

## **OVERVIEW OF 2013 CONCEALED CARRY LEGISLATION (Updated 5/3/13)**

### **HB2052 Concealed Carry Provisions, With Amendments Made by Conference Committee**

**Signed by governor 4/16/13**

### **SB21 Concealed Carry Provisions, Signed by governor on 4/5/13**

**Law becomes effective July 1, 2013**

Available on-line:

[HB2052](#)

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Terms used in this document, not defined in the bills:

The Act: The Kansas Personal and Family Protection Act

CAO: Chief Administrative Officer

LEOSA: Law Enforcement Officer Safety Act: federal law USC §§ 926B and 926C

Licensee: A person licensed under the Act or licensed by another jurisdiction to carry concealed

Proper posting: Posting of no concealed carry signs as per KSA 75-7c10 § (f) and KAR 16-11-7

Definitions from the bill:

Adequate Security Measures: Personnel and electronic equipment at every public entrance of a building to detect and restrict the carrying of any weapons into the building. [HB2052 § 2, (l)(1) and HB2052 § 5(g)(1) and HB2052 § 9(g)(1)]

Capitol complex: As defined in [KSA 75-4514](#)—Docking, Landon, Curtis and Eisenhower state office buildings, memorial hall, the Kansas judicial center and the state capitol. [HB2052 § 5(g)(3)]  
*NOTE: Definition only applies to KSA 21-6309, section 5 of HB2052.*

Municipal or municipality: Any county, township, city, or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof. As per KSA 75-6102 except does not include school districts. [HB2052 § 2, (l)(2)]

Possession: joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and control. [HB2052 § 5(g)(2)] *NOTE: Definition only applies to KSA 21-6309, section 5 of HB2052.*

Restricted Access Entrance: Entrance with access controlled by key, keycard, code, or similar device to restrict entry only to authorized persons. [HB2052 § 2, (l)(3)]

State: The state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof. [HB2052 § 2, (l)(4)]

State or Municipal Building: Any building owned or leased by the state or municipality, except a building leased by a private entity whether profit or non-profit or a building held in title for the purpose of revenue bond financing. After July 1, 2014, the Capitol Building is exempted if adequate security measures are not in place as provided by section 3. [HB2052 § 2, (l)(5)]

Weapon: Any weapon described in KSA 21-6301 *NOTE: This statute is subject to amendment in other bills, so by July 1 it may mean something different than it does today.* [HB2052 § 2, (l)(6)]

Building: Not to include any structure or any area of any structure designed for motor vehicle parking. [HB2052 § 9(g)(2)] Also see HB2052 § 5(h).

What state or municipal buildings are covered by the new amendments?

The new amendments for state and municipal buildings include any building owned or leased by the state or by a county, township, city, or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof, except such building leased by a private entity whether profit or non-profit or a building held in title for revenue bond financing purposes. By definition Unified School District buildings are exempted. [HB2052 §2 subsections (l)(2) and (l)(5)] The Kansas School of the Blind and the Kansas School for the Deaf are also specifically exempted. [HB2052 §2 subsection (k)]

Law enforcement buildings, jails, and correctional facilities are under a special provision that allows the secure areas of such buildings to be under the control of the agency in regards to any person carrying a firearm into the secure area. Adequate security measures are not required for these secure areas. However, the public areas of the building are subject to the same rules as other public buildings requiring either adequate security measures at every public entrance or allowing licensees to carry concealed in the public areas, unless under an opt-out provision. [HB2052 §2 subsection (g)]

Courtrooms and ancillary court rooms are under the control of the chief judge of the judicial district. No special provisions are included for municipal courts making them subject to the same adequate security measures and posting provisions as any other state or municipal building, unless under an opt-out provision. [HB2052 §2 subsection (h)]

What state or municipal buildings are eligible for the temporary opt-out?

All buildings covered by the bill are eligible for a temporary opt-out until January 1, 2014. Enactment requires the governing body, or CAO if no governing body exists, to notify the Attorney General and the local law enforcement agency of jurisdiction. No security plan or statement of reason for the opt-out is required. This is designed to primarily just give the entity time to get a plan in place. [HB2052 §2 subsection (i)]

What state or municipal buildings are eligible for the one-time 4 year opt-out?

