who is licensed by the
35 attorney general to carry a concealed handgun under K.S.A. 2012 Supp.
36 75-7c01 et seq., and amendments thereto.

37 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
38 received a certificate of restoration pursuant to K.S.A. 2012 Supp. 75-
39 7c26, and amendments thereto.

40 (k) Subsection (a)(14) shall not apply if such person, less than 18
41 years of age, was:

42 (1) In attendance at a hunter's safety course or a firearms safety
43 course;

1 (2) engaging in practice in the use of such firearm or target shooting
2 at an established range authorized by the governing body of the
3 jurisdiction in which such range is located;

4 (3) engaging in an organized competition involving the use of such
5 firearm, or participating in or practicing for a performance by an
6 organization exempt from federal income tax pursuant to section 501(c)(3)
7 of the internal revenue code of 1986 which uses firearms as a part of such
8 performance;

9 (4) hunting or trapping pursuant to a valid license issued to such
10 person pursuant to article 9 of chapter 32 of the Kansas Statutes
11 Annotated, and amendments thereto;

12 (5) traveling with any such firearm in such person's possession being
13 unloaded to or from any activity described in subsections (k)(1) through
14 (k)(4), only if such firearm is secured, unloaded and outside the immediate
15 access of such person;

16 (6) on real property under the control of such person's parent, legal
17 guardian or grandparent and who has the permission of such parent, legal
18 guardian or grandparent to possess such firearm; or

19 (7) at such person's residence and who, with the permission of such
20 person's parent or legal guardian, possesses such firearm for the purpose of
21 exercising the rights contained in K.S.A. 2012 Supp. 21-5222, 21-5223 or
22 21-5225, and amendments thereto.

23 ~~(1) Subsection (a)(1) shall not apply to any ordinary pocket knife~~
24 ~~which has a spring, detent or other device which creates a bias towards~~
25 ~~closure of the blade and which requires hand pressure applied to such~~
26 ~~spring, detent or device through the blade of the knife to overcome the bias~~
27 ~~towards closure to assist in the opening of the knife.~~

28 ~~(m)~~ As used in this section, "throwing star" means any instrument,
29 without handles, consisting of a metal plate having three or more radiating
30 points with one or more sharp edges and designed in the shape of a
31 polygon, trefoil, cross, star, diamond or other geometric shape,
32 manufactured for use as a weapon for throwing.

33 Sec. 3. K.S.A. 2012 Supp. 21-6302 is hereby amended to read as
34 follows: 21-6302. (a) Criminal carrying of a weapon is knowingly
35 carrying:

36 (1) Any bludgeon, sandclub, metal knuckles or throwing star, ~~or any~~
37 ~~knife, commonly referred to as a switch-blade, which has a blade that~~
38 ~~opens automatically by hand pressure applied to a button, spring or other~~
39 ~~device in the handle of the knife, or any knife having a blade that opens or~~
40 ~~falls or is ejected into position by the force of gravity or by an outward,~~
41 ~~downward or centrifugal thrust or movement;~~

42 (2) concealed on one's person, a ~~dagger, dirk, billy, blackjack,~~
43 ~~slungshot, dangerous knife, straight-edged razor, stiletto or any other~~

1 dangerous or deadly weapon or instrument of like character, ~~except that an~~
2 ~~ordinary pocket knife with no blade more than four inches in length shall~~
3 ~~not be construed to be a dangerous knife, or a dangerous or deadly weapon~~
4 ~~or instrument;~~

5 (3) on one's person or in any land, water or air vehicle, with intent to
6 use the same unlawfully, a tear gas or smoke bomb or projector or any
7 object containing a noxious liquid, gas or substance;

8 (4) any pistol, revolver or other firearm concealed on one's person
9 except when on the person's land or in the person's abode or fixed place of
10 business; or

11 (5) a shotgun with a barrel less than 18 inches in length or any other
12 firearm designed to discharge or capable of discharging automatically
13 more than once by a single function of the trigger whether the person
14 knows or has reason to know the length of the barrel or that the firearm is
15 designed or capable of discharging automatically.

16 (b) Criminal carrying of a weapon as defined in:

17 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson
18 misdemeanor; and

19 (2) subsection (a)(5) is a severity level 9, nonperson felony.

