



K-1 Concealed Carry

K-2 Uniform State Laws—Knives, Handguns, State Pre-emption, and Unlawful Discharge

Julian Efirid
Principal Analyst
785-296-3181
Julian.Efirid@kird.ks.gov

Firearms and Weapons

K-1 Concealed Carry

Kansas legislation (known as the Personal and Family Protection Act) regarding concealed carry of handguns was revised during recent legislative sessions. The changes generally streamlined the process of applying for a license and modified the basic requirements for licensing and renewing licensure. The term “weapon” was changed to “handgun” to more accurately reflect the type of firearm covered by the legislation. Anyone licensed may carry concealed when hunting, fishing, or fur harvesting. In addition, a person with a legally acquired sound suppression device may use such device during these activities.

The 2013 Legislature enacted Senate Sub. for HB 2052 that adds new sections to the Personal and Family Protection Act, primarily authorizing concealed carry of handguns by licensees into certain public buildings enumerated in the legislation. Also passed was SB 21, which enacted firearms-related amendments.

Background

Currently, 50 states allow the concealed carry of handguns (CCH), with Illinois recently allowing CCH. States may be categorized into whether an entity is a “shall issue” or “may issue” jurisdiction. Entities that are “shall issue” will issue to private citizens a concealed weapons permit as long as they meet all legal requirements. Entities that are “may issue” have the authority to make judgments on whether or not a permit will be issued to private citizens even after they have met all other legal requirements.

There are 23 states which shall issue permits to their residents only; and there are 19 states which shall issue permits to their residents and non-residents. There are three states, and New York City, which may issue permits to residents only; and there are five states which may issue permits to residents and non-residents.

Some states have reciprocity agreements with other entities, which means those states honor the other entity’s CCH. There are other situations in which one state will recognize another entity’s permit, but the other entity will not reciprocate in recognition of a permit. Acceptance of another state’s permit may be limited to only residents of that state, not the non-residents who hold permits. Kansas licensing of CCH is honored in 34 states, for instance, but not in 15 other states, nor in the District of Columbia or New York City.

Kansas Law

The Legislature passed the Personal and Family Protection Act in 2006, allowing licensed persons to carry concealed weapons on and after January 2, 2007. Kansas is a “shall issue” state wherein a person who meets concealed carry qualifications cannot be denied a license. In addition, Kansas is a reciprocal state where a person who has a concealed carry license or permit from another state is allowed to carry a concealed firearm in Kansas.

The 2010 Legislature modified the original 2006 authorizing statutes. House Sub. for SB 306 amended the Personal and Family Protection Act, which previously established the CCH. The amendments removed a number of provisions, modified other provisions, adjusted various fees associated with licensing, added several new provisions, and made a number of technical changes in the original law. The legislation included the following items:

- Changed the term “weapon” to “handgun” in the Act;
- Deleted a number of licensing requirements that had to be met prior to licensing in order to qualify to carry a concealed handgun after compliance with the application and training requirements;
- Maintained the requirements to be met prior to obtaining a concealed carry license that a person is at least 21 years of age, is a resident of the state and county where application for licensing is made, is not prohibited from possessing a firearm either by federal or state law;
- Added a provision that would allow a person to carry a concealed handgun while the application is pending if the individual meets certain criteria enumerated in a new provision;
- Eliminated certain requirements for license renewal;
- Modified the driver’s license requirement for dependents of certain military personnel relative to the license application process;
- Reduced the current fees associated with licensing for concealed carry and also reduced fees for renewals;
- Eliminated the requirement for fingerprinting of applicants for renewal of a concealed carry license and added a requirement for a name-based national criminal records check for renewals;
- Added a provision that extends the term of a license for 90 days after a person is no longer a resident of the state;
- Modified the provisions which govern the public and private places a licensee may not carry a concealed handgun and provided new language for violations, with a first offense carrying a \$50 fine, a second offense a \$100 fine, and the third or subsequent offense a class B misdemeanor;
- Excluded parking lots and garages from being included in any public or private facility where a concealed handgun is prohibited;
- Revised the dimensions, locations, and other features of signs prohibiting the concealed carry of handguns, subject to rules and regulations adopted by the Attorney General;
- Amended the provisions governing the crime of carrying a concealed handgun while under the influence of alcohol or drugs;
- Deleted implied consent for testing for alcohol or drugs under most circumstances, except in cases of death or serious injury caused by the holder of a concealed carry handgun license; and
- Added an additional exception to the general criminal prohibition of firearms possession for individuals who hold a license to carry a concealed handgun.

The 2011 Legislature allowed CCH licensed persons to carry while lawfully hunting, fishing, or fur harvesting, and to use silencers on those weapons.

The 2013 Legislature amended existing law concerning firearms, criminal law, and the Personal and Family Protection Act (concealed carry of

handguns). The principal legislation was Senate Sub. for HB 2052, which:

