

SENATE BILL No. 389

By Senator Emler

1-29

AN ACT relating to law enforcement; concerning special deputies; relating to multijurisdictional law enforcement groups; amending K.S.A. 22-2404 and 74-5608a and K.S.A. 2003 Supp. 19-805a, 19-805b, 19-828 and 21-4201 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 19-805a is hereby amended to read as follows: 19-805a. In all counties ~~having a population in excess of 100,000,~~ the sheriff shall have authority to appoint so many special deputies as the sheriff deems proper and for whose official acts the sheriff shall be responsible. Before an appointment shall be made the sheriff or marshal of the district court shall have the right to demand an indemnity bond before any commission as special deputy shall be issued. The appointments may be revoked at the pleasure of the appointing officer, except that all appointments made by a sheriff pursuant to this section shall automatically be revoked at the time that such appointing sheriff's service as sheriff concludes. Except as provided by K.S.A. 2003 Supp. 19-827, *and amendments thereto*, a special deputy appointed under this section shall not receive any payment, for services rendered, from public funds.

Sec. 2. K.S.A. 2003 Supp. 19-805b is hereby amended to read as follows: 19-805b. Except as provided by K.S.A. 2003 Supp. 19-827, *and amendments thereto*, special deputies appointed pursuant to K.S.A. 19-805a, and amendments thereto, may be limited in their authority to perform the acts of a peace officer in or about certain specified premises or relating thereto *or to provide crime prevention or security services on or about any public facility or property when so directed by the sheriff*, but shall have a general right in event of riot, sabotage, *terroristic attack* or serious disturbances or breach of the peace to call upon and deputize any other peace officer or private citizen to assist such special deputy in quelling such ~~riot or disturbance events~~.

Sec. 3. K.S.A. 2003 Supp. 19-828 is hereby amended to read as follows: 19-828. Any county in the state of Kansas which borders another state, with the agreement of the sheriff, may enter into agreement with the political subdivisions in such other state's contiguous county to form a multijurisdictional law enforcement group for the enforcement of drug

1 and controlled substances laws *or for the prevention, detection or inves-*
2 *tigation of any terroristic activity.* Such other state's law enforcement
3 officers may be deputized as officers of the counties of this state partic-
4 ipating in such an agreement and shall be deemed to have met all require-
5 ments of law enforcement training and certification required under
6 K.S.A. 74-5601 *et seq.* and amendments thereto if such officers have sat-
7 isfied the applicable law enforcement officer training and certification
8 standards in force in such other state. Such other state's law enforcement
9 officers shall have the same powers and immunities as law enforcement
10 officers certified and commissioned in Kansas while conducting investi-
11 gations to enforce drug and controlled substances laws *or engaged in the*
12 *prevention, detection or investigation of terroristic activity* with the mul-
13 tijurisdictional enforcement group.

14 Sec. 4. K.S.A. 2003 Supp. 21-4201 is hereby amended to read as
15 follows: 21-4201. (a) Criminal use of weapons is knowingly:

16 (1) Selling, manufacturing, purchasing, possessing or carrying any
17 bludgeon, sandclub, metal knuckles or throwing star, or any knife, com-
18 monly referred to as a switch-blade, which has a blade that opens auto-
19 matically by hand pressure applied to a button, spring or other device in
20 the handle of the knife, or any knife having a blade that opens or falls or
21 is ejected into position by the force of gravity or by an outward, downward
22 or centrifugal thrust or movement;

23 (2) carrying concealed on one's person, or possessing with intent to
24 use the same unlawfully against another, a dagger, dirk, billy, blackjack,
25 slungshot, dangerous knife, straight-edged razor, stiletto or any other dan-
26 gerous or deadly weapon or instrument of like character, except that an
27 ordinary pocket knife with no blade more than four inches in length shall
28 not be construed to be a dangerous knife, or a dangerous or deadly
29 weapon or instrument;

30 (3) carrying on one's person or in any land, water or air vehicle, with
31 intent to use the same unlawfully, a tear gas or smoke bomb or projector
32 or any object containing a noxious liquid, gas or substance;