20 (c) Subsection (a) shall not apply to:

21 (1) Law enforcement officers, or any person summoned by any such
22 officers to assist in making arrests or preserving the peace while actually
23 engaged in assisting such officer;

24 (2) wardens, superintendents, directors, security personnel and
25 keepers of prisons, penitentiaries, jails and other institutions for the
26 detention of persons accused or convicted of crime, while acting within the
27 scope of their authority;

28 (3) members of the armed services or reserve forces of the United
29 States or the Kansas national guard while in the performance of their
30 official duty; or

31 (4) the manufacture of, transportation to, or sale of weapons to a
32 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
33 such weapons.

34 (d) Subsection (a)(4) shall not apply to:

35 (1) Watchmen, while actually engaged in the performance of the
36 duties of their employment;

37 (2) licensed hunters or fishermen, while engaged in hunting or
38 fishing;

39 (3) private detectives licensed by the state to carry the firearm
40 involved, while actually engaged in the duties of their employment;

41 (4) detectives or special agents regularly employed by railroad
42 companies or other corporations to perform full-time security or
43 investigative service, while actually engaged in the duties of their

1 employment;

2 (5) the state fire marshal, the state fire marshal's deputies or any
3 member of a fire department authorized to carry a firearm pursuant to
4 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
5 in which such fire marshal, deputy or member is authorized to carry a
6 firearm pursuant to K.S.A. 31-157, and amendments thereto;

7 (6) special deputy sheriffs described in K.S.A. 19-827, and
8 amendments thereto, who have satisfactorily completed the basic course of
9 instruction required for permanent appointment as a part-time law
10 enforcement officer under K.S.A. 74-5607a, and amendments thereto;

11 (7) the United States attorney for the district of Kansas, the attorney
12 general, any district attorney or county attorney, any assistant United
13 States attorney if authorized by the United States attorney for the district
14 of Kansas, any assistant attorney general if authorized by the attorney
15 general, or any assistant district attorney or assistant county attorney if
16 authorized by the district attorney or county attorney by whom such
17 assistant is employed. The provisions of this paragraph shall not apply to
18 any person not in compliance with K.S.A. 75-7c19, and amendments
19 thereto; or

20 (8) any person carrying a concealed handgun as authorized by K.S.A.
21 2012 Supp. 75-7c01 through 75-7c17, and amendments thereto.

22 (e) Subsection (a)(5) shall not apply to:

23 (1) Any person who sells, purchases, possesses or carries a firearm,
24 device or attachment which has been rendered unserviceable by steel weld
25 in the chamber and marriage weld of the barrel to the receiver and which
26 has been registered in the national firearms registration and transfer record
27 in compliance with 26 U.S.C. § 5841 et seq. in the name of such person
28 and, if such person transfers such firearm, device or attachment to another
29 person, has been so registered in the transferee's name by the transferor;

30 (2) any person employed by a laboratory which is certified by the
31 United States department of justice, national institute of justice, while
32 actually engaged in the duties of their employment and on the premises of
33 such certified laboratory. Subsection (a)(5) shall not affect the manufacture
34 of, transportation to or sale of weapons to such certified laboratory; or

35 (3) any person or entity in compliance with the national firearms act,
36 26 U.S.C. § 5801 et seq.

37 ~~(f) Subsection (a)(1) shall not apply to any ordinary pocket knife~~
38 ~~which has a spring, detent or other device which creates a bias towards~~
39 ~~closure of the blade and which requires hand pressure applied to such~~
40 ~~spring, detent or device through the blade of the knife to overcome the bias~~
41 ~~towards closure to assist in the opening of the knife.~~

42 ~~(g)~~ It shall not be a violation of this section if a person violates the
43 provisions of K.S.A. 2012 Supp. 75-7c03, and amendments thereto, but

1 has an otherwise valid license to carry a concealed handgun which is
2 issued or recognized by this state.

3 ~~(h)~~(g) As used in this section, "throwing star" means the same as
4 prescribed by K.S.A. 2012 Supp. 21-6301, and amendments thereto.

5 Sec. 4. K.S.A. 2012 Supp. 21-6301 and 21-6302 are hereby repealed.

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