

2014 HB2473 Gun and Knife Bill

The referenced bill is the enrolled version signed by the governor.

This bill has been part troubling, part good, and part just fixing policy decisions they made in years past. This is a difficult type of bill to deal with because we have to weigh the benefits against the undesirable things in the bill. After consulting together on this bill, the KACP, KSA, and KPOA supported the bill in part while opposing some areas, voicing concerns on several areas and suggesting cleanup language on others.

Open Carry Comment: Remember the policy decision was made in prior years to allow open carry and prohibit cities from regulating it. The following provisions relate to that issue. Although some cities still want that section removed, that will not happen in the House where open carry is very strongly supported and not likely to be changed in the Senate either. The newest attack on city control is the desire to prohibit regulating loaded firearms in vehicles.

Here is my breakdown of the House Substitute Bill by section:

- Section 1 requires a chief law enforcement officer to provide a response within 15 days to a request for certification for transfer of a class III firearm. If the certification is not granted, the reason must be provided to the applicant. The applicant may appeal the denial to certify to the district court. If the applicant prevails the court will order the chief law enforcement officer to sign the certification and may reward costs and attorney fees. A chief law enforcement officer certifying a transfer cannot be held liable for any act committed with the firearm.
- Section 2 prohibits using tax dollars for a gun buyback program.
- Section 3 provides a local government employee of cannot be required to reveal if they have a CCH permit, even if they are carrying concealed at the workplace. The local government employer cannot discipline, terminate, demote, or otherwise take any negative action against an employee for failing to reveal if they have a permit. The local government cannot create nor retain existing records indicating a person has a CCH permit.
- Section 4 relieves the local gov't of all liability for the actions of any employee carrying a firearm unless the employee is required to carry a firearm as part of their duties. This reflects a later amendment to this section in HB2140.
- Section 5 New law that adds some provisions for open carry that permit a building to be posted for "no open carry" while allowing concealed carry. It also prohibits open carry in any building properly posted to prohibit concealed carry. NOTE: One of the AGs opinions is that current law allows open carry even into buildings that prohibit concealed carry.
- Was Section 6 is new law prohibiting open or concealed carry of a firearm while intoxicated. It is a class A misdemeanor. It does not apply to a person in their home, their business, or land they own or possess. It also is not a violation if the firearm is used in self-defense, defense of another, or other justifiable action with the firearm. It establishes procedures for testing that mirror DUI testing, but cleaned up from the existing concealed carry while intoxicated law. Refusal may result in a \$1000 civil penalty if the refusal is proven in the criminal case. The refusal may be used against the person in court. A CCH

permit holder's permit is revoked for one year for the first offense and 3 years for second or subsequent offense. A .08 or higher BAC is a prima facie case.

- Section 7 amends KSA 12-16,124 by adding “carrying” to the list of ordinance, resolution, or regulation controlling firearms that is prohibited. It also adds new language for the prohibition passed in prior sessions and is current law on local regulation of gun manufacturing, sales, etc. In other words it will now say what they thought they said when these policy decisions were passed a couple of years ago. The amendment also strikes many of the exceptions in the current statute. It adds provisions to clarify a local government may have personnel policies regarding how an employee carries a firearm in the workplace as long as it does not prohibit a CCH licensee from carrying as provided in KSA 75-7c01 and 75-7c20.
- Section 8 cleans up KSA 12-16,134 with the knife prohibition passed last year on local regulation of knife possession, manufacturing, sales, etc. In other words it now says what they thought they said when the policy decision was passed last year. It also nullifies any existing ordinance, resolution or regulation on those topics.
- Sections 9 and 10 deal with permitting expungement of certain convictions relating to violations of knife laws now declared nullified.
- Section 11 restores KSA 21-6301 subsection (b) concerning criminal use of knives to what it was before they gutted it on that issue last year.
- Section 12 amends KSA 21-6304 making it a crime for felons to possess the knives they made legal last year. The same severity level as a felon with a firearm applies.
- Section 13 amends KSA 22-2512 adding provisions on how we dispose of seized firearms. If the person from whom the firearm was seized is not convicted or adjudicated of the crime for which the weapon was seized and is not otherwise prohibited from possessing the firearm, it must be returned to the person within 30 days of after declination of charges or conclusion of prosecution provided it is not stolen. If the person is convicted the weapon may be destroyed only if it is not in a condition to have any value as a weapon or if it was used in the commission of a homicide. If none of those conditions exist the weapon is to be forfeited to the agency seizing the weapon, the KBI or other forensic lab for lab purposes, or to the Department of Wildlife, Parks and Tourism as provided in KSA 32-1047. When forfeited to the agency seizing the weapon it may be used by the agency, transferred to another law enforcement agency for their use, or sold through a licensed gun dealer.
- Section 14 is a technical amendment correcting an erroneous statute reference.
- Section 15 adds an additional prohibition on CCH permit issuance to persons with certain convictions or adjudications as a juvenile.
- Section 16 adds some clarification language to KSA 75-7c20 supporting their policy decision last year that allows knives to be carried into areas with security screening. This is accomplished by changing the definition of “weapon” to exclude “any cutting instrument that has a sharpened or pointed blade.”

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