

**TOP 10 ADMINISTRATIVE AND TRAINING ISSUES  
FROM THE 2015 LEGISLATIVE SESSION**

June 26, 2015

**Also See The *Top 10 Things Line Officers Should Know***

1. Concealed Carry (Full summary of firearms law changes at: <http://tinyurl.com/Ks2015FirearmsSummary>)

With this year's major changes to concealed carry, this is undoubtedly the top issue for training and administrative guidance from this session. Concealed carry is basically only illegal under two conditions with very few other restrictions: 1) persons under 21 years of age (with some exceptions), and 2) persons who are prohibited from possessing a firearm by state or federal law. No permit required. But determining if someone is prohibited from firearms possession is challenging with all the twists, turns, and exceptions in the prohibiting laws. While some convictions (primarily person felonies) will be easier to determine, others will be challenging at best with varying length of time periods for different convictions, a need to know if a weapon was involved in the crime for other convictions, and many more oddities. Mental health commitments are not always readily available either. Officers may run III checks roadside as part of an investigation into the possession of a firearm. NICS checks are available roadside as well, but only when the officer has the weapon "legally" in their possession and they are determining whether the firearm should be released back to the person from which they took it. But the key to that is whether the officer possesses the firearm legally or not, and that is a gray area with developing case law. Some jurisdictions have case law that an officer cannot remove a firearm from a person unless they have reason to believe a crime has been committed, and not merely while they investigate whether the firearms possession is a violation. Officers must have a great deal of legal direction on this frequently faced scenario. It appears guidance on this is up to each agency for legal analysis, policy development, and training.

Concealed carry permits are no longer required but are still available as an option through essentially the same process as the past. But gone is the requirement for a permit holder to tell an officer they have a permit or for the permit holder to even carry it with them.

If your agency does not have NICS access yet, you should contact the CJIS unit at the Highway Patrol for directions on how to get it set up. If you have questions about roadside III checks, they can help with that also.

2. Alcohol Related

New procedures will be in place for officers to report liquor violations to the ABC. Notice must be served to the licensee by the officer at the time of the violation. Violations may be report to the ABC using an ABC form or a local agency form. An agency form must contain all of the required elements including who the written notice was given to. The ABC form should be available by July 1, 2015.

New law also allows alcohol consumption on the premises of any business not licensed by the ABC, provided the business does not serve the alcohol. In other words it is a "Bring Your Own Booze" format. This is also an area of instruction the officers will need on monitoring these types of business ventures allowing alcohol consumption on their premises. These businesses are not subject to regulation or penalty by the ABC, and there is no right to entry for law enforcement as exists for licensed premises. The ABC has developed some training for this, but it is unclear at this time how that training will reach the officers.

Caterers serving alcohol at catered events on public property are no longer required to give notice to local law enforcement. Instead there will be an electronic notification system on the ABC website which law enforcement will be able to check to see if the proper notification has been made.

The ABC is going to set up a law enforcement page on their website, hopefully by July 1, 2015, which will have more information on all the alcohol issues.

3. Enforcement of Open Meetings and Open Records Laws

The enforcement of open meetings and open records laws is changing with the Attorney General having much more authority to take corrective actions on violations. This can include civil fines and consent decrees between the violating agencies or individuals and the AG's office.

4. Scrap Metal Thefts

The laws are changing on metal thefts including 1) state registration by the Attorney General for all scrap metal dealers; and 2) the creation of a statewide database of scrap metal transactions. Existing local regulation of scrap metal dealers and transactions are out. We should be reaching out to our scrap metal dealers once we have more information from the Attorney General on these procedures. The database will not be in place until July 1, 2016. The dealer registration provision becomes effective January 1, 2016.

5. Bingo and Raffles

Major revisions to the Bingo laws were made which will increase operations. Also charity raffles are now legal but licensing is required.

6. CPOST Access to Local Agency Reports

The law now requires law enforcement agencies to provide requested reports to CPOST when CPOST is conducting an investigation. No subpoena is required.

7. Peer Support Privileged Communications

Most communications in Peer Support Counseling Sessions are now privileged communications, including from administrative hearings. There are certain mandatory reporting issues and danger to self or others issues that are not privileged.

8. Civil Litigation: Notice to Municipalities

The law was changed to make it clear that when court papers are served on an employee in civil cases the city or county employer must also be served.

9. Human Trafficking (Records Closed and Polygraph)

Several changes were made to the Human Trafficking laws. Most are procedural, however the two we need to make sure our agencies comply with are: 1) law enforcement records that would reveal the name of a human trafficking victim are closed; and 2) a human trafficking victim cannot be subjected to or asked to take a polygraph or other truth detecting procedure.

10. Search and Rescue Teams

Search and rescue teams will be organized under the State Fire Marshal. This is intended to retain search and rescue function and to coordinate team responses in the state by allowing the State Fire Marshal to contract with local fire departments and emergency responders. A local government with a search and rescue team does not have to enter into this contract with the Fire Marshal in order to respond within their local jurisdiction or through an MOU with another entity, however without the Fire Marshal contract they would probably not be allowed to participate in a state emergency response outside their own jurisdiction. Contact the State Fire Marshal for more information.

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MORE INFORMATION AVAILABLE AT: <http://www.kslawenforcementinfo.com/2015-session.html>

The author is not an attorney and this document is not legal advice. It is a summary of the legislation based on observations and discussions during the legislative process. **Questions should be addressed with your agency attorney or local prosecutors. Always follow your agency's policy and procedures in applying the law.**

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