

Concealed Carry Licenses, Kansas Protection of Firearms Rights Act; HB 2058

HB 2058 amends law related to the recognition and issuance of a concealed carry license (license), creates two concealed carry license classes, and creates the Kansas Protection of Firearms Rights Act.

License Reciprocity

The bill specifies a valid license or permit to carry a concealed firearm issued by another jurisdiction is recognized in Kansas while such permit or license holder is not a Kansas resident.

The bill provides valid licenses or permits issued by another jurisdiction entitle the lawful holder only to carry concealed handguns as defined in Kansas law, and it requires such persons to act in accordance with Kansas laws while carrying a concealed handgun in the state.

The bill also states criminal provisions in continuing law prohibiting the carrying of a concealed firearm by persons under age 21 do not apply to residents of another state who are less than 21 years of age and lawfully carrying a concealed firearm pursuant to a recognized out-of-state license.

The bill provides that recognition of a license or permit from another jurisdiction is not construed to impose a general prohibition on the open or concealed carrying of handguns, either loaded or unloaded, without a license.

Issuance of an Alternative License During Certain Circumstances

The bill requires the Attorney General to issue documents to concealed carry licensees (licensees) as an alternative to the physical card issued pursuant to continuing law, if the Attorney General determines it is impractical for the Division of Vehicles (Division), Department of Revenue, to issue such physical cards, and if the Attorney General determines such impractical conditions have lasted for at least 30 days.

The bill provides that, if such a determination is made, the alternative authorization document authorizes the licensee to exercise the rights and privileges to carry a concealed handgun, pursuant to the Personal and Family Protection Act (PFPA).

The bill states the alternative document must state it is proof that the licensee holds a valid license to carry concealed handguns and must include the same information included on a regular license card under continuing law, as follows:

- Licensee's name;
- Licensee's signature;
- Licensee's address;

- Licensee's date of birth; and
- Licensee's driver's license number, nondriver's identification card number, or unique number for military applicants or their dependents as required by continuing law.

The bill further specifies that all such documents issued during the period of determined impracticality expire 90 days after such conditions have ceased and it is practical for the Division to resume issuing physical cards.

The bill also makes a conforming amendment to provisions regarding the issuance of a license, requiring issuance of such authorization documents within 90 days after receipt of a completed application, if the Attorney General has made a determination of impracticality with regard to card issuance.

Concealed Carry License Classes

The bill creates two license classes:

- A provisional license that can be issued to persons who are at least 18 years of age and meet the requirements in continuing law for issuance of a license; and
- A standard license for persons who are over 21 years of age and meet the requirements in continuing law for issuance.

[*Note:* Persons over 21 years of age can also carry a concealed firearm without a license pursuant to continuing law.]

The bill specifies that if a licensee holds a valid provisional license at the time a renewal application is submitted, then the Attorney General shall issue a standard license to the licensee if such person is not otherwise disqualified from holding a license. [*Note:* Continuing law provides that a license is valid for a period of four years.]

The bill requires a license to indicate whether it is a provisional or standard license.

The bill also makes conforming changes in statutes related to crimes and hunting to allow a person who holds a valid provisional license, but is under 21 years of age, to carry a concealed handgun in the same manner as an individual licensed under continuing law. Specifically, the bill amends statutes related to the following:

- Traffic in contraband in a correctional institution or care and treatment facility, specifying that provisional licensees may possess a firearm or ammunition while in a vehicle, or store such items in a vehicle;
- Criminal use of weapons, specifying that provisional licensees may possess a concealed handgun in or on certain school property or grounds and buildings used by a unified school district or accredited nonpublic school. [*Note:* The PFPA

exempts public school district buildings from the adequate security requirements that must be met by other public buildings seeking to prohibit concealed carry of weapons in such buildings, allowing school districts to restrict concealed carry of handguns in school buildings by posting signage.];

- Criminal carrying of weapons;
- Possession of a concealed handgun in certain government buildings; and
- Carrying a concealed handgun while hunting, fishing, or furharvesting.

