

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2111

By Committee on Federal and State Affairs

1-28

1 AN ACT concerning firearms; relating to the possession thereof; amending
2 K.S.A. 2012 Supp. 12-16,124, **21-6301** and 21-6309 and repealing the
3 existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 12-16,124 is hereby amended to read as
7 follows: 12-16,124. (a) No city or county shall adopt any ordinance,
8 resolution or regulation, and no agent of any city or county shall take any
9 administrative action, governing the purchase, transfer, ownership,
10 storage, *carrying on one's person* or transporting of firearms or
11 ammunition, or any component or combination thereof. ~~Except as~~
12 ~~provided in subsection (b) and subsection (a) of K.S.A. 2012 Supp. 75-~~
13 ~~7e11, and amendments thereto,~~ Any such ordinance, resolution or
14 regulation adopted prior to the effective date of this 2007 act shall be null
15 and void.

16 (b) Nothing in this section shall:

17 (1) prohibit a law enforcement officer, as defined in K.S.A. 22-2202,
18 and amendments thereto, from acting within the scope of such officer's
19 duties;

20 (2) ~~prohibit a city or county from regulating the manner of openly~~
21 ~~carrying a loaded firearm on one's person; or in the immediate control of a~~
22 ~~person, not licensed under the personal and family protection act while on~~
23 ~~property open to the public;~~

24 (3) ~~prohibit a city or county from regulating in any manner the~~
25 ~~carrying of any firearm in any jail, juvenile detention facility, prison,~~
26 ~~courthouse, courtroom or city hall; or~~

27 (4) ~~prohibit a city or county from adopting an ordinance, resolution or~~
28 ~~regulation requiring a firearm transported in any air, land or water vehicle~~
29 ~~to be unloaded and encased in a container which completely encloses the~~
30 ~~firearm or any less restrictive provision governing the transporting of~~
31 ~~firearms, provided such ordinance, resolution or regulation shall not apply~~
32 ~~to persons licensed under the personal and family protection act.~~

33 (c) ~~Except as provided in subsection (b) of this section and subsection~~
34 ~~(a) of K.S.A. 2012 Supp. 75-7e11, and amendments thereto, no person~~
35 ~~shall be prosecuted or convicted of a violation of any ordinance, resolution~~
36 ~~or regulation of a city or county which regulates the storage or~~

1 transportation of a firearm if such person (1) is storing or transporting the
2 firearm without violating any provision of the Kansas criminal code or (2)
3 is otherwise transporting the firearm in a lawful manner.

4 ~~(d) No person shall be prosecuted under any ordinance, resolution or~~
5 ~~regulation for transporting a firearm in any air, land or water vehicle if the~~
6 ~~firearm is unloaded and encased in a container which completely encloses~~
7 ~~the firearm.~~

8 **Sec. 2. K.S.A. 2012 Supp. 21-6301 is hereby amended to read as**
9 **follows: 21-6301. (a) Criminal use of weapons is knowingly:**

10 **(1) Selling, manufacturing, purchasing or possessing any**
11 **bludgeon, sand club, metal knuckles or throwing star, or any knife,**
12 **commonly referred to as a switch-blade, which has a blade that opens**
13 **automatically by hand pressure applied to a button, spring or other**
14 **device in the handle of the knife, or any knife having a blade that**
15 **opens or falls or is ejected into position by the force of gravity or by an**
16 **outward, downward or centrifugal thrust or movement;**

17 **(2) possessing with intent to use the same unlawfully against**
18 **another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife,**
19 **straight-edged razor, stiletto or any other dangerous or deadly weapon**
20 **or instrument of like character, except that an ordinary pocket knife**
21 **with no blade more than four inches in length shall not be construed**
22 **to be a dangerous knife, or a dangerous or deadly weapon or**
23 **instrument;**

