

Testimony in Opposition to House Bill 2803 House Committee on Federal and State Affairs

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The Kansas Highway Patrol (KHP) appreciates the opportunity to provide written testimony in opposition to House Bill 2803, and we respectfully request the Committee consider our strong objection.

House Bill 2803 would prohibit state agencies, political subdivisions, or their employees to participate in the enforcement of any federal law, order, or regulation regarding a firearm, firearm accessory, or ammunition against a “law-abiding citizen.” A law-abiding citizen is an individual not otherwise precluded under state law from possessing a firearm. Assets or funds from the state of Kansas also cannot be used for the same enforcement. Violating the provisions of the bill would result in a \$50,000 civil penalty for each separate occurrence and would hold the agency liable for injunctive relief.

First and foremost, KHP takes issue with a bill that recognizes someone as a “law-abiding citizen” if they are also prohibited by federal law from possessing a firearm. Each of the prohibited persons articulated in Title 18, Section 922 of the United States Code are prohibited persons by virtue of legislative deliberation concerning public safety. To flaunt those designations simply because Kansas statutes might differ is of serious concern.

Another concern with House Bill 2803 is the effect it would have on law enforcement in Kansas when collaborating or cooperating with federal law enforcement. For example, if the KHP were to request the assistance of a federal law enforcement agency for a matter not related to firearms, and the federal agency subsequently opens a firearms-related investigation that is adjacent to or intertwined with our own investigation, the KHP could potentially be in violation of the bill. Similarly, if the KHP supplies information to a federal or national database about an individual based upon our own investigation, and that information is later used by federal law enforcement for a federal firearms investigation, the KHP could potentially be in violation of the bill.

The KHP, along with many other law enforcement agencies across Kansas, participate in federal task forces and are deputized with certain federal authorities. These officers are crucial for ensuring effective cooperation between law enforcement agencies through the sharing of resources and information. House Bill 2803 lacks a specific provision pertaining to task force officers, and without language clarifying otherwise, these officers could potentially violate the bill by becoming involved in a federal enforcement that includes firearms violations. Task force officers are a crucial tool for Kansas law enforcement, and this bill could jeopardize interagency partnerships at all levels of law enforcement.

We are also concerned about the consequences to Kansas law enforcement when a federal law enforcement agency requests our assistance during an emergency incident. If during the enforcement of a firearms-related violation by a federal agency an agent should become involved in a dire emergency

situation, it is likely that an officer of the KHP would be a part of the response. This could mean the KHP would thereby have participated in a federal firearms-related investigation or utilized state assets to aid a federal agency in a firearms-related enforcement.

The possibility of these scenarios and others permitted by the overly broad provisions of House Bill 2803 would create a chilling effect on the KHP and other Kansas law enforcement entities making it difficult to prevent and investigate crime. The extreme penalties for violating the bill would also increase this chilling effect. If the bill is violated, the agency would be assessed a \$50,000 civil penalty for each occurrence, which can quickly become an insurmountable sum when each occurrence is construed as each violation by each officer. Injunctive and other forms of relief may also be sought by not only the individual aggrieved by the violation of the bill, but by any individual who believes another individual violated the bill.

There are additional unintended consequences of the bill to consider. First, while there is an exception for law enforcement to provide aid or support to any United States Attorney or Assistant Attorney in the prosecution of felony crimes substantially similar to those found in K.S.A. Chapter 21, Articles 57, 58, or 63, many other serious crimes exist in other areas of statute. For example, Chapter 21, Article 54 includes such acts as murder, kidnapping, terrorism, weapons of mass destruction, and human trafficking. By not including these other crimes, Kansas law enforcement may be discouraged from assisting federal entities in the investigation of these crimes if there is a firearms-related violation being concurrently investigated. Second, the bill prohibits law enforcement agencies from employing previous federal officials or agents who after the effective date of the bill enforced or aided another agency in the enforcement of a firearms-related law, order, or regulation. Doing so would result in a \$50,000 civil penalty. This means Kansas law enforcement would be discouraged from hiring sworn officers from other local, state, or federal jurisdictions if they were previously involved in firearms-related enforcement actions. That has a chilling effect on the recruiting needs of all Kansas law enforcement.

We can understand the Legislature's desire to prevent excessive federal regulations or "legislating by executive order" from affecting the citizens of Kansas. Our agency wants nothing more than to protect these same citizens' lives and property; however, House Bill 2803 places Kansas law enforcement in a problematic position. It also skirts the notion that federal statutes are more than regulation or executive order – they are laws passed by Congress. Collaboration with federal law enforcement agencies dramatically increases our ability to prevent and solve crime, especially violent crime. The KHP does not support House Bill 2803 as its excessively broad application and severe penalties for partnering with federal law enforcement ultimately decreases the safety of Kansans by prohibiting our agency and others like it from using every possible resource to combat crime. In an age where Kansas routinely requests additional support from the federal government, whether it be border security or the fight against fentanyl, we can ill-afford rebuffing federal cooperation in an era of violent gun crimes. Such assistance does not put true law-abiders in jeopardy. We sincerely thank the members of this Committee for their consideration of our testimony, and we urge your opposition to this bill.

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