

HOUSE BILL No. 2222

By Representative Ousley

2-3

1 AN ACT concerning firearms; relating to the Kansas bureau of
2 investigation; enacting the Kansas voluntary do-not-sell firearms list
3 act; relating to penalties for violations of such act; amending K.S.A.
4 2020 Supp. 21-6301 and repealing the existing section.
5

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

7 New Section 1. This act shall be known and may be cited as the
8 Kansas voluntary do-not-sell firearms list act.

9 New Sec. 2. As used in this act:

10 (a) "Act" means sections 1 through 5, and amendments thereto.

11 (b) "List" means the Kansas voluntary do-not-sell firearms list
12 established by section 3, and amendments thereto.

13 New Sec. 3. (a) The Kansas bureau of investigation shall establish the
14 Kansas voluntary do-not-sell firearms list to prevent the purchase of
15 firearms by any person who voluntarily registers to be placed onto the list.
16 The Kansas bureau of investigation shall maintain and update the list, and
17 the list shall be used in accordance with 18 U.S.C. § 922 to advise a dealer
18 licensed under 18 U.S.C. § 923 if the Kansas bureau of investigation's
19 records indicate a buyer of firearms is prohibited from purchasing a
20 firearm. The Kansas bureau of investigation shall adopt any rules and
21 regulations and develop any policies that are necessary for the
22 implementation of the list.

23 (b) The Kansas bureau of investigation shall withhold from public
24 disclosure all information regarding a request to be placed onto or
25 removed from the list and any other personally identifiable information
26 contained in or related to the list, except that such information may be
27 disclosed to a law enforcement officer acting in the performance of such
28 officer's official duties or the applicant with respect to such applicant's
29 own information. The provisions of this subsection shall expire on July 1,
30 2026, unless the legislature reviews and reenacts this provision pursuant to
31 K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

32 New Sec. 4. (a) Any person 18 years of age or older may apply in
33 writing to the Kansas bureau of investigation to request voluntary
34 placement onto the list and, after being placed on such list, may apply in
35 writing to the Kansas bureau of investigation to request removal from such
36 list. The application for placement onto or removal from the list shall be on

1 forms prescribed by the Kansas bureau of investigation. Pursuant to
2 subsection (d), the forms shall state that any person placed onto the list
3 shall not be removed from the list until 21 days after the Kansas bureau of
4 investigation has received such person's application for removal. The
5 Kansas bureau of investigation shall make the forms available on the
6 Kansas bureau of investigation's website.

7 (b) Any person requesting placement onto or removal from such list
8 shall submit a photocopy of one valid form of photo identification issued
9 by a governmental agency of the applicant's state of residency or by the
10 United States department of defense or United States department of state
11 to accompany the placement and removal form. Such request for
12 placement onto or removal from the list may be submitted to the Kansas
13 bureau of investigation by mail or in person at any publicly accessible
14 Kansas bureau of investigation office.

15 (c) Upon placing a person onto the list, the Kansas bureau of
16 investigation shall immediately forward a person's eligibility to purchase a
17 firearm to the national instant criminal background check system created
18 by the federal Brady handgun violence prevention act, public law 103-159,
19 or any successor system. The Kansas bureau of investigation shall also
20 notify such person by mail that such person has been placed onto the list.

21 (d) The Kansas bureau of investigation shall not remove any person
22 from the list until 21 days after receipt of such person's removal request.
23 Upon removal of a person's name from the list, the Kansas bureau of
24 investigation shall update such person's eligibility to purchase a firearm to
25 the national instant criminal background check system and shall destroy all
26 records of such person's placement onto and request for removal from the
27 list within a reasonable time thereafter.

28 New Sec. 5. (a) It shall be unlawful for any person to inquire as to
29 whether another person has been placed onto the list for any purpose other
30 than to determine such person's eligibility to purchase a firearm.

31 (b) It shall be unlawful for any person to knowingly give any false
32 information or to make any false statement with the intent of placing or
33 removing any other person onto or from the list.

34 (c) It shall be unlawful for any person to discriminate against a
35 person with respect to healthcare services, employment, education,
36 housing, insurance, governmental benefits or contracting because that
37 person is not on the list, is on the list or has previously been on the list.

38 (d) Violation of this section is a class B nonperson misdemeanor.

39 Sec. 6. K.S.A. 2020 Supp. 21-6301 is hereby amended to read as
40 follows: 21-6301. (a) Criminal use of weapons is knowingly:

41 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
42 sand club or metal knuckles;

43 (2) possessing with intent to use the same unlawfully against another,

1 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged
2 razor, throwing star, stiletto or any other dangerous or deadly weapon or
3 instrument of like character;

4 (3) setting a spring gun;

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

7 (5) selling, manufacturing, purchasing or possessing a shotgun with a
8 barrel less than 18 inches in length, or any firearm designed to discharge or
9 capable of discharging automatically more than once by a single function
10 of the trigger, whether the person knows or has reason to know the length
11 of the barrel or that the firearm is designed or capable of discharging
12 automatically;

