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Firearms and Weapons

K-3 Local Government Regulation of Weapons

During the 2013-2014 legislative sessions, the Legislature redefined the boundaries delineating where the carrying of weapons, such as hand guns, long guns, shot guns, and knives, would be permitted; where certain weapons could be restricted; and to whom such restrictions would apply. Many of the changes preempted local units of government from separately regulating weapons with often conflicting county ordinances and city codes. An overview of the changes in the law can be found in the paragraphs below. More in-depth information about the changes is contained later in this memorandum.

Under the new laws, public buildings generally fall into one of four categories. First, as a policy matter the Legislature determined that most public buildings would be covered by the revised laws and would have to allow the carrying of weapons or else provide “adequate security” to prevent the carrying of weapons in the building. Secondly, certain public buildings could be exempted from application of the revised laws for up to four years. The four-year period of exemptions from the new laws (January 1, 2014 to December 31, 2017) was viewed by legislators as an opportunity for the Kansas Legislature to monitor the impact of the changes in weapons laws, to hear public testimony about the implications and the modifications that might be desired by the public and private sectors, and to resolve issues related to application of a new statewide policy. Thirdly, those public buildings where authority to adopt rules governing the carrying of weapons was delegated to a governing body, administrative judge, or building manager, and had “adequate security” could be self-regulated. Finally, certain other public buildings and facilities with buildings were excluded from application of the revised laws and did not have to establish an exemption.

Private buildings and their owners were given authority to provide for the regulation of carrying firearms and other weapons, if the private entity desired to do so.

Criminal laws regarding the discharge of firearms and carrying of firearms were clarified by new laws addressing criminal possession, criminal use, carrying under the influence, and firing into certain locations, for example, across a boundary between an incorporated and unincorporated area.

The open carry of firearms was not specifically addressed by the legislative revisions in 2013-2014, but the policy implication was that

open carry would be permitted generally in the state, but could be restricted in certain places as enumerated in statutes and exceptions and under prescribed procedures that required the posting of signage adopted by the Office of the Attorney General. In 2014, signs prohibiting the open carrying of firearms were added to the signage required to be posted to lawfully prohibit the open carry of handguns, the concealed carry of handguns, and the carrying of other weapons into public buildings, private buildings, and certain other facilities defined in law.

Statutes concerning the concealed carry of handguns were modified to be consistent with 2013 statutory changes allowing certain public and private buildings to restrict entry of persons who possess a valid concealed carry license issued by Kansas or other states.

The policy changes regarding weapons reduced the number of different local regulations that can be imposed on the owners of weapons, especially when such weapons are carried outside the home. Restrictions under certain defined circumstances are still permitted by state laws. The net effect of the legislative changes may be likened to reducing the impact of boundaries, whether they are political subdivisions boundaries or public and private buildings, garages, and grounds borders. The changes in the law made it possible to carry weapons outside the home, anywhere in the state, without encountering different regulations and prohibitions in different places. The intent of the new policy was to give more uniformity to the weapons laws by strengthening state statutes by reducing the delegation of authority to local units, and eliminating the often conflicting regulations promulgated by different public entities.

Recent Legislation

The 2013 Legislature added new law and amended existing law concerning weapons generally (open and concealed carry are addressed elsewhere in more detail), including firearms and knives that were previously regulated by local units of government, criminal law regarding weapons, and the Personal and Family Protection Act. Specifically, provisions

of the 2013 legislation that were unmodified by 2014 amendments:

- Prohibited the unlawful discharge of a firearm within or into the corporate limits of any city. The legislation provided exemptions for when a firearm may be discharged within or into a city and also classified the unlawful discharge of a firearm as a class B, nonperson misdemeanor;
- Modified the Personal and Family Protection Act to allow the possession of firearms on certain governmental property, including in state and municipal buildings;
- Required adequate security measures at public entrances of state and municipal buildings in order to prohibit the carrying of any weapon into a building;
- Directed the Attorney General's Office to develop appropriate signage for public and private buildings;
- Allowed corrections facilities, jail facilities, and law enforcement agencies to prohibit the carrying of handguns or firearms, concealed or unconcealed, into the secured areas of such buildings, except for any other area of such building, outside a secured area and readily accessible to the public;
- Permitted 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;
- Allowed 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 with the Attorney General;
- Provided a specific four-year exemption for any state or municipal building if the governing body or chief administrative officer followed specified procedures for exempting the entities, including public medical care facilities, public adult care homes, community mental health centers,

- indigent health care clinics, and post-secondary educational institutions;
- Permitted school districts, post-secondary 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 conceal carry a concealed handgun if the employee met the entity's general policy requirements and if the entity did not have a personnel policy prohibiting employees from the concealed carry of a handgun; and
- Provided liability protections regarding concealed carry for private businesses either allowing or prohibiting concealed carry in private buildings.

Regulation of Knives and Firearms by Local Units of Government

Legislation passed during the 2013 Session prohibited municipalities from regulating the transportation, possession, carrying, sales, transfers, purchases, gifting, licensing, registration, or uses of a knife or knife-making components. In addition, the legislation prohibited a municipality from passing any ordinance, resolution, or rule that would be more restrictive regarding knife manufacturing than the manufacture of any other commercial product.

The 2013 legislation also excluded from the definition of "municipality" any school districts, jails, and juvenile correctional facilities.

Additionally, 2014 legislation provided that individuals cannot be prosecuted for violating municipal regulations on knives or knife-making components between July 1, 2013, and July 1, 2014. Violations in this period are added to the list of reasons for which a court will be required to order expungement of an individual's record. Any person convicted of any municipal violation before the effective date will be given the ability to petition the court for expungement.

The 2014 Legislature enacted additional legislation to prohibit cities and counties from adopting or enforcing ordinances, resolutions, regulations, or administrative actions governing the purchase, transfer, ownership, storage, carrying, or transporting of firearms, ammunition, or any related component. Cities and counties also are prohibited from adopting or enforcing any ordinances, resolutions, or regulations relating to the sale of firearms by individuals having federal firearms licenses, if those local controls are more restrictive than any other ordinance, resolution, or regulation governing the sale of any other commercial good. Ordinances, resolutions, or regulations adopted before July 1, 2014, are deemed null and void.

Cities and counties are permitted to adopt ordinances, resolutions, or regulations pertaining to concealed handguns in public buildings (KSA 2013 Supp. 75-7c20), and to the personnel policies governing concealed carry of handguns by city or county employees, so long as in compliance with this law.

Another new 2014 provision shields local units of government from being liable for the wrongful acts or omissions related to carrying a firearm, including acts or omissions by municipal employees.

The 2014 legislation repealed certain statutory provisions previously delegating to local units of government the authority to regulate open carry and transportation of a firearm.

Firearms Buyback Programs

The 2014 legislation prohibited local government taxes from being used to implement, administer, or operate a firearms buyback program. A firearms buyback program was defined in the bill as "any program wherein individuals are offered the opportunity to gift, sell, or otherwise transfer ownership of such individual's firearm to a city or county."

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