

SESSION OF 2016

**UPDATED
SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2502**

As Agreed to May 1, 2016

Brief*

HB 2502 would make changes to several laws concerning firearms.

Air Guns

The bill would make changes to the Weapons Free School Act by prohibiting school districts from adopting policies preventing organizations from conducting activities on school property solely because the activities involve the possession and use of air guns.

Under the bill, school districts could prohibit the possession of air guns at a school, on school property, or at a school-supervised activity except when a pupil is participating in activities conducted by an organization or is in transit to or from such activities. School districts could not implement policies that prohibit the possession of an air gun by a pupil on school property if the pupil is a participant in the activities of an organization.

Individuals, or parents of individuals, participating in activities conducted by an organization could be required to sign a liability waiver as prescribed by the chief administrative officer of the school. The waiver would be required to contain

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

appropriate language to relieve the school district, the school, and all school personnel from liability for claims arising from the acts or omissions of individuals or school personnel relating to activities conducted by an organization.

The bill would amend the definition of “weapon” to specifically exclude air guns. The bill would define “air gun” to mean any device that will or is designed to or may be readily converted to expel a projectile by the release of compressed air or gas, and that is of .18 caliber or less and has a muzzle velocity that does not exceed 700 feet per second. The bill would define “organization” to mean any profit or nonprofit association, whether school-sponsored or community-based, whose primary purpose is to provide youth development by engaging individuals under the age of 19 in activities designed to promote and encourage self-confidence, teamwork, and a sense of community.

Active Duty Military Personnel

The bill would make several amendments to concealed carry statutes to allow active duty military personnel to apply for and receive a concealed carry license while stationed outside of Kansas. First, the bill would add evidence of completion of a course offered in another jurisdiction which is determined by the Attorney General to have training requirements that are equal to or greater than those required by the Personal and Family Protection Act to the definition of what constitutes evidence of satisfactory completion of an approved handgun safety course.

The bill also would specify that a person presenting proof that such person is on active duty with any branch of the U.S. armed forces and is stationed at a military installation outside the state could submit a concealed carry application and supporting materials by mail. Fingerprints taken at a U.S. military installation also could be submitted by mail with such application.

The bill would require a sheriff receiving such items to forward the application and the Attorney General's portion of the application fee to the Attorney General.

Public Employers and Employees

The bill would prohibit public employers from restricting or prohibiting through personnel policies any employee legally qualified to conceal carry from carrying a concealed handgun while engaged in employment duties outside the employer's place of business, including while in a means of conveyance. School districts would be specifically exempted from the definition of public employer.

Public Buildings

Under existing law, the concealed carrying of firearms may be prohibited throughout the entirety of state and municipal buildings by the governing body or chief administrative officer of the building. The bill would make the requirements for prohibiting concealed carry in public areas the same as those found in existing law for prohibiting concealed carry in public buildings – the building or public area must have adequate security at all public access entrances to ensure no weapons are permitted to be carried in the area or building and must conspicuously post the prohibition. The bill would specify that such public areas could be posted with either permanent or temporary signage approved by the governing body or the chief administrative officer if no governing body exists.

“Public area” would be defined as any portion of a state or municipal building that is open to and accessible by the public or is otherwise designated as a public area by the governing body or the chief administrative officer, if no governing body exists, of such a building. The bill would define “public employer” as the State and any municipality as defined in KSA 2015 Supp. 75-6102 (under this statute, a

“municipality” means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof).

The bill would specify that the chief judge of each judicial district could prohibit the carrying of concealed firearms into courtrooms or ancillary courtrooms within the district provided the public area had adequate security measures to ensure that no weapons were permitted to be carried into the area and the area was conspicuously posted in accordance with the law.

The bill also would state that exemptions from the Personal and Family Protection Act for state and municipal buildings found in existing law would expire July 1, 2017. No specific expiration date is included in existing law.

Restricted Access Entrances

The bill would amend the Personal and Family Protection Act to allow entry through restricted access entrances for persons who are not state or municipal employees or otherwise authorized to enter a state or municipal building through a restricted access entrance.

To qualify for restricted access entry, such persons would be required to:

- Obtain authorization from the chief law enforcement officer, governing body, or the chief administrative officer (if no governing body exists) to enter such state or municipal building through a restricted access entrance;
- Be issued an identification card by the chief law enforcement officer, governing body, or chief administrative officer; and

- The identification card would be required to include a statement that such person is authorized to enter such building through a restricted access entrance, and include the person's photograph, name, and any other identifying information deemed necessary by the issuing entity;
- Execute an affidavit or notarized statement that such person acknowledges that certain firearms and weapons may be prohibited in such building and that violating any such regulations may result in revocation of authority to enter a building through a restricted access entrance.