All buildings may have a one-time 4 year opt-out. The eligibility varies as follows:

**Buildings specifically listed in the bill** may opt-out for one 4-year period and do not have to have a security plan in place. Notice must be sent to the Attorney General and must state a reason for the opt-out. The buildings eligible under this provision are: 1) State or municipal owned medical care facility as defined in [KSA 65-425](#); 2) state or municipal owned adult care home as defined in [KSA 39-923](#); 3) community mental health center organized pursuant to [KSA 19-4001 et.seq.](#); 4) indigent health care clinic as defined in [KSA 65-7402](#); and 5) postsecondary educational facility as defined in [KSA 74-3201b](#) including any building on the grounds of or leased by the postsecondary educational facility. [HB2052 §2 subsection (j)]

**Buildings not specifically addressed otherwise in the bill:** The governing body, or CAO if no governing body exists, can enact the opt-out by adopting a resolution or by letter. The bill has a specific statement that must be included verbatim in the resolution or letter. Notification must be made to the Attorney General and the local law enforcement agency of jurisdiction. The security plan must be kept on file and it is not subject to open records release. The security plan must be provided to the Attorney

General and the local law enforcement agency of jurisdiction, but only upon request.  
[HB2052 §2 subsection (i)]

What is required to prohibit concealed carry in a state or municipal building?

Licensees cannot be prohibited from carrying concealed in non-exempt buildings unless the building has “adequate security measures” in place and is properly posted; or under either a temporary or a one-time four year opt-out provision. [HB2052 §2 subsections (a) and (b)]

Who is allowed to carry a concealed handgun in a non-exempt state or municipal building?

Buildings under opt-out

Licensees may be prohibited from carrying concealed in a properly posted building.

Employees may be prohibited from carrying in the workplace.

Out of state and retired law enforcement officers qualifying under LEOSA are allowed to carry concealed in the buildings.

Buildings not under opt-out; without adequate security measures and proper posting

Licensees cannot be prohibited from carrying concealed in the building.

Employees cannot be prohibited from carrying in the workplace.

Out of state and retired law enforcement officers qualifying under LEOSA are allowed to carry concealed in the buildings.

Buildings not under opt-out; with adequate security measures and proper posting; no restricted access entrance

Licensees can be prohibited from carrying concealed in the building.

Employees can be prohibited from carrying in the workplace.

Out of state and retired law enforcement officers qualifying under LEOSA are allowed to carry concealed in the buildings.

Buildings not under opt-out; with adequate security measures and proper posting; with restricted access entrance

Licensees can be prohibited from carrying concealed in the building.

Any licensee, including an employee, who is authorized to enter the building through the restricted access entrance is not in violation of the act if they carry concealed in the building.

Out of state and retired law enforcement officers qualifying under LEOSA are allowed to carry concealed in the buildings.

[HB2052 §2 subsections (a) and (b); §4 subsection (d)(8); §5 subsection (d)(3); and §9 subsection (e)(3)]

How are licensed state or municipal employees affected by the bill?

State and municipal employees cannot be prohibited from carrying concealed in state and municipal buildings unless the building has adequate security measures and is properly posted or is under one of the opt-out provisions. Any licensee authorized to enter through a “restricted access entrance” whether an employee or non-employee may carry concealed in the building without criminal penalty and without violating the act. Employers may have

personnel rules regarding the carrying of concealed weapons in their building. [HB2052 §2 subsections (c) and (d); and §8 subsection (b)(1)]

Specifically listed places who opt-out and unified school districts are not required to allow employees who are licensees to carry concealed in the workplace, but they may choose to do so: The listed places are 1) a postsecondary education institution as defined in [KSA 74-3201b](#); 2) a state or municipal owned medical care facility as defined in [KSA 65-425](#); 3) state or municipal owned adult care home as defined in [KSA 39-923](#); 4) community mental health center organized pursuant to [KSA 19-4001 et.seq.](#); or 5) indigent health care clinic as defined in [KSA 65-7402](#). [HB2052 §2 subsection (j); §9 subsection (d)]

Can the grounds of the state or municipal buildings be prohibited for concealed carry?

No, the grounds of a state or municipal building cannot be closed to concealed carry by licensees. This is the intent of existing law and revisions in this bill clarify that intent. The only exception is the grounds of the governor's residence. [HB2052 §5 subsection (a); numerous revisions throughout bill changing "premises" and "facilities" to "buildings"]

Can parking garages and parking lots of state or municipal buildings be prohibited for concealed carry?

No, existing law already prohibits closing parking garages, parking lots or any location designed for parking of motor vehicles to the possession of a handgun. [HB2052 §5 subsection (h); §9 subsection (g)(2)]

How does this bill change KSA 21-6309, in regards to possession of a firearm in public buildings?

First, the statute is amended to remove the provision making it unlawful to possess a firearm on the grounds of the capitol complex, a state building, or a county courthouse; except for the Governor's residence. So the statute will only apply to possessing a firearm inside the following buildings and on the grounds of the Governor's residence: 1) A building within the capitol complex (see definitions on page 1); 2) within the governor's residence; 3) On the grounds of, or in any building on the grounds of, the governor's residence; 4) any state building properly posted under authority of rules and regulations from the Secretary of Administration; 5) within a county courthouse unless the board of county commissioners has passed a resolution authorizing the possession of firearms in the courthouse. All licensed persons are exempt from this statute. See subsection (d) of the statute for further information and a list of other persons currently exempted from the statute. [HB2052 §5 subsection (a) and subsection (e)]

Is the state or municipality immune from liability for actions of a licensee?

