

**SENATE BILL No. 479**

By Committee on Federal and State Affairs

3-3

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to firearms, unlawful possession thereof; amending K.S.A. 2015 Supp.  
3 21-6301 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2015 Supp. 21-6301 is hereby amended to read as  
7 follows: 21-6301. (a) Criminal use of weapons is knowingly:

8 (1) Selling, manufacturing, purchasing or possessing any bludgeon,  
9 sand club, metal knuckles or throwing star;

10 (2) possessing with intent to use the same unlawfully against another,  
11 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged  
12 razor, stiletto or any other dangerous or deadly weapon or instrument of  
13 like character;

14 (3) setting a spring gun;

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

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

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

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

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

35 (9) selling, giving or otherwise transferring any firearm to any person  
36 who is or has been a mentally ill person subject to involuntary

1 commitment for care and treatment, as defined in K.S.A. 59-2946, and  
2 amendments thereto, or a person with an alcohol or substance abuse  
3 problem subject to involuntary commitment for care and treatment as  
4 defined in K.S.A. 59-29b46, and amendments thereto;

5 (10) possessing any firearm by a person who is both addicted to and  
6 an unlawful user of a controlled substance;

7 (11) possessing any firearm by any person, other than a law  
8 enforcement officer, in or on any school property or grounds upon which is  
9 located a building or structure used by a unified school district or an  
10 accredited nonpublic school for student instruction or attendance or  
11 extracurricular activities of pupils enrolled in kindergarten or any of the  
12 grades one through 12 or at any regularly scheduled school sponsored  
13 activity or event whether the person knows or has reason to know that such  
14 person was in or on any such property or grounds;

15 (12) refusing to surrender or immediately remove from school  
16 property or grounds or at any regularly scheduled school sponsored  
17 activity or event any firearm in the possession of any person, other than a  
18 law enforcement officer, when so requested or directed by any duly  
19 authorized school employee or any law enforcement officer;

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

26 (14) possessing a firearm with a barrel less than 12 inches long by  
27 any person less than 18 years of age;

28 (15) *possessing any firearm while a fugitive from justice;*

29 (16) *possessing any firearm by a person who is an alien:*

30 (A) *Illegally or unlawfully in the United States; or*

31 (B) *who has been admitted to the United States under a*  
32 *nonimmigrant visa;*

33 (17) *possessing any firearm by a person while such person is subject*  
34 *to a court order issued pursuant to K.S.A. 60-3107 or 60-31a06, and*  
35 *amendments thereto, when such order is issued to protect a family or*  
36 *household member of such person, or to protect an individual in a dating*  
37 *relationship with such person; or*

38 (18) *possessing any firearm by a person who within the preceding*  
39 *five years has been convicted of a misdemeanor for a domestic violence*  
40 *offense, or a misdemeanor under a law of another jurisdiction which is*  
41 *substantially the same as such misdemeanor offense.*

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

43 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a

1 class A nonperson misdemeanor;

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

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

6 (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity  
7 level 8, nonperson felony; and

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

9 (A) Class A nonperson misdemeanor except as provided in subsection  
10 (b)(5)(B);

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

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

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

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

21 (3) members of the armed services or reserve forces of the United  
22 States or the Kansas national guard while in the performance of their  
23 official duty; or

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

27 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who  
28 sells, purchases, possesses or carries a firearm, device or attachment which  
29 has been rendered unserviceable by steel weld in the chamber and  
30 marriage weld of the barrel to the receiver and which has been registered  
31 in the national firearms registration and transfer record in compliance with  
32 26 U.S.C. § 5841 et seq. in the name of such person and, if such person  
33 transfers such firearm, device or attachment to another person, has been so  
34 registered in the transferee's name by the transferor.

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

37 (f) Subsection (a)(4) shall not apply to a law enforcement officer who  
38 is:

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

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

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

1 (A) Owned by the law enforcement agency;  
2 (B) in such officer's possession only during specific operations; and  
3 (C) approved by the bureau of alcohol, tobacco, firearms and  
4 explosives of the United States department of justice.

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

12 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any  
13 person or entity in compliance with the national firearms act, 26 U.S.C. §  
14 5801 et seq.

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

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

19 (2) possession of any firearm specifically authorized in writing by the  
20 superintendent of any unified school district or the chief administrator of  
21 any accredited nonpublic school;

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

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

28 (5) possession of a concealed handgun by an individual who is not  
29 prohibited from possessing a firearm under either federal or state law.

30 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has  
31 received a certificate of restoration pursuant to K.S.A. 2015 Supp. 75-  
32 7c26, and amendments thereto.

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

35 (1) In attendance at a hunter's safety course or a firearms safety  
36 course;

37 (2) engaging in practice in the use of such firearm or target shooting  
38 at an established range authorized by the governing body of the  
39 jurisdiction in which such range is located, or at another private range with  
40 permission of such person's parent or legal guardian;

41 (3) engaging in an organized competition involving the use of such  
42 firearm, or participating in or practicing for a performance by an  
43 organization exempt from federal income tax pursuant to section 501(c)(3)

1 of the internal revenue code of 1986 which uses firearms as a part of such  
2 performance;

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

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

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

13 (7) at such person's residence and who, with the permission of such  
14 person's parent or legal guardian, possesses such firearm for the purpose of  
15 exercising the rights contained in K.S.A. 2015 Supp. 21-5222, 21-5223 or  
16 21-5225, and amendments thereto.

17 (l) *Subsection (a)(16)(B) shall not apply if such person is:*

18 (1) *Admitted to the United States for lawful hunting or sporting*  
19 *purposes or is in possession of a hunting license or permit lawfully issued*  
20 *in the United States;*

21 (2) *an official representative of a foreign government who is:*

22 (i) *Accredited to the United States government or the United States*  
23 *government's mission to an international organization having its*  
24 *headquarters in the United States; or*

25 (ii) *en route to or from another country to which such person is*  
26 *accredited;*

27 (3) *an official of a foreign government or a distinguished foreign*  
28 *visitor who has been so designated by the United States department of*  
29 *state; or*

30 (4) *a foreign law enforcement officer of a friendly foreign government*  
31 *entering the United States on official law enforcement business.*

32 (⊕) (m) *As used in this section;:*

33 (1) *"Fugitive from justice" means any person having knowledge that*  
34 *a warrant has been issued for the apprehension of such person under*  
35 *K.S.A. 22-2713, and amendments thereto.*

36 (2) *"Throwing star" means any instrument, without handles,*  
37 *consisting of a metal plate having three or more radiating points with one*  
38 *or more sharp edges and designed in the shape of a polygon, trefoil, cross,*  
39 *star, diamond or other geometric shape, manufactured for use as a weapon*  
40 *for throwing.*

41 Sec. 2. K.S.A. 2015 Supp. 21-6301 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its  
43 publication in the statute book.