

SENATE BILL No. 343

By Committee on Judiciary

1-10

9 AN ACT concerning firearms; relating to persons authorized to carry
10 concealed firearms; amending K.S.A. 2005 Supp. 21-4201 and 75-7b17
11 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) As used in this section:

15 (1) "Firearm" means any firearm, as defined in K.S.A. 2005 Supp.
16 21-3110, and amendments thereto, other than:

17 (A) A machine gun, as defined in 26 USC 5845 of the national fire-
18 arms act, as in effect on the effective date of this act;

19 (B) a firearm silencer, as defined in section 18 USC 921, as in effect
20 on the effective date of this act; and

21 (C) a destructive device, as defined in 18 USC 921, as in effect on
22 the effective date of this act.

23 (2) "Prosecutor" means any United States attorney, any assistant
24 United States attorney, the attorney general of the state of Kansas, any
25 assistant attorney general of the state of Kansas, any county or district
26 attorney of the state of Kansas or any assistant county or district attorney
27 of the state of Kansas.

28 (3) "Qualified retired prosecutor" means an individual who: (A) Re-
29 tired in good standing from service as a prosecutor, other than for reasons
30 of mental instability; (B) is not under the influence of alcohol or another
31 intoxicating or hallucinatory drug or substance; and (C) is not prohibited
32 by law from receiving a firearm.

33 (b) Subject to the provisions of subsection (d), an individual who is a
34 prosecutor or qualified retired prosecutor and who is carrying the permit
35 provided for by subsection (c) may carry a concealed firearm.

36 (c) An individual who is a prosecutor or qualified retired prosecutor
37 may apply to the attorney general of the state of Kansas for an annual
38 permit to carry a concealed firearm. The application shall be on a form
39 provided by the attorney general and shall be accompanied by evidence,
40 satisfactory to the attorney general, that the individual is a prosecutor or
41 qualified retired prosecutor and meets the training requirements for is-
42 suance of a firearms permit pursuant to subsection (a)(2)(C) of K.S.A. 75-
43 7b17, and amendments thereto. Upon receipt of such application and a

1 determination that the individual meets the requirements of this subsec-
2 tion, the attorney general shall issue to the individual a permit to carry a
3 concealed firearm. Such permit shall include photographic identification.

4 (d) This section shall not be construed to authorize a qualified retired
5 prosecutor to possess a concealed firearm:

6 (1) On property of a private person or entity which lawfully prohibits
7 or restricts the possession of concealed firearms on such property; or

8 (2) on any federal, state or local government property, installation,
9 building, base or park.

10 Sec. 2. K.S.A. 2005 Supp. 21-4201 is hereby amended to read as
11 follows: 21-4201. (a) Criminal use of weapons is knowingly:

12 (1) Selling, manufacturing, purchasing, possessing or carrying any
13 bludgeon, sandclub, metal knuckles or throwing star, or any knife, com-
14 monly referred to as a switch-blade, which has a blade that opens auto-
15 matically by hand pressure applied to a button, spring or other device in
16 the handle of the knife, or any knife having a blade that opens or falls or
17 is ejected into position by the force of gravity or by an outward, downward
18 or centrifugal thrust or movement;

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

26 (3) carrying on one's person or in any land, water or air vehicle, with
27 intent to use the same unlawfully, a tear gas or smoke bomb or projector
28 or any object containing a noxious liquid, gas or substance;

29 (4) carrying any pistol, revolver or other firearm concealed on one's
30 person except when on the person's land or in the person's abode or fixed
31 place of business;

32 (5) setting a spring gun;

33 (6) possessing any device or attachment of any kind designed, used
34 or intended for use in suppressing the report of any firearm;

35 (7) selling, manufacturing, purchasing, possessing or carrying a shot-
36 gun with a barrel less than 18 inches in length or any other firearm de-
37 signed to discharge or capable of discharging automatically more than
38 once by a single function of the trigger; or

39 (8) possessing, manufacturing, causing to be manufactured, selling,
40 offering for sale, lending, purchasing or giving away any cartridge which
41 can be fired by a handgun and which has a plastic-coated bullet that has
42 a core of less than 60% lead by weight.

43 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect

1 any of the following:

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

5 (2) wardens, superintendents, directors, security personnel and keep-
6 ers of prisons, penitentiaries, jails and other institutions for the detention
7 of persons accused or convicted of crime, while acting within the scope
8 of their authority;

9 (3) members of the armed services or reserve forces of the United
10 States or the Kansas national guard while in the performance of their
11 official duty; or

12 (4) manufacture of, transportation to, or sale of weapons to a person
13 authorized under subsections (b)(1), (2) and (3) to possess such weapons.

