

To: Senate Federal and State Affairs Committee
From: Eric B. Smith, Deputy General Counsel
Date: February 8, 2017
RE: Support of SB 108

I want to thank Chairman LaTuner and the Committee members for allowing the League of Kansas Municipalities to testify in support of SB 108.

The purpose behind this bill is to extend immunity to public employers from any negligent acts committed by an employee outside the scope of their employment who chooses to carry a concealed handgun while performing work duties.

Last session a change was made in the statutes that removed the ability of cities to prevent employees from carrying a concealed handgun while on duty. In the past, cities had liability protection based on K.S.A. 75-7c20(f); however, that language only applies to employees carrying a concealed handgun in a public building. Since a large number of city employees work outside of public buildings, this statute provides cities no protection for any negligent actions of employees committed outside of a public building.

SB 108 amends K.S.A. 75-7c10(e) by making a clear statement that a public employer is immune and not responsible for any negligent act committed by an employee if it is related to the employee's decision to carry a concealed handgun. The amendment we have proposed will also make it clear that this immunity would not apply to any employee carrying a concealed handgun in the course and scope of their employment.

The League believes this bill is a reasonable clean up to the changes made last year removing public employers' ability to regulate if employees carry concealed handguns while working. This bill makes it clear that the employee who chooses to carry a concealed handgun is personally responsible for this choice.

Based on the above reasons, the League of Kansas Municipalities respectfully requests the Committee pass SB 108 out of Committee with a recommendation to the full Senate for approval.

SENATE BILL No. 108

By Committee on Federal and State Affairs

1-31

1 AN ACT concerning firearms; relating to the personal and family
2 protection act; relating to public employer liability; amending K.S.A.
3 2016 Supp. 75-7c10 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2016 Supp. 75-7c10 is hereby amended to read as
7 follows: 75-7c10. Subject to the provisions of K.S.A. 2016 Supp. 75-7c20,
8 and amendments thereto:

9 (a) The carrying of a concealed handgun shall not be prohibited in
10 any building unless such building is conspicuously posted in accordance
11 with rules and regulations adopted by the attorney general.

12 (b) Nothing in this act shall be construed to prevent any private
13 employer from restricting or prohibiting by personnel policies persons
14 from carrying a concealed handgun while on the premises of the
15 employer's business or while engaged in the duties of the person's
16 employment by the employer, except that no employer may prohibit
17 possession of a handgun in a private means of conveyance, even if parked
18 on the employer's premises.

19 (c) (1) Any private entity which provides adequate security measures
20 in a private building and which conspicuously posts signage in accordance
21 with this section prohibiting the carrying of a concealed handgun in such
22 building shall not be liable for any wrongful act or omission relating to
23 actions of persons carrying a concealed handgun, concerning acts or
24 omissions regarding such handguns.

25 (2) Any private entity which does not provide adequate security
26 measures in a private building and which allows the carrying of a
27 concealed handgun shall not be liable for any wrongful act or omission
28 relating to actions of persons carrying a concealed handgun, concerning
29 acts or omissions regarding such handguns.

30 (3) Nothing in this act shall be deemed to increase the liability of any
31 private entity where liability would have existed under the personal and
32 family protection act prior to the effective date of this act.

33 (d) The governing body or the chief administrative officer, if no
34 governing body exists, of any of the following institutions may permit any
35 employee, who is legally qualified, to carry a concealed handgun in any
36 building of such institution, if the employee meets such institution's own

1 policy requirements regardless of whether such building is conspicuously
2 posted in accordance with the provisions of this section:

- 3 (1) A unified school district;
- 4 (2) a postsecondary educational institution, as defined in K.S.A. 74-
5 3201b, and amendments thereto;
- 6 (3) a state or municipal-owned medical care facility, as defined in
7 K.S.A. 65-425, and amendments thereto;
- 8 (4) a state or municipal-owned adult care home, as defined in K.S.A.
9 39-923, and amendments thereto;
- 10 (5) a community mental health center organized pursuant to K.S.A.
11 19-4001 et seq., and amendments thereto; or
- 12 (6) an indigent health care clinic, as defined by K.S.A. 2016 Supp.
13 65-7402, and amendments thereto.

14 (e) No public employer shall restrict or otherwise prohibit by
15 personnel policies any employee, who is legally qualified, from carrying
16 any concealed handgun while engaged in the duties of such employee's
17 employment outside of such employer's place of business, including while
18 in a means of conveyance. *Public employers shall not be liable for any*
19 *wrongful or negligent act of an employee carrying a concealed handgun,*
20 *concerning acts or omissions regarding such handguns.*

21 (f) (1) It shall be a violation of this section to carry a concealed
22 handgun in violation of any restriction or prohibition allowed by
23 subsection (a) or (b) if the building is posted in accordance with rules and
24 regulations adopted by the attorney general pursuant to subsection (j). Any
25 person who violates this section shall not be subject to a criminal penalty
26 but may be subject to denial to such premises or removal from such
27 premises.

28 (2) Notwithstanding the provisions of subsection (a) or (b), it is not a
29 violation of this section for the United States attorney for the district of
30 Kansas, the attorney general, any district attorney or county attorney, any
31 assistant United States attorney if authorized by the United States attorney
32 for the district of Kansas, any assistant attorney general if authorized by
33 the attorney general, or any assistant district attorney or assistant county
34 attorney if authorized by the district attorney or county attorney by whom
35 such assistant is employed, to possess a handgun within any of the
36 buildings described in subsection (a) or (b), subject to any restrictions or
37 prohibitions imposed in any courtroom by the chief judge of the judicial
38 district.

39 (3) Notwithstanding the provisions of subsection (a) or (b), it is not a
40 violation of this section for a law enforcement officer, as that term is
41 defined in K.S.A. 2016 Supp. 75-7c22, and amendments thereto, who
42 satisfies the requirements of either K.S.A. 2016 Supp. 75-7c22(a) or (b),
43 and amendments thereto, to possess a handgun within any of the buildings

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not being carried in
the course and scope
of their employment

1 described in subsection (a) or (b), subject to any restrictions or
2 prohibitions imposed in any courtroom by the chief judge of the judicial
3 district.

4 (g) The provisions of this section shall not apply to the carrying of a
5 concealed handgun in the state capitol.

6 (h) For the purposes of this section:

7 (1) "Adequate security measures" shall have the same meaning as the
8 term is defined in K.S.A. 2016 Supp. 75-7c20, and amendments thereto;

9 (2) "building" shall not include any structure, or any area of any
10 structure, designated for the parking of motor vehicles; and

11 (3) "public employer" means the state and any municipality as those
12 terms are defined in K.S.A. 75-6102, and amendments thereto, except the
13 term "public employer" shall not include school districts.

14 (i) Nothing in this act shall be construed to authorize the carrying or
15 possession of a handgun where prohibited by federal law.

16 (j) The attorney general shall adopt rules and regulations prescribing
17 the location, content, size and other characteristics of signs to be posted on
18 a building where carrying a concealed handgun is prohibited pursuant to
19 subsections (a) and (b). Such regulations shall prescribe, at a minimum,
20 that:

21 (1) The signs be posted at all exterior entrances to the prohibited
22 buildings;

23 (2) the signs be posted at eye level of adults using the entrance and
24 not more than 12 inches to the right or left of such entrance;

25 (3) the signs not be obstructed or altered in any way; and

26 (4) signs which become illegible for any reason be immediately
27 replaced.

28 Sec. 2. K.S.A. 2016 Supp. 75-7c10 is hereby repealed.

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