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Senate Federal and State Affairs Committee  
SB 186  
Assistant Attorney General Charles W. Klebe  
March 14, 2013

Mr. Chairman and members of the Committee, thank you for allowing me to provide written testimony regarding Senate Bill 186 ("Bill"). I am the Assistant Attorney General responsible for the Concealed Carry Licensing Unit (Unit) and its administration of the Kansas Personal and Family Protection Act (KPFPA). If you wish, I am happy to stand for any questions. Our position here is that the contents of this Bill is a policy determination which rests within the discretion of the Legislature and, therefore, we stand neutral and merely offer technical considerations for it.

SB 186:

Section 1:

Subsection (a):

Line 8 of (a) refers to "buildings" in the plural form; but the second half of that declaration refers to a singular "building." Keeping both in the singular (first portion reading "... shall not be prohibited in any state or municipal building . . .") may read better.

The Unit also notes, as a whole, some sections of this Bill specify properly posted signage as also being necessary to prohibit licensed concealed carry (see, e.g., subsection (c)) while some sections do not reflect that specificity (as with subsection (a)). Whether signage will or will not be required is a policy determination for the Legislature to make. The Unit would simply suggest a review of all subsections within this Bill to be sure that its language reflects the Legislature's ultimate goal with regard to signage.

If signage posting is the intended desire, to keep with other CCH provisions, the Unit suggests that such language read "and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto."

Subsection (b): While the scope of this new section is overwhelmingly related to licensed CCH holders, this language may suggest that concealed carry by anyone is lawful in Kansas IF the person carrying concealed is entering a state or municipal building which does not have "adequate security measures" in place. If the policy of allowing licensed CCH into unsecured state and municipal buildings is adopted by the Legislature, the Unit believes that it would be best to keep this subsection's language in-line with general Kansas law by limiting its reach to licensed CCH under the KPFPA.

Also, subsection (a) notes that adequate security measures should insure that "no weapons" are carried within the relevant buildings; but this section references adequate security to restrict *concealed handguns* in the relevant buildings. As the adequate security measures of (a) do not limit themselves to the detection of concealed handguns, the Committee may want to consider pairing up this language with subsection (a).

The Committee may want to consider last portion of this subsection referring to "public areas" when the heart of this proposal speaks to carry within "buildings."

Subsection (c): If the Legislature intends for this section to only apply to licensees from Kansas, then the language is fine. But if the Legislature wants to extend the allowance to honored licensees who commute from another state to their jobs in a "state or municipal building," the Legislature will want to consider amending this language to employees who are "authorized to carry" to cover those nonresident

employees. This may be few and far between but Kansas City is a jurisdiction that comes to mind as being relevant for that issue.

Again, the Unit would suggest signage language consistent with that described above for subsection (a).

**Subsection (d):** Instead of referencing “such building,” the Unit would suggest that the paragraph clarify the criminal penalty restriction to carrying into a “*state or municipal building*”;

Another policy decision for the Legislature would be to have this paragraph refer to those “*authorized to carry*” so that visitors to Kansas who have honored CCH licenses and need to visit (or want to tour), a state or municipal building, are included;

Here is another instance where signage language should be reviewed.

**Subsection (e):**

This paragraph says a state or municipal building that posts “a sign” prohibiting CCH has completed half of the requirements for no liability if an incident occurs. The Unit would simply note here that, current law requires signage to be posted at all exterior entrances to the building being limited by the signage. Language consistent with that requirement of K.S.A. 75-7c10 should be considered here.

**Subsections (g):** The language of this four-year opt-out allowance does not indicate whether renewal of that four-year period will be an option. The paragraph neither prohibits nor allows renewal. This language should be addressed for clarity of that issue.

**Subsection (h):** Previously, use of the terms such as “facility” or “premises” – here premises is relevant - have caused confusion because the text of the KPFFPA now limits carry restrictions to “buildings” of public and private businesses. The use of those terms here may need some clarification or further definition if the intent is to go beyond “buildings.”

**Section 2:**

This section of this Bill, unlike a similarly proposed bill in the House (HB 2055), does not limit itself to the provisions of New Section 1. For reference, please review subsections (c)(5) and proposed (e). The Committee should review this section for its need to remain free of, or become subject to, new section 1. See the discussion below.

To that end, this Bill adds a new subsection (e) which says, “it is not a violation of this section for a person to possess a handgun as authorized under the personal and family protection act.” It is this new subsection is puzzling given the already-existing subsection (c)(5) which relates to CCH licensees and their fit within this statute. Subsection (c)(5) generally exempts CCH licensees from the majority of 21-6309(a) restrictions if the buildings are not posted in accordance with KSA 75-7c10. This can be found on lines 31-35 of the Bill. The exemption in current (c)(5) does contain limitations to itself (i.e., the Governor’s residence; the grounds of the Governor’s residence; and buildings on the grounds of the Governor’s residence are all off limits) which proposed subsection (e) does not contain. Except for those limitations, the language of proposed (e) appears to be duplicitous with (c)(5). Perhaps a policy decision for the Legislature is posed by proposed (e) as to whether CCH licensees should still be restricted around the Governor’s residence etc.?

