

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 482

As Amended by Senate Committee on Federal
and State Affairs

Brief*

SB 482, as amended, would enact the Firearm Industry Nondiscrimination Act. The bill would prohibit a governmental entity, on or after July 1, 2022, from entering into any contract with a company for the purchase of goods or services unless the contract includes a written certification that the company:

- Does not have a discriminatory practice, policy, guidance, or directive against a firearm entity or firearm trade association; and
- Will not discriminate against a firearm entity or firearm trade association during the contract term.

The prohibition would not apply to a governmental entity that contracts with a sole-source provider or does not receive any bids from a company that is able to provide the required written certification.

Definitions

The bill would define the following terms:

- “Ammunition” to mean a loaded cartridge case, shot, wad, primer, bullet, or propellant powder with or without a projectile;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- “Company” to mean an entity with no fewer than ten full-time employees that exists to make a profit or to otherwise secure economic advantage;
 - A company would not include a sole proprietorship;
- “Contract” to mean a written agreement with a purchase price of not less than \$100,000 paid with public funds;
- “Firearm entity” to mean:
 - A manufacturer, distributor, wholesaler, supplier, or retailer of firearms, firearm accessories, or ammunition; or
 - A sport shooting range; and
- “Firearm trade association” to mean any entity that:
 - Is not for profit;
 - Has two or more firearm entities as members; and
 - Is a 501(a) tax exempt organization; and
- “Governmental entity” to mean any state office or officer, department, board, commission, institution or bureau, including any political subdivisions or subset agencies, divisions or units.

The bill would also define the terms “firearm,” “firearm accessory,” and “sport shooting range.”

Discrimination against a Firearm Entity or Trade Association

The bill would also define “discriminate against a firearm entity or firearm trade association” to mean doing any of the following based solely on the entity’s status as a firearm entity or firearm trade association:

- Refusing to engage in the trade of goods or services with such entity;
- Refraining from continuing an existing business relationship with such entity; or
- Terminating an existing business relationship with such entity.

The bill would not include the following in the definition of discrimination:

- Established policies that restrict or prohibit the listing or selling of ammunition, firearms, or firearms accessories; or
- A company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing relationship, or decision to terminate an existing business relationship:
 - To comply with federal, state, or local law or regulations; or
 - For any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's status as a firearm entity or firearm trade association.

Background

The bill was introduced by Senators Warren, Alley, Erickson, Masterson, and Wilborn.

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, Senator Warren and representatives of the Kansas State Rifle Association and the National Shooting Sports Foundation provided **proponent** testimony, stating the bill would prohibit indirect attacks on the Second Amendment by corporations.

Neutral testimony was provided by a representative of Equality Kansas, stating that anti-discrimination legislation should protect people, not industries, and that the bill should be amended to include protections for gender identity and sexual orientation.

Written-only **opponent** testimony was provided by representatives of the League of Kansas Municipalities and the cities of Merriam, Mission, Prairie Village, and Westwood Hills. The opponents indicated that the bill would limit the parties with whom cities could contract and limit local government decision making.

The Senate Committee amended the bill to add shot and wad to the definition of “ammunition”.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Attorney General (OAG) states enactment of the bill would result in a legal challenge that would have to go through the appellate process to determine the validity of the law. The OAG indicates an appellate decision could take two to four years and could be handled by OAG staff, but it is possible specialized counsel would need to be hired. In addition, if a challenge is successful, the state could be ordered to pay plaintiff attorney fees. The OAG states that a precise fiscal effect cannot be determined, and any increase in expenditures to defend the State would be financed by transfers from the State General Fund.

The Department of Administration’s Office of Procurement and Contracts indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor’s Budget Report*.

Firearm Industry Nondiscrimination Act; firearms; entity; trade association; contracts