14 (c) Subsection (a)(4) shall not apply to or affect the following:

15 (1) Watchmen, while actually engaged in the performance of the du-
16 ties of their employment;

17 (2) licensed hunters or fishermen, while engaged in hunting or
18 fishing;

19 (3) private detectives licensed by the state to carry the firearm in-
20 volved, while actually engaged in the duties of their employment;

21 (4) detectives or special agents regularly employed by railroad com-
22 panies or other corporations to perform full-time security or investigative
23 service, while actually engaged in the duties of their employment;

24 (5) the state fire marshal, the state fire marshal's deputies or any
25 member of a fire department authorized to carry a firearm pursuant to
26 K.S.A. 31-157 and amendments thereto, while engaged in an investigation
27 in which such fire marshal, deputy or member is authorized to carry a
28 firearm pursuant to K.S.A. 31-157 and amendments thereto; ~~or~~

29 (6) special deputy sheriffs described in K.S.A. 2005 Supp. 19-827,
30 and amendments thereto, who have satisfactorily completed the basic
31 course of instruction required for permanent appointment as a part-time
32 law enforcement officer under K.S.A. 74-5607a and amendments thereto;
33 *or*

34 (7) *an individual authorized to carry the firearm pursuant to section*
35 *1, and amendments thereto.*

36 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
37 sells, purchases, possesses or carries a firearm, device or attachment
38 which has been rendered unserviceable by steel weld in the chamber and
39 marriage weld of the barrel to the receiver and which has been registered
40 in the national firearms registration and transfer record in compliance
41 with 26 U.S.C. 5841 et seq. in the name of such person and, if such person
42 transfers such firearm, device or attachment to another person, has been
43 so registered in the transferee's name by the transferor.

- 1 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
2 solid plastic bullets.
- 3 (f) Subsection (a)(6) shall not apply to a law enforcement officer who
4 is:
- 5 (1) Assigned by the head of such officer's law enforcement agency to
6 a tactical unit which receives specialized, regular training;
- 7 (2) designated by the head of such officer's law enforcement agency
8 to possess devices described in subsection (a)(6); and
- 9 (3) in possession of commercially manufactured devices which are:
10 (A) Owned by the law enforcement agency; (B) in such officer's posses-
11 sion only during specific operations; and (C) approved by the bureau of
12 alcohol, tobacco, firearms and explosives of the United States department
13 of justice.
- 14 (g) Subsections (a)(6), (7) and (8) shall not apply to any person em-
15 ployed by a laboratory which is certified by the United States department
16 of justice, national institute of justice, while actually engaged in the duties
17 of their employment and on the premises of such certified laboratory.
18 Subsections (a)(6), (7) and (8) shall not affect the manufacture of, trans-
19 portation to or sale of weapons to such certified laboratory.
- 20 (h) It shall be a defense that the defendant is within an exemption.
- 21 (i) Violation of subsections (a)(1) through (a)(5) is a class A nonperson
22 misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity
23 level 9, nonperson felony.
- 24 (j) As used in this section, "throwing star" means any instrument,
25 without handles, consisting of a metal plate having three or more radiating
26 points with one or more sharp edges and designed in the shape of a
27 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
28 tured for use as a weapon for throwing.
- 29 Sec. 3. K.S.A. 2005 Supp. 75-7b17 is hereby amended to read as
30 follows: 75-7b17. (a) No licensee may carry a firearm concealed on or
31 about the licensee's person unless the licensee obtains a permit therefor,
32 upon application to the attorney general. No permit shall be issued to any
33 licensee unless such licensee:
- 34 (1) Demonstrates to the attorney general the need to carry a firearm
35 in order to protect the licensee's life or property or to protect the life or
36 property of a client of licensee and submits such proof as required by the
37 attorney general to establish the necessity for the issuance of a firearm
38 permit; and
- 39 (2) (A) within 24 months before the date of submission of the original
40 application for a firearm permit, has successfully completed the law en-
41 forcement training requirements of subsection (a) of K.S.A. 74-5607a,
42 and amendments thereto, or, within 12 months before the date of sub-
43 mission of the original application for a firearm permit, has successfully

1 completed the law enforcement training requirements of subsection (b)
2 of K.S.A. 74-5607a, and amendments thereto, and submits such proof as
3 required by the attorney general to show satisfactory completion of such
4 training ~~or~~; (B) within six months before the date of submission of the
5 original application for a firearm permit, has received training in the han-
6 dling of firearms and the lawful use of force from a trainer certified pur-
7 suant to K.S.A. 75-7b21, and amendments thereto, and submits such
8 proof as required by the attorney general to show satisfactory completion
9 of such training; *or (C) if the licensee is a prosecutor or qualified retired*
10 *prosecutor, as defined in section 1, and amendments thereto, within six*
11 *months before the date of submission of the original application for a*
12 *firearm permit, has received training in the handling of firearms from a*
13 *trainer certified pursuant to K.S.A. 75-7b21, and amendments thereto, or*
14 *the currently assigned range master of a federal, state or local law en-*
15 *forcement agency, using the ordinary course of fire for such agency, and*
16 *submits such proof as required by the attorney general to show satisfac-*
17 *tory completion of such training.*