24 **(3) setting a spring gun;**

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

27 **(5) selling, manufacturing, purchasing or possessing a shotgun**
28 **with a barrel less than 18 inches in length, or any firearm designed to**
29 **discharge or capable of discharging automatically more than once by**
30 **a single function of the trigger, whether the person knows or has**
31 **reason to know the length of the barrel or that the firearm is designed**
32 **or capable of discharging automatically;**

33 **(6) possessing, manufacturing, causing to be manufactured,**
34 **selling, offering for sale, lending, purchasing or giving away any**
35 **cartridge which can be fired by a handgun and which has a plastic-**
36 **coated bullet that has a core of less than 60% lead by weight, whether**
37 **the person knows or has reason to know that the plastic-coated bullet**
38 **has a core of less than 60% lead by weight;**

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

43 **(8) selling, giving or otherwise transferring any firearms to any**

1 person who is both addicted to and an unlawful user of a controlled
2 substance;

3 (9) selling, giving or otherwise transferring any firearm to any
4 person who is or has been a mentally ill person subject to involuntary
5 commitment for care and treatment, as defined in K.S.A. 59-2946, and
6 amendments thereto, or a person with an alcohol or substance abuse
7 problem subject to involuntary commitment for care and treatment as
8 defined in K.S.A. 59-29b46, and amendments thereto;

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

11 (11) possession of any firearm by any person, other than a law
12 enforcement officer, in or on any school property or grounds upon
13 which is located a building or structure used by a unified school
14 district or an accredited nonpublic school for student instruction or
15 attendance or extracurricular activities of pupils enrolled in
16 kindergarten or any of the grades 1 through 12 or at any regularly
17 scheduled school sponsored activity or event whether the person
18 knows or has reason to know that such person was in or on any such
19 property or grounds;

20 (12) refusal to surrender or immediately remove from school
21 property or grounds or at any regularly scheduled school sponsored
22 activity or event any firearm in the possession of any person, other
23 than a law enforcement officer, when so requested or directed by any
24 duly authorized school employee or any law enforcement officer;

25 (13) possession of any firearm by a person who is or has been a
26 mentally ill person subject to involuntary commitment for care and
27 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
28 persons with an alcohol or substance abuse problem subject to
29 involuntary commitment for care and treatment as defined in K.S.A.
30 59-29b46, and amendments thereto; or

31 (14) ~~possessing a firearm with a barrel less than 12 inches long by~~
32 ~~any person less than 18 years of age whether the person knows or has~~
33 ~~reason to know the length of the barrel.~~

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

35 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is
36 a class A nonperson misdemeanor;

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

39 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
40 misdemeanor;

41 (4) subsection (a)(13) is a severity level 8, nonperson felony; and

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

43 (A) Class A nonperson misdemeanor except as provided in

1 subsection (b)(5)(B);

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

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

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

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

12 (3) members of the armed services or reserve forces of the United
13 States or the Kansas national guard while in the performance of their
14 official duty; or

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

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

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

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

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

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

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

37 (A) Owned by the law enforcement agency;

38 (B) in such officer's possession only during specific operations;
39 and

40 (C) approved by the bureau of alcohol, tobacco, firearms and
41 explosives of the United States department of justice.

42 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any
43 person employed by a laboratory which is certified by the United

1 States department of justice, national institute of justice, while
2 actually engaged in the duties of their employment and on the
3 premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)
4 (6) shall not affect the manufacture of, transportation to or sale of
5 weapons to such certified laboratory.

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

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

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

13 (2) any possession of any firearm specifically authorized in
14 writing by the superintendent of any unified school district or the
15 chief administrator of any accredited nonpublic school;

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

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

23 (5) possession of a handgun by an individual who is licensed by
24 the attorney general to carry a concealed handgun under K.S.A. 2012
25 Supp. 75-7c01 et seq., and amendments thereto.

26 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who
27 has received a certificate of restoration pursuant to K.S.A. 2012 Supp.
28 75-7c26, and amendments thereto.