33 (4) carrying any pistol, revolver or other firearm concealed on one's
34 person except when on the person's land or in the person's abode or fixed
35 place of business;

36 (5) setting a spring gun;

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

39 (7) selling, manufacturing, purchasing, possessing or carrying a shot-
40 gun with a barrel less than 18 inches in length or any other firearm de-
41 signed to discharge or capable of discharging automatically more than
42 once by a single function of the trigger; or

43 (8) possessing, manufacturing, causing to be manufactured, selling,

1 offering for sale, lending, purchasing or giving away any cartridge which
2 can be fired by a handgun and which has a plastic-coated bullet that has
3 a core of less than 60% lead by weight.

4 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect
5 any of the following:

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 keep-
10 ers of prisons, penitentiaries, jails and other institutions for the detention
11 of persons accused or convicted of crime, while acting within the scope
12 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) manufacture of, transportation to, or sale of weapons to a person
17 authorized under subsections (b)(1), (2) and (3) to possess such weapons.

18 (c) Subsection (a)(4) shall not apply to or affect the following:

19 (1) Watchmen, while actually engaged in the performance of the du-
20 ties of their employment;

21 (2) licensed hunters or fishermen, while engaged in hunting or
22 fishing;

23 (3) private detectives licensed by the state to carry the firearm in-
24 volved, while actually engaged in the duties of their employment;

25 (4) detectives or special agents regularly employed by railroad com-
26 panies or other corporations to perform full-time security or investigative
27 service, while actually engaged in the duties of their employment;

28 (5) the state fire marshal, the state fire marshal's deputies or any
29 member of a fire department authorized to carry a firearm pursuant to
30 K.S.A. 31-157 and amendments thereto, while engaged in an investigation
31 in which such fire marshal, deputy or member is authorized to carry a
32 firearm pursuant to K.S.A. 31-157 and amendments thereto; ~~or~~

33 (6) special deputy sheriffs described in K.S.A. 2003 Supp. 19-827,
34 and amendments thereto, who have satisfactorily completed the basic
35 course of instruction required for permanent appointment as a part-time
36 law enforcement officer under K.S.A. 74-5607a and amendments
37 thereto; *or*

38 (7) *any person holding a class A law enforcement license issued by*
39 *the state of Missouri department of public safety, or who has completed*
40 *not less than 600 hours of instruction in a police academy certified by the*
41 *Missouri department of public safety, and has completed the course of*
42 *instruction in criminal investigation conducted by the Kansas City area*
43 *metropolitan major case unit (metro squad).*

1 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
2 sells, purchases, possesses or carries a firearm, device or attachment
3 which has been rendered unserviceable by steel weld in the chamber and
4 marriage weld of the barrel to the receiver and which has been registered
5 in the national firearms registration and transfer record in compliance
6 with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person
7 transfers such firearm, device or attachment to another person, has been
8 so registered in the transferee's name by the transferor.

9 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
10 solid plastic bullets.

11 (f) Subsection (a)(6) shall not apply to a law enforcement officer who
12 is:

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

15 (2) designated by the head of such officer's law enforcement agency
16 to possess devices described in subsection (a)(6); and

17 (3) in possession of commercially manufactured devices which are:
18 (A) Owned by the law enforcement agency; (B) in such officer's posses-
19 sion only during specific operations; and (C) approved by the bureau of
20 alcohol, tobacco and firearms of the United States department of justice.

21 (g) It shall be a defense that the defendant is within an exemption.

22 (h) Violation of subsections (a)(1) through (a)(5) is a class A nonper-
23 son misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a se-
24 verity level 9, nonperson felony.

25 (i) As used in this section, "throwing star" means any instrument,
26 without handles, consisting of a metal plate having three or more radiating
27 points with one or more sharp edges and designed in the shape of a
28 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
29 tured for use as a weapon for throwing.

30 Sec. 5. K.S.A. 22-2404 is hereby amended to read as follows: 22-
31 2404. (1) As used in this section:

32 (a) "State" means any state of the United States and the District of
33 Columbia.

34 (b) "Law enforcement officer" means any member of any duly or-
35 ganized state, county or municipal law enforcement organization of an-
36 other state.