13 (6) possessing, manufacturing, causing to be manufactured, selling,
14 offering for sale, lending, purchasing or giving away any cartridge ~~which~~
15 *that* can be fired by a handgun and ~~which that~~ *that* has a plastic-coated bullet
16 that has a core of less than 60% lead by weight, whether the person knows
17 or has reason to know that the plastic-coated bullet has a core of less than
18 60% lead by weight;

19 (7) selling, giving or otherwise transferring any firearm with a barrel
20 less than 12 inches long to any person under 18 years of age whether the
21 person knows or has reason to know the length of the barrel;

22 (8) selling, giving or otherwise transferring any firearms to any
23 person who is both addicted to and an unlawful user of a controlled
24 substance;

25 (9) selling, giving or otherwise transferring any firearm to any person
26 who is or has been a mentally ill person subject to involuntary
27 commitment for care and treatment, as defined in K.S.A. 59-2946, and
28 amendments thereto, or a person with an alcohol or substance abuse
29 problem subject to involuntary commitment for care and treatment as
30 defined in K.S.A. 59-29b46, and amendments thereto;

31 (10) possessing any firearm by a person who is both addicted to and
32 an unlawful user of a controlled substance;

33 (11) possessing any firearm by any person, other than a law
34 enforcement officer, in or on any school property or grounds upon which is
35 located a building or structure used by a unified school district or an
36 accredited nonpublic school for student instruction or attendance or
37 extracurricular activities of pupils enrolled in kindergarten or any of the
38 grades one through 12 or at any regularly scheduled school sponsored
39 activity or event whether the person knows or has reason to know that such
40 person was in or on any such property or grounds;

41 (12) refusing to surrender or immediately remove from school
42 property or grounds or at any regularly scheduled school sponsored
43 activity or event any firearm in the possession of any person, other than a

1 law enforcement officer, when so requested or directed by any duly
2 authorized school employee or any law enforcement officer;

3 (13) possessing any firearm by a person who is or has been a
4 mentally ill person subject to involuntary commitment for care and
5 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
6 persons with an alcohol or substance abuse problem subject to involuntary
7 commitment for care and treatment as defined in K.S.A. 59-29b46, and
8 amendments thereto;

9 (14) possessing a firearm with a barrel less than 12 inches long by
10 any person less than 18 years of age;

11 (15) possessing any firearm while a fugitive from justice;

12 (16) possessing any firearm by a person who is an alien illegally or
13 unlawfully in the United States;

14 (17) possessing any firearm by a person while such person is subject
15 to a court order that:

16 (A) Was issued after a hearing, ~~of which~~ *where* such person received
17 actual notice; and ~~at which such person~~ had an opportunity to participate;

18 (B) restrains such person from harassing, stalking or threatening an
19 intimate partner of such person or a child of such person or such intimate
20 partner, or engaging in other conduct that would place an intimate partner
21 in reasonable fear of bodily injury to the partner or the child; and

22 (C) (i) includes a finding that such person represents a credible threat
23 to the physical safety of such intimate partner or child; or

24 (ii) by its terms explicitly prohibits the use, attempted use or
25 threatened use of physical force against such intimate partner or child that
26 would reasonably be expected to cause bodily injury; ~~or~~

27 (18) possessing any firearm by a person who, within the preceding
28 five years, has been convicted of a misdemeanor for a domestic violence
29 offense, or a misdemeanor under a law of another jurisdiction ~~which~~ *that* is
30 substantially the same as such misdemeanor offense; *or*

31 (19) *purchasing any firearm by a person who has been placed onto*
32 *the Kansas voluntary do-not-sell firearms list established by section 3, and*
33 *amendments thereto.*

34 (b) Criminal use of weapons as defined in:

35 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a
36 class A nonperson misdemeanor;

37 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
38 felony;

39 (3) subsection (a)(10) ~~or~~, (a)(11) *or (a)(19)* is a class B nonperson
40 select misdemeanor;

41 (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity
42 level 8, nonperson felony; and

43 (5) subsection (a)(14) is a:

1 (A) Class A nonperson misdemeanor except as provided in subsection
2 (b)(5)(B);

3 (B) severity level 8, nonperson felony upon a second or subsequent
4 conviction.

5 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

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

9 (2) wardens, superintendents, directors, security personnel and
10 keepers of prisons, penitentiaries, jails and other institutions for the
11 detention of persons accused or convicted of crime, while acting within the
12 scope of their authority;

13 (3) members of the armed services or reserve forces of the United
14 States or the Kansas national guard while in the performance of their
15 official duty; or

16 (4) the manufacture of, transportation to, or sale of weapons to a
17 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
18 such weapons.

19 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
20 sells, purchases, possesses or carries a firearm, device or attachment ~~which~~
21 *that* has been rendered unserviceable by steel weld in the chamber and
22 marriage weld of the barrel to the receiver and which has been registered
23 in the national firearms registration and transfer record in compliance with
24 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
25 transfers such firearm, device or attachment to another person, has been so
26 registered in the transferee's name by the transferor.

27 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
28 solid plastic bullets.