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

31 (1) In attendance at a hunter's safety course or a firearms safety
32 course;

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

37 (3) engaging in an organized competition involving the use of
38 such firearm, or participating in or practicing for a performance by
39 an organization exempt from federal income tax pursuant to section
40 501(c)(3) of the internal revenue code of 1986 which uses firearms as a
41 part of such performance;

42 (4) hunting or trapping pursuant to a valid license issued to such
43 person pursuant to article 9 of chapter 32 of the Kansas Statutes

1 **Annotated, and amendments thereto;**

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

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

9 **(7) at such person's residence and who, with the permission of**
10 **such person's parent or legal guardian, possesses such firearm for the**
11 **purpose of exercising the rights contained in K.S.A. 2012 Supp. 21-**
12 **5222, 21-5223 or 21-5225, and amendments thereto; or**

13 *(8) in the presence of such person's parent or legal guardian and with*
14 *permission of such person's parent or legal guardian possesses such*
15 *firearm.*

16 **(l) Subsection (a)(1) shall not apply to any ordinary pocket knife**
17 **which has a spring, detent or other device which creates a bias**
18 **towards closure of the blade and which requires hand pressure**
19 **applied to such spring, detent or device through the blade of the knife**
20 **to overcome the bias towards closure to assist in the opening of the**
21 **knife.**

22 **(m) As used in this section, "throwing star" means any**
23 **instrument, without handles, consisting of a metal plate having three**
24 **or more radiating points with one or more sharp edges and designed**
25 **in the shape of a polygon, trefoil, cross, star, diamond or other**
26 **geometric shape, manufactured for use as a weapon for throwing.**

27 ~~Sec. 2.~~ **3.** K.S.A. 2012 Supp. 21-6309 is hereby amended to read as
28 follows: 21-6309. (a) It shall be unlawful to possess, with no requirement
29 of a culpable mental state, a firearm ~~on the grounds in any of the following~~
30 ~~places:~~

31 (1) Within any building located within the capitol complex;

32 (2) within the governor's residence;

33 (3) on the grounds of or in any building on the grounds of the
34 governor's residence;

35 (4) within any other state-owned or leased building if the secretary of
36 administration has so designated by rules and regulations and
37 conspicuously placed signs clearly stating that firearms are prohibited
38 within such building; or

39 (5) within any county courthouse, unless, by county resolution, the
40 board of county commissioners authorize the possession of a firearm
41 within such courthouse; or

42 ~~(6) within any jail, juvenile correctional facility, juvenile detention-~~
43 ~~facility or prison~~ **municipal building, provided that:**

1 **(A) Such municipal building has adequate security measures to**
2 **ensure that no weapons are permitted to be carried into such building;**
3 **and**

4 **(B) such municipal building is conspicuously posted at each**
5 **entryway into such building with signs stating that firearms are**
6 **prohibited within such municipal building.**

7 (b) Violation of this section is a class A misdemeanor.

8 (c) This section shall not apply to:

9 (1) A commissioned law enforcement officer;

10 (2) a full-time salaried law enforcement officer of another state or the
11 federal government who is carrying out official duties while in this state;

12 (3) any person summoned by any such officer to assist in making
13 arrests or preserving the peace while actually engaged in assisting such
14 officer;

15 (4) a member of the military of this state or the United States engaged
16 in the performance of duties; or

17 (5) a person with a license issued pursuant to or recognized under
18 K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto, except in
19 buildings posted in accordance with K.S.A. 2012 Supp. 75-7c10, and
20 amendments thereto, and in the areas specified in subsections (a)(2) and
21 (a)(3).

22 (d) It is not a violation of this section for the:

23 (1) Governor, the governor's immediate family, or specifically
24 authorized guest of the governor to possess a firearm within the governor's
25 residence or on the grounds of or in any building on the grounds of the
26 governor's residence; or

27 (2) United States attorney for the district of Kansas, the attorney
28 general, any district attorney or county attorney, any assistant United
29 States attorney if authorized by the United States attorney for the district
30 of Kansas, any assistant attorney general if authorized by the attorney
31 general, or any assistant district attorney or assistant county attorney if
32 authorized by the district attorney or county attorney by whom such
33 assistant is employed, to possess a firearm within any county courthouse
34 and court-related facility, subject to any restrictions or prohibitions
35 imposed in any courtroom by the chief judge of the judicial district. The
36 provisions of this paragraph shall not apply to any person not in
37 compliance with K.S.A. 2012 Supp. 75-7c19, and amendments thereto.

