

## HOUSE BILL No. 2454

By Committee on Federal and State Affairs

5-5

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to the criminal discharge of a firearm; creating additional violations for  
3 discharges near a school and certain projectiles; amending K.S.A. 2020  
4 Supp. 21-6308 and repealing the existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 21-6308 is hereby amended to read as  
8 follows: 21-6308. (a) Criminal discharge of a firearm is the:

9 (1) Reckless and unauthorized discharge of any firearm:

10 (A) At a dwelling, building or structure in which there is a human  
11 being whether the person discharging the firearm knows or has reason to  
12 know that there is a human being present;

13 (B) at a motor vehicle, aircraft, watercraft, train, locomotive, railroad  
14 car, caboose, rail-mounted work equipment or rolling stock or other means  
15 of conveyance of persons or property in which there is a human being  
16 whether the person discharging the firearm knows or has reason to know  
17 that there is a human being present;

18 (2) reckless and unauthorized discharge of any firearm at a dwelling  
19 in which there is no human being; or

20 (3) discharge of any firearm:

21 (A) Upon any land or nonnavigable body of water of another, without  
22 having obtained permission of the owner or person in possession of such  
23 land; ~~or~~

24 (B) upon or from any public road, public road right-of-way or  
25 railroad right-of-way except as otherwise authorized by law;

26 (C) when a projectile travels beyond the boundaries of the property  
27 from which any authorized discharge of a firearm occurred; or

28 (D) outside the corporate limits of a city and within two miles of any  
29 school property or grounds upon which is located a building or structure  
30 used by a unified school district or an accredited nonpublic school for  
31 student instruction or attendance or extracurricular activities of pupils  
32 enrolled in kindergarten or any of the grades one through 12.

33 (b) Criminal discharge of a firearm as defined in:

34 (1) Subsection (a)(1) is a:

35 (A) Severity level 7, person felony, except as provided in subsection  
36 (b)(1)(B) or (b)(1)(C);

- 1 (B) severity level 3, person felony if such criminal discharge results
- 2 in great bodily harm to a person during the commission thereof; or
- 3 (C) severity level 5, person felony if such criminal discharge results
- 4 in bodily harm to a person during the commission thereof;
- 5 (2) subsection (a)(2) is a severity level 8, person felony; ~~and~~
- 6 (3) *subsection (a)(3)(C) or (D) is a:*
- 7 (A) *Severity level 9, person felony, except as provided in subsections*
- 8 *(b)(3)(B) or (b)(3)(C);*
- 9 (B) *severity level 3, person felony if such criminal discharge results*
- 10 *in great bodily harm to a person during the commission thereof; and*
- 11 (C) *severity level 5, person felony if such criminal discharge results*
- 12 *in bodily harm to a person during the commission thereof; and*
- 13 (4) ~~subsection (a)(3)~~ *(a)(3)(A) or (B) is a class C misdemeanor.*
- 14 (c) Subsection (a)(1) shall not apply if the act is a violation of K.S.A.
- 15 2020 Supp. 21-5412(d), and amendments thereto.
- 16 (d) Subsection (a)(3) shall not apply to any of the following:
- 17 (1) Law enforcement officers, or any person summoned by any such
- 18 officers to assist in making arrests or preserving the peace while actually
- 19 engaged in assisting such officer;
- 20 (2) wardens, superintendents, directors, security personnel and
- 21 keepers of prisons, penitentiaries, jails and other institutions for the
- 22 detention of persons accused or convicted of crime, while acting within the
- 23 scope of their authority;
- 24 (3) members of the armed services or reserve forces of the United
- 25 States or the national guard while in the performance of their official duty;
- 26 (4) watchmen, while actually engaged in the performance of the
- 27 duties of their employment;
- 28 (5) private detectives licensed by the state to carry the firearm
- 29 involved, while actually engaged in the duties of their employment;
- 30 (6) detectives or special agents regularly employed by railroad
- 31 companies or other corporations to perform full-time security or
- 32 investigative service, while actually engaged in the duties of their
- 33 employment;
- 34 (7) the state fire marshal, the state fire marshal's deputies or any
- 35 member of a fire department authorized to carry a firearm pursuant to
- 36 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
- 37 in which such fire marshal, deputy or member is authorized to carry a
- 38 firearm pursuant to K.S.A. 31-157, and amendments thereto; or
- 39 (8) the United States attorney for the district of Kansas, the attorney
- 40 general, or any district attorney or county attorney, while actually engaged
- 41 in the duties of their employment or any activities incidental to such
- 42 duties; any assistant United States attorney if authorized by the United
- 43 States attorney for the district of Kansas and while actually engaged in the

1 duties of their employment or any activities incidental to such duties; any  
2 assistant attorney general if authorized by the attorney general and while  
3 actually engaged in the duties of their employment or any activities  
4 incidental to such duties; or any assistant district attorney or assistant  
5 county attorney if authorized by the district attorney or county attorney by  
6 whom such assistant is employed and while actually engaged in the duties  
7 of their employment or any activities incidental to such duties.

8 *(e) (1) Lawful self-defense of one's person, another person, property*  
9 *or self-defense or defense of another person against an animal attack shall*  
10 *be an affirmative defense to any violation of subsection (a)(3)(C).*

11 *(2) Subsection (a)(3)(D) shall not apply to the discharge of any*  
12 *firearm if the firearm is discharged:*

13 *(A) In the lawful defense of one's person, another person or one's*  
14 *property;*

15 *(B) at a private or public shooting range that does not violate the*  
16 *provisions of subsection (a)(3)(C);*

17 *(C) to lawfully take wildlife, unless prohibited by the department of*  
18 *wildlife, parks and tourism;*

19 *(D) using blanks; or*

20 *(E) in lawful self-defense or defense of another person against an*  
21 *animal attack.*

22 Sec. 2. K.S.A. 2020 Supp. 21-6308 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its  
24 publication in the statute book.