The chief law enforcement officer, governing body, or chief administrative officer would be required to develop criteria for approval of individuals to qualify for entry through restricted access entrances. The criteria could include a requirement that the individual submit to state and national criminal history checks before issuance and renewal of such approval and a requirement the individual pay a fee to cover the cost of such background checks.

An individual who had been issued a concealed carry permit by the State would not be required to submit to further state and national background checks before the issuance and renewal of such authorization to enter buildings through restricted access entrances.

Individuals could be subjected to additional security screening measures upon reasonable suspicion or in circumstances where heightened security measures are warranted.

The bill would state authorization to enter state and municipal buildings through restricted access entrances would not allow the individual to carry a concealed weapon in a public building which has adequate security measures and is conspicuously posted in accordance with the law.

“Authorized personnel” would be defined to mean employees of a state agency or municipality and any person who is, under the provisions of the bill, authorized to enter a state or municipal building through a restricted access entrance.

Adequate Security Measures

The bill would amend the definition of “adequate security measures” to specify that personnel used at public entrances of buildings prohibiting concealed carry within the building would have to be armed.

Conference Committee Action

The second Conference Committee agreed to delete all provisions of the bill and insert the contents of House Sub. for Sub. for SB 65, as recommended by the House Committee on Federal and State Affairs, into HB 2502. The Conference Committee also specifically exempted school districts from the definition of public employer.

HB 2502, as passed by the Senate, related to findings of manifest injustice and the filing of certain motions. These provisions have been included in the Conference Committee report for SB 319.

Background

[*Note:* the Conference Committee placed the contents of House Sub. for Sub. for SB 65 in HB 2502. Background information for SB 65 and related bills follows.]

The House Committee on Federal and State Affairs adopted several amendments to SB 65 and also included language from SB 421, HB 2468, and HB 2591.

SB 65 Background

SB 65 was introduced by the Senate Committee on Federal and State Affairs during the 2015 Legislative Session.

At the Senate hearing on February 19, 2015, Senator Knox and a representative of the Kansas State Rifle Association provided testimony in favor of the bill, stating a public employee with a concealed carry license is able to carry a concealed firearm on the job inside a building, but cannot carry while on the job outside the building. The proponents stated public employees have the need and the right to protect themselves on the job, both outside and inside buildings.

Representatives of the Unified Government of Wyandotte County/Kansas City, Kansas, and League of Kansas Municipalities provided testimony against the bill, stating cities and counties, through home rule, should have the same rights as private employers to adopt their own personnel policies and regulate what employees can and cannot do while on the job.

A representative of the Kansas Association of School Boards provided neutral testimony on the bill, stating the Association believes the bill does not apply to school districts, but the wording of the bill was not clear.

During the 2016 Legislative Session, the Senate Committee on Federal and State Affairs amended the bill by specifying that only a legally qualified public employee could carry a concealed weapon in the course of employment and by changing the definition of "public employer" to mean the State and any municipality as defined in KSA 2015 Supp. 75-6102 and amendments thereto. The Senate Committee also combined the contents of SB 65 (as amended by the Senate Committee) and the contents of SB 66 (as amended by the Senate Committee, but not recommended separately) into the substitute bill.

The Senate Committee of the Whole made a technical amendment to this portion of the bill.

The House Committee on Federal and State Affairs amended the bill in the following ways and recommended a substitute bill:

- Specified public areas of public buildings could be posted with either permanent or temporary signage approved by the governing body, or the chief administrative officer, if no governing body exists;
- Specified the chief judge of each judicial district could prohibit the carrying of concealed firearms into courtrooms or ancillary courtrooms within the district provided the public area had adequate security measures to ensure that no weapons were permitted to be carried into the area and the area was conspicuously posted in accordance with the law;
- Amended the definition of adequate security measures to specify that personnel used at public entrances of buildings prohibiting concealed carry within the building would have to be armed; and
- Inserted language from SB 421 (carrying concealed handguns in a public building; restricted access entrance), HB 2468 (possession of air guns on school property), and HB 2591 (concealed carry licensure for active duty personnel).

The fiscal note, prepared by the Division of the Budget on the original bill in 2015, states the Office of the Attorney General indicates prior amendments to the concealed carry law have generated numerous requests for the Office, which has issued formal interpretations of the net effects of those changes to legislators and local government entities. If the number of these requests continues to grow, the Office may need an additional attorney to handle the increased volume of

opinion requests. Any fiscal effect associated with the bill was not reflected in *The FY 2016 Governor's Budget Report*.