The state or municipality is immune to liability for the acts or omissions to act by a licensee with regards to a firearm. For the liability immunity to apply the building must either 1) have adequate security measures and be properly posted; or 2) allow licensees to carry in the buildings. If the building is closed to concealed carry without adequate security measures the exemption does not apply. The liability immunity does not apply while under one of the opt-out provisions. [HB2052 §2 subsections (e) and (f)]

Are private building CCH provisions amended?

The bill does not change any requirements or restrictions placed on private buildings under the act. It does add a liability immunity provisions relieving private building owners of any liability for the acts or omissions to act by a licensee with regards to a firearm. For the

liability immunity to apply the building must either 1) have adequate security measures and be properly posted; or 2) allow licensees to carry in the buildings. If the building is closed to concealed carry without adequate security measures the immunity does not apply, but there is no change from current liability risk. [HB2052 §9 subsection (c) adds liability provisions.] [NOTE: HB2052 §9 subsection (b) regarding private businesses is not amended.]

What action can be taken if a licensee carries a concealed weapon into a properly posted building where CCH is lawfully prohibited.

The bill amends the sanctions for a licensee who carries a concealed handgun into a lawfully prohibited area. The licensee may be in violation of the concealed carry regulations but they are not violating a criminal law. The offending person may be denied entry to the building or may be removed from the premises, but not arrested for that act. [HB2052 §2 current subsection (c)(5) is stricken and replaced with subsection (e); §2 subsection (9)(e)]

#### OTHER ISSUES

1. Out of State and Retired Law Enforcement Officers who qualify under the federal Law Enforcement Officers Safety Act (LEOSA) are exempt from the concealed carry licensing requirement, may carry into posted buildings, and exempt from the concealed carry prohibitions except for the secure area of law enforcement buildings, jail or correctional facility; and courtrooms and ancillary courtrooms. Qualified persons must be in possession of proper identification. Retired officers must have identification indicating that they are qualified under LEOSA. [HB2052 §4 subsection (d)(8); §5 subsection (d)(3); and §9 subsection (e)(3)]
2. Out of state licensees: SB21 changes the rules for those licensed for concealed carry by another state or the District of Columbia.

For persons not residing in Kansas: A person licensed by another state or the District of Columbia will be permitted to carry concealed in Kansas. They must follow all other concealed carry provisions of Kansas law and be in possession of their license. [SB21 §4 subsection (c)(1)]

For persons residing in Kansas: A person holding a valid license from another state or the District of Columbia and becomes a Kansas resident will be permitted to carry concealed in Kansas, provided they have a 180-day receipt issued by the Attorney General. [SB21 §4 subsection (c)(2)] They must apply for a Kansas license and supply the Attorney General a copy of their license to obtain the 180-day receipt. They must either complete a Kansas CCH training course or provide the Attorney General with a copy of a training certificate from another state or the District of Columbia before being licensed. Such out of state training must meet or exceed the Kansas training requirements. [SB21 §4 subsections (e) through (i)]

3. Capitol Complex (See definition on page one for list of included buildings)  
The buildings of the capitol complex are treated as any other state or municipal building for the purposes of concealed carry. As KSA 21-6309 is amended, it is now legal to

possess a firearm on the grounds of the Capitol complex. Licensees are exempt from KSA 21-6309. [HB2052 §5]

4. State Capitol

The Capitol building will stay closed to concealed carry for now. However, if adequate security measures are not in place by July 1, 2014, the building will be opened to concealed carry. [HB2052 §2 subsection (l)(5)(B); §3; §9 subsection (f)]

5. Open Records

The only records of license applicants, licensees, or declined licenses that are open to the public are those for licenses that are revoked or suspended. This applies to the records at the AG, sheriff's office, or made available to other law enforcement. Release of the information is a class A misdemeanor. [HB2052 §6 subsection (a)(53); §8 subsection (b)]

6. Licensing of Retired Law Enforcement Officers

The reduced fee for retired law enforcement officers is removed. Starting July 1 retired law enforcement officers will pay the full licensing fee. [HB2052 §7 subsection (g)]

7. Licensing of Corrections Officers

Corrections officers who have had firearms training within one year will be exempt from the required training if they apply for a license. They will pay the full fee. [HB2052 §7 subsection (h)]

8. HB2052 § 1 is a new statute on discharge of a firearm into or within a city. It has nothing to do with concealed carry.

9. SB21 §§ 1, 2, and 3 are provisions on the effect of expunged felonies on the crime of felons in possession of firearms and not related to concealed carry.

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