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**Testimony to the House Federal and State Affairs Committee
Opposing HB2803
March 7, 2024**

Chairman Carpenter,

Our associations understand the concern about federal overreach through regulations. We believe that we must take reasonable steps to assure constitutional rights are maintained. However, the response in HB2803 holds unintended consequences that will negatively impact law enforcement's ability to utilize all existing resources to protect the public safety and conduct investigation of violent crimes.

Central issues of HB2803 set the stage for problematic restrictions on law enforcement.

- The problem starts with the definition of “law abiding citizen” found on page 3, lines 10-13. By definition, for the purposes of this bill, a “law abiding citizen” is any person meeting both of two requirements: 1) Free of a prohibition to possess a firearm by Kansas statute (does not include prohibitions by federal statute) AND 2) a person lawfully present in the United States.
- The second problematic key provision in the bill setting the stage for unintended consequences is found in section 2, the core of the prohibitions against law enforcement utilizing all available resources to address violent crime. Section 2 of the bill is found on page 1 lines 10-25. The restrictions do not just apply to “laws” made by the federal government through non-legislative directives (executive orders or administrative orders). But the bill also includes enforcement or investigation of federal law (“any federal act”) and rule or regulation (regardless of whether the federal regulation was authorized by statute).

The scope of HB2803 is unclear and overly broad.

- When a person committing a heinous crime with a firearm is a “law abiding citizen” as defined in the bill, it is unclear if Kansas law enforcement could ask for federal assistance without violating the provisions of section 2 and avoid being accused that by doing so we have provided information to a federal agency that aided them in opening an investigation of a federal firearm violation.
 - Section 2 of the bill prohibits “participating in any way in” federal enforcement” of a firearm law or “utilizing any assets. . . in whole or in part, to engage in any activity” that aids a federal investigation of a federal firearms violation.
 - While section 4 of the bill states that “accepting aid” from any federal agency is not prohibited, that language does not address whether the aid can be requested by Kansas law enforcement. It appears to only apply if the federal agency initiates an

- offer to assist. There is little doubt that when we request aid from the federal government, that aid cannot be conducted without certain information being provided to the federal government. That can cause a federal agency to open an investigation of a federal violation, even without a specific request from Kansas law enforcement.
- If we do receive aid from a federal agency, whether we initiate a request for assistance or the federal agency offers it without our request, most people being investigated will find a “reason” to believe we have violated this new act and file court actions as provided in Section 6 of the bill, specifically as found on page 2 lines 30-32. This will be to stall our investigation and will create legal costs for the local agency to oppose.
 - We likely could not use the federal information systems for investigations because it would “aid a federal agency” in pursuit of enforcing a federal law if the entry of the search information revealed a violation of federal law. We likely would violate the provisions of the new bill by following federal and state law to submit fingerprints recording the arrest on a firearms charge that is also a federal violation in some cases.
 - One of the exemptions to the act in Section 3 of the bill allowing Kansas law enforcement interaction with federal agencies related to firearms violations, is found in subsection (a) on page 2, lines 27-30. This provision is very narrow and only applies to 1) a “criminal nexus with another jurisdiction” AND the person under investigation is “either not a citizen of the state or is not present in this state.”
 - A person who is citizen of another state committing a crime in Kansas and may still be remaining in Kansas would not be included in that exemption regardless of the crime they committed with a firearm.
 - Even if the exemption applied, the bill language is that “the person is not present in this state.” In most cases we won’t know if they are present in Kansas or not while they are on the run. We may have information leading us to believe they are not in Kansas, but we won’t know for sure as required by the bill language.
 - While the above provisions do not prevent the prosecution of the person for the new crime, under the provisions of Section 1, subsection (a)(1) or (a)(2), we could not request assistance from a federal agency in our investigation of a “law abiding citizen” if the person has also committed a violation of a federal firearms law with no comparable Kansas law.
 - The exemption in section 3, subsection (b) for aiding in federal prosecution would not apply if the crime they commit with the firearm is not contained in Articles 57, 58, or 59 of Chapter 21 of the Kansas statutes. Many violent crimes we investigate involving firearms are not included in those articles of Kansas statute. The crimes excluded from the exemption include homicides, shootings, rapes, human trafficking, domestic battery, and many other violent crimes.
 - There is no clear language in the bill that would allow Kansas law enforcement to participate in a crime related task force that includes federal officers or even assist the US Marshal’s Office in apprehending a wanted person on federal firearms charges. These task forces have been major components of reducing violent crime in Kansas.

The penalties are extreme and unnecessary.

- Section 5 of the bill sets out the civil penalties local agencies could face if found in violation of the new act.
 - It sets a \$50,000 penalty, not as a maximum or an option, but as an absolute penalty.

- The penalty is per employee.
- The penalty is applied for “each occurrence,” which is further described as “with respect to a firearm, firearm accessory, or container or ammunition” as separate occurrences.
- Such penalties can only be designed to intimidate local law enforcement from ever contacting federal law enforcement for a firearms violation, even under the intended exemptions, because the cost of these penalties would be so high they would bankrupt many cities and counties in the state.
 - Just the cost of defending these cases would be more than many of our rural counties and cities could afford. And the absolute amount set in the bill would likely preclude any settlement of the case.
 - The fines could mount up quickly into six-digit or seven-digit penalties as the \$50,000 applies per officer, per firearm, per firearm accessory, per container of ammunition.

In conclusion, we don't agree with federal overreach in creating laws or defining new acts that purport to become enforceable violations by bypassing the legislative process. But this bill lays all the burden of that on Kansas law enforcement's ability to use all available tools to investigate crimes committed with firearms against Kansas citizens and those visiting Kansas. Kansas law enforcement has nothing to do with creating the real problem trying to be addressed in this bill. That being federal overreach through non-legislative means to create questionable new restrictions on firearms, firearms accessories, or firearm ammunition. Our associations would support legislation requiring a legal challenge by the state into any such federal actions. But we cannot support laying the burden of federal overreach on Kansas law enforcement officers and their agencies. Nor can we support legislation that diminishes our ability to address public safety in Kansas by restricting our ability to utilize all federal resources to quickly solve violent crimes, apprehend the perpetrators of those crimes, and successfully prosecute those criminal cases. Expediency in these cases can many times prevent further violent crimes by the same criminal.

We respectfully request you not move this bill forward but look for other legislative action that can be taken to fight the federal overreach of concern.

Sheriff Jeff Easter, Sedgwick County
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