SB 66 Background

The bill was introduced by the Senate Federal and State Affairs Committee during the 2015 Legislative Session.

At the hearing before the Senate Federal and State Affairs Committee on February 5, 2015, Senator Knox and representatives of the League of Kansas Municipalities, the Kansas Association of Chiefs of Police, the Kansas Sheriffs' Association, the Kansas Peace Officers Association, and the Kansas Association of Counties appeared in support of the bill. Written testimony in support of the bill was submitted by the National Rifle Association. There was no neutral or opponent testimony provided on the bill.

During the 2016 Legislative Session, the Senate Committee amended the contents of SB 66 to specify that four-year exemptions for municipal buildings end on July 1, 2017 (previously no date had been specified), and added the amended contents of SB 66 to the amended contents of SB 65. The contents of 2015 SB 66, as introduced, are identical to the contents of 2016 HB 2440, as introduced.

According to the fiscal note prepared by the Division of the Budget in 2015, SB 66, as introduced, might generate increased requests for formal interpretations of the effects of changes to concealed carry law, which may require the office to need an additional attorney to handle an increased volume of requests for opinions. Any fiscal effect associated with SB 66 was not reflected in *The FY 2016 Governor's Budget Report*.

SB 421 Background

At the hearing before the Senate Committee on Federal and State Affairs, Senator O'Donnell, as well as representatives of the City of Wichita and Sedgwick County, appeared in support of the bill. They testified the bill would make state and municipal buildings more user-friendly, particularly for persons who must move among several buildings throughout a given day and must stand in long security lines each time they enter a building. Written testimony in support of the bill was submitted by the League of Kansas Municipalities.

There was no neutral or opponent testimony on the bill.

The Senate Committee amended the bill to allow the chief law enforcement officer, governing body, or chief administrative officer to require that individuals seeking entry through restricted access entrances pay a fee to cover the costs of any required background checks, and to prohibit additional background checks for individuals seeking restricted access authorization who already have been issued a concealed carry license.

The fiscal note provided by the Division of the Budget on SB 421, as introduced, states the Department of Administration has indicated the bill would not require additional security measures for buildings and therefore would not increase security costs. The Kansas Association of Counties has indicated some local governments may incur costs if it is determined that changes to security measures are needed at some county or municipal buildings. The Office of the Attorney General indicates there would be costs associated with issuing identification cards, but the specific fiscal effect for the state or local governments is unknown because the number of individuals granted entrance through restricted access entrances cannot be estimated with any certainty. Any fiscal effect associated by the bill is not reflected in *The FY 2017 Governor's Budget Report*.

HB 2468 Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Blake Carpenter. At the hearing before the House Federal and State Affairs Committee, Representative Blake Carpenter, a representative of the Kansas State Rifle Association, and four citizens appeared in support of the bill. The proponents testified that BB gun and air rifle activities are safe; teach gun safety; provide opportunities to attend national conferences and win scholarships; and teach self-confidence, maturity, and valuable life lessons. Written testimony in support of the bill was provided by the National Rifle Association and five citizens. There was no neutral testimony on the bill.

Testimony in opposition to the bill was presented by a representative of the Kansas Association of School Boards (KASB), who testified about concerns related to interfering with the local control of school districts, prohibiting school districts from refusing to allow certain types of activities to take place on school property, and liability for the schools related to activities taking place on school property.

The House Committee on Federal and State Affairs amended the bill by modifying the definition of "air gun" to require any such device be .18 caliber or less and have a muzzle velocity that does not exceed 700 feet per second. The House Committee also amended the bill by removing language that would have exempted organizations from being required to obtain liability insurance for activities conducted on school property or paying all or part of a liability insurance policy obtained by the school for such activities.

According to the fiscal note provided by the Division of the Budget, the Department of Education has indicated enactment of HB 2468, as introduced, would have no fiscal effect.

HB 2591 Background

At the hearing before the House Federal and State Affairs Committee, Representative Kevin Jones and a private citizen testified in favor of the bill. Written support for the bill was submitted by the Kansas State Rifle Association.

According to the fiscal note on HB 2591, as introduced, provided by the Division of Budget, the Office of the Attorney General estimates the provisions of the bill would not be widely used and the fiscal effect on agency operations would be negligible. Any expenses incurred from processing applications and paying for fingerprint-based background checks would be offset by application fees. The Kansas Association of Counties has indicated a neutral fiscal effect because application fees would be paid to county sheriffs to cover processing costs. Any fiscal effect associated with HB 2591 is not reflected in *The FY 2017 Governor's Budget Report*.

concealed carry; air guns; active duty military personnel; public employers and employees; public buildings; restricted access entrances; adequate security measures

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