

**21-5422. Illegal use of weapons of mass destruction.** (a) The illegal use of weapons of mass destruction is:

(1) Knowingly and without lawful authority, developing, producing, stockpiling, transferring, acquiring, retaining or possessing any:

- (A) Biological agent, toxin or delivery system for use as a weapon;
- (B) chemical weapon; or
- (C) nuclear materials or nuclear byproduct materials for use as a weapon;

(2) knowingly assisting a foreign state or any organization to do any such activities as specified in subsection (a)(1); or

(3) threatening to do any such activities as specified in subsection (a)(1) or (a)(2).

(b) Illegal use of weapons of mass destruction or attempt, conspiracy or criminal solicitation to commit illegal use of weapons of mass destruction is an off-grid person felony.

(c) The provisions of subsection (c) of K.S.A. 2016 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of illegal use of weapons of mass destruction pursuant to this section. The provisions of subsection (c) of K.S.A. 2016 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of illegal use of weapons of mass destruction pursuant to this section. The provisions of subsection (d) of K.S.A. 2016 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of illegal use of weapons of mass destruction pursuant to this section.

(d) The following shall not be prohibited under the provisions of this section:

- (1) Any peaceful purpose related to an industrial, agricultural, research, medical or pharmaceutical activity or other activity;
- (2) any purpose directly related to protection against toxic chemicals and to protection against chemical weapons;
- (3) any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm;
- (4) any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment; or
- (5) any individual self-defense device, including those using a pepper spray or chemical mace.

(e) As used in this section:

(1) "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

- (A) Death, disease or other biological malfunction in a human, an animal, a plant or another living organism;
- (B) deterioration of food, water, equipment, supplies or material of any kind; or
- (C) deleterious alteration of the environment;

(2) "chemical weapon" means the following together or separately:

- (A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this section, as long as the type and quantity is consistent with such a purpose;
- (B) a munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or
- (C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

(3) "key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

(4) "delivery system" means:

- (A) Any apparatus, equipment, device or means of delivery specifically designed to deliver or disseminate a biological agent, toxin or vector; or
- (B) any vector;

(5) "for use as a weapon" does not include the development, production, transfer, acquisition, retention or possession of any biological agent, toxin or delivery system for prophylactic, protective or other peaceful purposes;

(6) "nuclear material" means material containing any:

- (A) Plutonium;
- (B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;
- (C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or
- (D) uranium 233;

(7) "nuclear byproduct material" means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;

(8) "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. "Precursor" includes any key component of a binary or multicomponent chemical system;

(9) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. "Toxic chemical" includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

(10) "toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

- (A) Any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or
- (B) any poisonous isomer or biological product, homolog or derivative of such a substance; and

(11) "vector" means a living organism or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

**History:** L. 2010, ch. 136, § 57; L. 2011, ch. 30, § 24; July 1.