29 (f) Subsection (a)(4) shall not apply to a law enforcement officer who
30 is:

31 (1) Assigned by the head of such officer's law enforcement agency to
32 a tactical unit which receives specialized, regular training;

33 (2) designated by the head of such officer's law enforcement agency
34 to possess devices described in subsection (a)(4); and

35 (3) in possession of commercially manufactured devices ~~which~~ *that*
36 are:

37 (A) Owned by the law enforcement agency;

38 (B) in such officer's possession only during specific operations; and

39 (C) approved by the bureau of alcohol, tobacco, firearms and
40 explosives of the United States department of justice.

41 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
42 employed by a laboratory ~~which~~ *that* is certified by the United States
43 department of justice, national institute of justice, while actually engaged

1 in the duties of their employment and on the premises of such certified
2 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
3 manufacture of, transportation to or sale of weapons to such certified
4 laboratory.

5 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
6 person or entity in compliance with the national firearms act, 26 U.S.C. §
7 5801 et seq.

8 (i) (1) Subsection (a)(4) shall not apply to or affect any person in
9 possession of a device or attachment designed, used or intended for use in
10 suppressing the report of any firearm, if such device or attachment satisfies
11 the description of a Kansas-made firearm accessory as set forth in K.S.A.
12 2020 Supp. 50-1204, and amendments thereto.

13 (2) The provisions of this subsection shall apply to any violation of
14 subsection (a)(4) that occurred on or after April 25, 2013.

15 (j) Subsection (a)(11) shall not apply to:

16 (1) Possession of any firearm in connection with a firearms safety
17 course of instruction or firearms education course approved and authorized
18 by the school;

19 (2) possession of any firearm specifically authorized in writing by the
20 superintendent of any unified school district or the chief administrator of
21 any accredited nonpublic school;

22 (3) possession of a firearm secured in a motor vehicle by a parent,
23 guardian, custodian or someone authorized to act in such person's behalf
24 who is delivering or collecting a student; or

25 (4) possession of a firearm secured in a motor vehicle by a registered
26 voter who is on ~~the~~ school grounds, ~~which~~ *that* contain a polling place for
27 the purpose of voting during polling hours on an election day; or

28 (5) possession of a concealed handgun by an individual who is not
29 prohibited from possessing a firearm under either federal or state law.

30 (k) Subsections (a)(9) and (a)(13) shall not apply to a person who has
31 received a certificate of restoration pursuant to K.S.A. 75-7c26, and
32 amendments thereto.

33 (l) Subsection (a)(14) shall not apply if such person, less than 18
34 years of age, was:

35 (1) In attendance at a hunter's safety course or a firearms safety
36 course;

37 (2) engaging in practice in the use of such firearm or target shooting
38 at an established range authorized by the governing body of the
39 jurisdiction in which such range is located, or at another private range with
40 permission of such person's parent or legal guardian;

41 (3) engaging in an organized competition involving the use of such
42 firearm, or participating in or practicing for a performance by an
43 organization exempt from federal income tax pursuant to section 501(c)(3)

1 of the internal revenue code of 1986 ~~which~~ *that* uses firearms as a part of
2 such performance;

3 (4) hunting or trapping pursuant to a valid license issued to such
4 person pursuant to article 9 of chapter 32 of the Kansas Statutes
5 Annotated, and amendments thereto;

6 (5) traveling with any such firearm in such person's possession being
7 unloaded to or from any activity described in subsections (l)(1) through (l)
8 (4), only if such firearm is secured, unloaded and outside the immediate
9 access of such person;

10 (6) on real property under the control of such person's parent, legal
11 guardian or grandparent and who has the permission of such parent, legal
12 guardian or grandparent to possess such firearm; or

13 (7) at such person's residence and who, with the permission of such
14 person's parent or legal guardian, possesses such firearm for the purpose of
15 exercising the rights contained in K.S.A. 2020 Supp. 21-5222, 21-5223 or
16 21-5225, and amendments thereto.

17 (m) As used in this section:

18 (1) "Domestic violence" means the use or attempted use of physical
19 force, or the threatened use of a deadly weapon, committed against a
20 person with whom the offender is involved or has been involved in a
21 dating relationship or is a family or household member.

22 (2) "Fugitive from justice" means any person having knowledge that
23 a warrant for the commission of a felony has been issued for the
24 apprehension of such person under K.S.A. 22-2713, and amendments
25 thereto.

26 (3) "Intimate partner" means, with respect to a person, the spouse of
27 the person, a former spouse of the person, an individual who is a parent of
28 a child of the person or an individual who cohabitates or has cohabitated
29 with the person.

30 (4) "Throwing star" means any instrument, without handles,
31 consisting of a metal plate having three or more radiating points with one
32 or more sharp edges and designed in the shape of a polygon, trefoil, cross,
33 star, diamond or other geometric shape, manufactured for use as a weapon
34 for throwing.

35 Sec. 7. K.S.A. 2020 Supp. 21-6301 is hereby repealed.

36 Sec. 8. This act shall take effect and be in force from and after its
37 publication in the statute book.