37 (c) "Fresh pursuit" means the pursuit without unnecessary delay of
38 a person who has committed a crime, or who is reasonably suspected of
39 having committed a crime.

40 (2) Any law enforcement officer of another state who enters this state
41 in fresh pursuit and continues within this state in fresh pursuit of a person
42 in order to arrest him on the ground that he has committed a crime in
43 the other state has the same authority to arrest and hold such person in

1 custody as law enforcement officers of this state have to arrest and hold
2 a person in custody.

3 (3) If an arrest is made in this state by a law enforcement officer of
4 another state in accordance with the provisions of this section he shall
5 without unnecessary delay take the person arrested before a magistrate
6 of the county in which the arrest is made. Such magistrate shall conduct
7 a hearing for the purpose of determining the lawfulness of the arrest. If
8 the magistrate determines that the arrest was lawful, he shall commit the
9 person arrested to await for a reasonable time the issuance of an extra-
10 dition warrant by the governor of this state, or the waiver thereof, or shall
11 permit such person to go at large upon giving an appearance bond, with
12 or without surety. If the magistrate determines that the arrest was unlaw-
13 ful, he shall order the discharge of the person arrested.

14 (4) *Any law enforcement officer of another state assigned to a regional*
15 *or metropolitan major case unit engaged in an investigation of a felony*
16 *committed in this state may, under exigent circumstances, make a felony*
17 *arrest. Such officer of another state shall be entitled in the same attach-*
18 *ment of immunities for their official acts as law enforcement officers of*
19 *this state.*

20 Sec. 6. K.S.A. 74-5608a is hereby amended to read as follows: 74-
21 5608a. (a) The director may, in the exercise of discretion, award a certifi-
22 cate attesting to the satisfactory completion of a basic course of instruc-
23 tion to any person who has been duly certified under the laws of another
24 state or territory if, in the opinion of the director, the requirements for
25 certification in such other jurisdiction equal or exceed the qualifications
26 required to complete satisfactorily the basic course of instruction at the
27 training center.

28 (b) The director may waive any number of the hours or courses re-
29 quired to complete the basic course of instruction at the training center,
30 80 hour part-time school, reciprocity school or for the hours required for
31 annual continuing education for any person who, in the opinion of the
32 director, has received sufficient training or experience that such hours of
33 instruction at the training center would be, unless waived, unduly bur-
34 densome or duplicitous.

35 (c) *Any person issued a class A law enforcement license by the state*
36 *of Missouri department of public safety, or who has completed not less*
37 *than 600 hours of instruction at a police academy certified by the Missouri*
38 *department of public safety, and who has completed a course of instruc-*
39 *tion in criminal investigation conducted by the Kansas City area metro-*
40 *politan major case unit (metro squad), may apply to the Kansas law en-*
41 *forcement training center for a reciprocal certification as a part-time law*
42 *enforcement officer. The director of the Kansas law enforcement training*
43 *center shall certify such applicant as a part-time officer upon the appli-*

1 *cant's successful completion of a written examination, not to exceed 50*
2 *questions in length, on the Kansas criminal code and the Kansas code of*
3 *criminal procedure. Such examination shall directly correspond to the*
4 *same examination material required by a police academy certified by the*
5 *Kansas law enforcement training center. The examination may be taken*
6 *at any certified Kansas police academy. Such police academy may assess*
7 *reasonable fees to recover the costs of examination preparation, admin-*
8 *istration and processing. The police academy shall promptly furnish the*
9 *name of an applicant successfully completing this examination, pursuant*
10 *to that academy's existing academic standards, to the director of the Kan-*
11 *sas law enforcement training center, who shall enter the applicant's name*
12 *as a part-time officer in the central registry. Annual training requirements*
13 *for such registrants shall be waived, provided that the registrant main-*
14 *tains an active law enforcement license with the Missouri department of*
15 *public safety and satisfies the continuing training requirements estab-*
16 *lished by that department.*

17 Sec. 7. K.S.A. 22-2404 and 74-5608a and K.S.A. 2003 Supp. 19-805a,
18 19-805b, 19-828 and 21-4201 are hereby repealed.

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

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