The bill also makes conforming changes to the PFPA to carry out the provisions of the bill.

Kansas Protection of Firearms Rights Act

The bill enacts the Kansas Protection of Firearms Rights Act by amending law regarding criminal possession of a weapon by a convicted felon.

Lifetime Prohibition

The bill specifies, for convictions of a person felony or violation of certain controlled substances crimes prior to July 1, 2009, the convicting court would have had to find the person used a firearm in the commission of the crime, rather than having been in possession of a firearm at the time of the commission of the crime.

Three-year Prohibition

The bill prohibits possession of weapons, including firearms, by an individual as follows:

- Such individual has been convicted of a person felony or a crime under the law of another jurisdiction that is substantially the same as such person felony; or
- Such individual was adjudicated as a juvenile offender for a crime that if committed by an adult would constitute a person felony; and
- Such individual was not found by the convicting court to have used a firearm in the commission of the crime; and
- Less than three years have elapsed since such individual satisfied the sentence imposed or the terms of any diversion agreement or was discharged from supervision.

Eight-year Prohibition

Prior law prohibited possession of a weapon by persons:

- Convicted of certain controlled substances felony crimes; certain crimes against persons and property; sex offenses; or an attempt, conspiracy, or criminal solicitation of any such felony;
- Convicted of a crime under the law of another jurisdiction that is substantially the same as such felony; or
- Who have been released from imprisonment for such felony, or adjudicated as a juvenile offender because if committed by an adult, the crime would constitute the commission of such felony.

The bill clarifies law to provide that such provisions would apply if less than eight years have elapsed since the person satisfied the sentence imposed or the terms of any diversion agreement or was discharged from supervision.

The bill clarifies that persons convicted of certain controlled substance felony offenses prior to their 2010 recodification transfer are prohibited from possessing a weapon.

Three-month Prohibition

The bill would also prohibit possession of a weapon by an individual if:

- Such individual has been convicted of any other nonperson felony, other than those specified in the bill and continuing law, or a crime of another jurisdiction that is substantially the same as such nonperson felony; or
- Such individual was adjudicated as a juvenile offender because if committed by an adult, the crime would constitute the commission of such nonperson felony; and
- Less than three months have elapsed since such individual satisfied the sentence imposed or terms of any diversion agreement, or was discharged from supervision.

Expungement or Pardon of Felony Convictions

The bill removes the restriction on firearm possession for an individual who has had a felony conviction expunged or pardoned if a lifetime, three-year, or three-month weapons possession prohibition applies under the bill.

Expungement Proceedings

Prior law required a court to order a petitioner's arrest record, conviction, or diversion be expunged if the court makes certain findings. The bill requires, for petitions seeking expungement of a felony conviction, the court find that possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public.

Concealed Carry License Application

The bill removes a provision that required the person disclose that the arrest, conviction, or diversion occurred, even if the associated records are expunged, when such person applies for a license.

Firearm Possession

The bill provides, when a person whose arrest record, conviction, or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged, it shall be deemed that such person's right to keep and bear arms is fully restored. The restoration of rights includes, but is not limited to, the right to use, transport, receive, purchase, transfer, and possess firearms. The bill specifies that the provisions concerning restoration of rights would include any orders issued prior to July 1, 2021.

Disclosure of Expunged Records

Continuing law provides expunged records may not be disclosed except when requested by certain persons. The bill amends provisions related to disclosure to the Attorney General by specifying such records can be disclosed to the Attorney General for any purpose authorized by law, except that such records cannot be the basis for the denial of a concealed carry permit.

The bill also amends provisions allowing disclosure to the Kansas Bureau of Investigation (KBI) to remove provisions allowing such records to be used in connection with a National Instant Criminal Background Check System (NICS) record check through the Federal Bureau of Investigation (FBI), to determine a person's qualifications to possess a firearm.

The bill further specifies, upon issuance of an expungement order, the KBI is required to report to the FBI that such expunged record should be withdrawn from NICS. The KBI is required to include such expungement order in the person's criminal history record for purposes of documenting the restoration of such person's right to keep and bear arms.