18 (b) An application for a firearm permit by a licensee shall be made
19 in the manner and form prescribed by the attorney general and shall be
20 accompanied by a fee in an amount fixed by the attorney general pursuant
21 to K.S.A. 2005 Supp. 75-7b22, and amendments thereto. Such application
22 shall be made a part of and supplemental to such licensee's application
23 for a license under this act. The application shall contain:

- 24 (1) The applicant's name and business and residence addresses;
- 25 (2) the make or manufacturer's name, model, serial number, caliber,
26 gauge and any other identifying information concerning the firearm or
27 firearms to be carried by the applicant;
- 28 (3) a full set of the applicant's fingerprints;
- 29 (4) a color photograph of the applicant taken within 30 days prior to
30 date of application and suitable for identification purposes;
- 31 (5) such other information as deemed necessary by the attorney
32 general.

33 (c) (1) If the attorney general is satisfied that it is necessary for an
34 applicant under this section to carry a firearm, the attorney general shall
35 issue to such licensee a firearm permit identification card, the form of
36 which shall be approved by the attorney general. Such card shall bear the
37 licensee's color photograph, thumb prints and signature and a description
38 of the firearm or firearms to be carried. The licensee shall have such
39 permit in the licensee's possession when carrying a firearm. Identification
40 cards and firearm permits shall be numbered consecutively, and the at-
41 torney general shall maintain a current file of all valid firearm permits.

42 (2) For the purpose of safety and emergency identification, licensees
43 issued a firearm permit under this act to carry a concealed firearm may

1 carry a firearm permit badge. The badge shall be carried in such a manner
2 that at all times when the badge is visible the private detective's firearm
3 permit identification card issued pursuant to paragraph (1) of this sub-
4 section also shall be visible. The attorney general shall determine the size,
5 design and other specifications of the badge. The words "licensed private
6 detective" shall be stated clearly on the face of the badge. The cost of
7 the badge shall be borne by the licensee. Whenever any licensee termi-
8 nates such licensee's activities as a private detective, or such licensee's
9 license has been suspended or revoked, such badge shall be surrendered
10 within five days following such termination, suspension or revocation to
11 the attorney general for cancellation. Every licensee possessing a valid
12 firearm permit badge shall report to the attorney general any loss of the
13 badge within 72 hours of the discovery of the loss.

14 (d) Any licensee granted a firearm permit shall present the permit
15 identification card and firearm permit badge upon request by a law en-
16 forcement officer acting within the officer's jurisdictional authority, or by
17 a private person upon private property if the person owns or has legal
18 control of the private property, to demonstrate the licensee's permit to
19 carry a firearm. Every licensee possessing a valid firearm permit shall
20 report to the attorney general any change of employment status, change
21 of firearm or firearms to be carried, loss of identification card or change
22 of personal or business address. Every licensee who discharges a firearm
23 for any reason other than test firing, firearm training or target practice
24 shall report the discharge to the attorney general within 24 hours, to-
25 gether with a written report giving full particulars and reason for such
26 discharge.

27 (e) The attorney general shall revoke any firearm permit if the li-
28 censee's private detective license has been suspended or revoked. The
29 attorney general may suspend or revoke any firearm permit if the licensee
30 has used a firearm in a manner inconsistent with the lawful use of force
31 or if the licensee can no longer demonstrate a need to carry a firearm,
32 pursuant to subsection (a)(1). An order of suspension or revocation, and
33 hearing thereon, shall be subject to the provisions of the Kansas admin-
34 istrative procedure act. The attorney general shall recall any suspended
35 or revoked firearm permit identification card.

36 (f) A licensee to whom a firearm permit is granted under this section
37 shall be deemed to have no greater justification in the use of force than
38 a private person as prescribed by the Kansas criminal code. Nothing in
39 this act shall be construed as limiting the civil liability of any such licensee
40 with respect to the use of force.

41 (g) No firearm permit shall be issued to any:

42 (1) Organization;

43 (2) individual who has been declared, by any court of competent ju-

1 jurisdiction, to be incapacitated or mentally ill and has not been restored
2 to capacity or mental health; or

3 (3) individual who suffers from alcohol or narcotics addiction or
4 dependence.

5 (h) A firearm permit issued under this act shall expire on December
6 31 of the year of its issuance, except that on and after July 1, 2004, a
7 firearm permit issued under this act shall expire on the date of expiration
8 of the licensee's private detective license. Renewal of any such firearm
9 permit shall be made in a form and manner prescribed by the attorney
10 general and subject to such conditions as required by rules and regula-
11 tions adopted by the attorney general. Renewal of a firearm permit shall
12 be based on a demonstrated continuing need to carry a firearm in ac-
13 cordance with subsection (a)(1).

14 Sec. 4. K.S.A. 2005 Supp. 21-4201 and 75-7b17 are hereby repealed.

15 Sec. 5. This act shall take effect and be in force from and after its
16 publication in the statute book.