Another potential issue with this section is that neither proposed (e) nor current (c)(5) are declared “subject to [new] section 1.” Where this could be an issue is as follows: Under the Unit’s understanding of new subsection 1, a CCH licensee would not be subject to criminal penalties if they carry into a state or municipal building to which that licensee can enter through secured access (this is so even if that building is adequately-secured and properly posted). However, under new section 1, other licensee’s would seemingly be subject to criminal penalties for carrying into adequately-secured and properly posted state or municipal buildings for which that licensee is unable to enter through secured access. So, on the one hand, the full immunity from the prohibitions of 21-6309 (found in current (c)(5) or proposed (e)) seem to clash with criminal penalty language of new section 1 (there could be a crime under new subsection 1 but there would not be a crime committed according to 21-6309). On the other hand, because neither (c)(5) nor

proposed (e) subject themselves to new section 1, the full immunity within those paragraphs would seem to negate any CCH restrictions of new section 1 (for those with or without secured access to any state or municipal building) – or at least negate any limitations in section 1 for any state building and any county courthouse building (i.e., buildings that share coverage under both provisions). Other municipal buildings not covered under 21-6309(a) would still be subject to new section 1.

Finally, the language in 21-6309 addresses what the Unit calls “prosecutor carry.” This language is found in current subsections (d)(2) through (f) (or (d)(2) and (f) through (g) of this proposed Bill). Current law says that prosecutors from the county, state or federal levels, if approved by their agency head, can take extra CCH training through the KLETC center in Yoder, Kansas, and be allowed to use their CCH licenses to enter county courthouses and court-related facilities (hereinafter “courthouse” will be referenced to cover both locations). This allowance remains even if the courthouse has properly posted AG-approved signage. However, in order for the prosecutor carry allowance not to apply to a particular courthouse: (1) the county commission of that courthouse’s county must elect to opt-out of the prosecutor carry allowance; (2) signage must be put up on the courthouse which states that the county has opted out of prosecutor carry; (3) the courthouse must have “adequate security measures” in place, (4) the county must limit all firearms into the courthouse (except court security or that county’s sheriff’s personnel) and (5) the courthouse must have secure firearm storage.

If new section 1 is enacted, the current law for prosecutor carry could be in conflict with section 1. KSA 21-6309 establishes a criminal violation for carrying into certain locations. Prosecutor carry into county courthouses can still be limited under 21-6309 by compliance with the 5 steps above; a prosecutor is therefore still subject to the penalty provisions of 21-6309. Under new section 1, however, a prosecutor would seemingly not be subject to a criminal penalty for carrying into an adequately secured and properly posted (with the general “no concealed carry” signage) courthouse IF that prosecutor can enter through a privately secured entrance. The issue is that neither 21-6309 or new section 1 limit themselves to (or place their provisions above) the other. If a courthouse complies with 21-6309 – do its provisions control or do the provisions of new section 1? Naturally, this issue would not apply to other courthouses where the prosecutor does not have private access entry.

These two provisions need to be reconciled so that prosecutors and county courthouses are able to address prosecutor carry issues without confusion.

### Section 3:

Use of the phrase “building *or premise*” may be viewed as an expansion of where an entity can post AG approved signage (i.e., to grounds outside of buildings). This law was clarified in 2010 to make clear that AG-approved signage only has legal effect if properly posted on “buildings” of the “premises.” Use of such language here should be carefully reviewed for its potential effects.

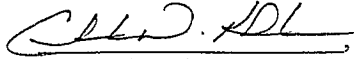
### Proposed subsection (d):

The Unit would simply highlight that this provision seeks to allow any school to authorize, “. . . any employee, *who is licensed*, to carry a concealed handgun . . .” (emphasis added). The provision also requires compliance with the school’s policies. If the intent of this provision is to only allow those who are “licensed *under the personal and family protection act*” to carry at the school, this provision could use more specific language. The placement of the commas indicates the person need only be “licensed” and individuals can be “licensed” for a number of purposes other than the KPFFPA.

Because this bill does not exclude “school districts” from the definition of “municipality or municipal” (HB 2055 does so exempt) a question for this Bill is whether or not this subsection is intended to be subject to the language of new section 1? Again, proposed section 1 requires any “municipal” (defined by K.S.A. 75-6102 to include school districts) building to have signage *and* adequate security measures in order to restrict licensed CCH by employees and the public (see Section 1, paragraphs (c) and (d)). Should new section 1 be approved and this subsection be determined to be subordinate to that section, section 1 would require the adequate security measures in addition to signage in order to restrict licensed CCH by employees of schools.

Again, I appreciate the Committee's time and attention to my testimony. Hopefully my comments provide some clarity to technical issues that we foresee. If not, I will gladly stand for questions to clarify my comments.

Respectfully submitted,



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