- Prohibits the unlawful discharge of a firearm within or into the corporate limits of any city. The bill provides exemptions for when a firearm may be discharged within or into a city and also classifies the unlawful discharge of a firearm as a class B, nonperson misdemeanor;
- Modifies the Personal and Family Protection Act to allow the possession of firearms on certain governmental property, including in state and municipal buildings;
- Defines, for the purposes of the bill, the terms “adequate security measures,” “municipality,” “restricted access entrance,” “state and municipal building,” and “weapon”;
- Excludes school districts from the definition of “municipality”;
- Excludes the State Capitol from the definition of “state and municipal building”;
- Requires adequate security measures at public entrances of state and municipal buildings in order to prohibit the carrying of any weapon into a building;
- Prevents a state agency or municipality from prohibiting a licensed employee from carrying a concealed handgun at the employee’s workplace, unless the building has adequate security measures and adopted personnel policies prohibit such concealed carry by employees who are licensed;
- Provides that it will not be a violation of the provisions in the bill for a licensed person to carry a concealed handgun through a restricted access entrance into a state or municipal building with adequate security measures;
- Establishes that it is not a crime for a person to carry a concealed handgun into a public building if properly posted and allows for the denial of entry to a building or removal of such person from a building where concealed carry is prohibited;
- Provides liability protections for entities allowing concealed carry in state or municipal buildings;
- Allows corrections facilities, jail facilities, or law enforcement agencies to prohibit the carrying of handguns or firearms, concealed or unconcealed, into the secured areas of such buildings, except any other area of such building, outside a secured area and readily accessible to the public, shall be subject to provisions in the bill;
- Permits the chief judge of each judicial district to prohibit the carrying of a concealed handgun into courtrooms or ancillary courtrooms within the district provided other means of security are employed;
- Allows the governing body or chief administrative officer of any state or municipal building to exempt the building for four years, subject to developing a plan for security measures and filing notification of the exemption;
- Provides a specific four-year exemption for any state or municipal building if the governing body or chief administrative officer follows specified procedures for exempting certain entities identified in the bill: public medical care facilities, public adult care homes, community mental health centers, indigent health care clinics, and postsecondary educational institutions;
- Permits school districts, postsecondary educational institutions, public medical care facilities, public adult care homes, community mental health centers, and indigent health care clinics to allow a licensed employee to concealed carry a handgun if the employee meets the entity’s general policy requirements and if the entity does not have a personnel policy prohibiting employees from concealed carry of a handgun;
- Excludes the buildings of the Kansas School for the Blind and School for the Deaf from application for a designated institutional exemption;

- Removes a specific listing of buildings in current law where concealed carrying is prohibited and inserts the new phrase “any building”;
- Strikes language prohibiting the possession of a firearm on the grounds of certain government buildings, including the State Capitol, and retains existing law prohibiting “open carry” in state and municipal buildings;
- Exempts the State Capitol from provisions of the bill on and after July 1, 2014, and allows a licensee to carry a concealed handgun in the State Capitol, unless the Legislative Coordinating Council determines the Statehouse does have adequate security measures;
- Updates a statute by striking an outdated reference to the Ombudsman of Corrections, which no longer exists;
- Unless otherwise required by law, prohibits the release of records that would disclose the name, home address, zip code, e-mail address, phone number or cell number, or other contact information of any person licensed to carry concealed handguns. The provision also applies to applicants for a license;
- Deletes a reduced fee for a concealed carry license obtained by retired law enforcement officers;
- Allows corrections officers, parole officers, and corrections officers employed by the Federal Bureau of Prisons to apply professional firearms certification toward training requirements for a concealed carry license;
- Adds law enforcement officers from other states and qualified retired law enforcement officers to a list of individuals exempted from the law prohibiting the criminal carrying of a weapon;
- Allows law enforcement officers from other states and qualified retired law enforcement officers to possess handguns within buildings where concealed carry may be prohibited;
- Provides liability protections regarding concealed carry for private businesses

either allowing or prohibiting concealed carry in private buildings;

- Changes all references in the bill to “premise,” “premises,” “facility,” and “facilities” to either building or buildings; and
- Makes most provisions in the bill effective on July 1, 2013, and the provisions pertaining to the State Capitol effective on July 1, 2014 (unless the Legislative Coordinating Council determines the Statehouse does not have adequate security measures as defined in the bill).

Licensing Requirements

Anyone in Kansas desiring to obtain a concealed carry license first must qualify for licensing. The pre-qualifications include the following three requirements:

- Must be a Kansas state resident of the county where the application is made;
- Must be at least 21 years of age; and
- Must not be prohibited by either federal or state law from possessing any firearm.

A person may be disqualified from licensing if such person:

- Is deemed to pose a significantly greater threat to law enforcement or the public at large than the average citizen if presented in a voluntary report by the county sheriff or chief law enforcement officer;
- Has been convicted of any crime or has been the subject of any restraining order or any mental health finding that would disqualify the applicant; or
- Does not meet any of the pre-qualification requirements or fails to be recommended after firearms training.

Applicants for concealed carry licensing are required to complete an approved training course and to provide a certificate or affidavit of successful completion that is signed by an instructor who must be approved by the Attorney General to offer such training. The applicants must pay an initial license fee of \$100 to the Attorney General, submitted

along with a formal written application, and a \$32.50 fee to the county sheriff. The sheriff will take fingerprints to initiate a criminal records check as part of the application process. The Attorney General then issues a concealed carry handgun license following successful completion of the training course and the application requirements.

The 2013 Legislature also enacted SB 21, which made the following changes to firearms-related statutes and licensing for CCH:

- Clarifies that the expungement of a prior felony conviction does not relieve the individual from complying with any state or federal law relating to the use, shipment, transportation, receipt, or possession of firearms by a person previously convicted of a felony;
- Authorizes official recognition of any valid concealed carry permit from another state

for individuals traveling through or visiting Kansas;

- Requires issuance of a 180-day receipt from the Attorney General for a new Kansas resident who possesses a permit from another state and who is required to obtain a Kansas license. This receipt is required to be carried along with the license from the original jurisdiction. The license from the original jurisdiction has to meet or exceed the Kansas requirements for concealed carry. Prior to the expiration of the 180-day receipt, the applicant needs to provide proof of training to the Attorney General's Office. Following a successful background check and receipt of documentation and fees, the application is approved for a Kansas concealed permit.

For further information please contact:

Julian Efird, Principal Analyst
Julian.Efird@klrd.ks.gov

Joanna Wochner, Research Analyst
Joanna.Wochner@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181
Fax: (785) 296-3824