38 (e) Notwithstanding the provisions of this section, any county may
39 elect by passage of a resolution that the provisions of subsection (d)(2)
40 shall not apply to such county's courthouse or court-related facilities if
41 such:

42 (1) Facilities have adequate security measures to ensure that no
43 weapons are permitted to be carried into such facilities;

1 (2) facilities have adequate measures for storing and securing
2 lawfully carried weapons, including, but not limited to, the use of gun
3 lockers or other similar storage options;

4 (3) county also has a policy or regulation requiring all law
5 enforcement officers to secure and store such officer's firearm upon
6 entering the courthouse or court-related facility. Such policy or regulation
7 may provide that it does not apply to court security or sheriff's office
8 personnel for such county; and

9 (4) facilities have a sign conspicuously posted at each entryway into
10 such facility stating that the provisions of subsection (d)(2) do not apply to
11 such facility.

12 (f) As used in this section:

13 (1) "Adequate security measures" means the use of electronic
14 equipment and personnel to detect and restrict the carrying of any weapons
15 into the facility, including, but not limited to, metal detectors, metal
16 detector wands or any other equipment used for similar purposes;

17 (2) "possession" means having joint or exclusive control over a
18 firearm or having a firearm in a place where the person has some measure
19 of access and right of control; ~~and~~

20 (3) "capitol complex" means the same as in K.S.A. 75-4514, and
21 amendments thereto;

22 ~~(4) "jail" shall have the same meaning as that term is defined in~~
23 ~~K.S.A. 2012 Supp. 38-2302, and amendments thereto;~~

24 ~~(5) "juvenile correctional facility" shall have the same meaning as~~
25 ~~that term is defined in K.S.A. 2012 Supp. 38-2302, and amendments~~
26 ~~thereto;~~

27 ~~(6) "juvenile detention facility" shall have the same meaning as that~~
28 ~~term is defined in K.S.A. 2012 Supp. 38-2302, and amendments thereto;~~
29 ~~and~~

30 ~~(7) "prison" shall have the same meaning as that term is defined in~~
31 ~~K.S.A. 2012 Supp. 21-6803, and amendments thereto.~~

32 (4) "municipal building" means a building owned or leased by a
33 municipality. The term "municipal building" shall not include a
34 building owned by a municipality that is leased by a private entity,
35 whether for profit or not-for-profit, a building held in title by a
36 municipality solely for reasons of revenue bond financing, a
37 municipal-owned medical care facility, as defined in K.S.A. 65-425,
38 and amendments thereto, or a municipal-owned adult care home, as
39 defined in K.S.A. 39-923, and amendments thereto; and

40 (5) "municipality" means any county, township, city or other
41 political or taxing subdivision of the state, or any agency, authority,
42 institution or other instrumentality thereof. The term "municipality"
43 shall not mean any unified school district or any postsecondary

1 **educational institution, as that term is defined in K.S.A. 74-3201b, and**
2 **amendments thereto.**

3 (g) For the purposes of ~~subsection~~ *subsections* (a)(1), (a)(4) ~~and~~, (a)
4 (5) ~~and (a)(6)~~, "building," ~~and~~ "courthouse," ~~"jail," "juvenile correctional~~
5 ~~facility," "juvenile detention facility" and "prison"~~ **and "municipal**
6 **building"** shall not include any structure, or any area of any structure,
7 designated for the parking of motor vehicles.

8 ~~Sec. 3.~~ **4.** K.S.A. 2012 Supp. 12-16,124, **21-6301** and 21-6309 are
9 hereby repealed.

10 ~~Sec. 4.~~ **5.** This act shall take effect and be in force from and after its
11 publication in the statute book.