

2018 Kansas Statutes

21-6301. Criminal use of weapons. (a) Criminal use of weapons is knowingly:

- (1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club or metal knuckles;
 - (2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, throwing star, stiletto or any other dangerous or deadly weapon or instrument of like character;
 - (3) setting a spring gun;
 - (4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;
 - (5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;
 - (6) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;
 - (7) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;
 - (8) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;
 - (9) selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;
 - (10) possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;
 - (11) possessing any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;
 - (12) refusing to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;
 - (13) possessing any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;
 - (14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age;
 - (15) possessing any firearm while a fugitive from justice;
 - (16) possessing any firearm by a person who is an alien illegally or unlawfully in the United States;
 - (17) possessing any firearm by a person while such person is subject to a court order that:
 - (A) Was issued after a hearing, of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking or threatening an intimate partner of such person or a child of such person or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and
 - (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
 - (18) possessing any firearm by a person who, within the preceding five years, has been convicted of a misdemeanor for a domestic violence offense, or a misdemeanor under a law of another jurisdiction which is substantially the same as such misdemeanor offense.
- (b) Criminal use of weapons as defined in:
- (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;
 - (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;
 - (3) subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;
 - (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity level 8, nonperson felony; and
 - (5) subsection (a)(14) is a:
 - (A) Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);
 - (B) severity level 8, nonperson felony upon a second or subsequent conviction.
- (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:
- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
 - (3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or
 - (4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.
- (d) Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.
- (e) Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.
- (f) Subsection (a)(4) shall not apply to a law enforcement officer who is:
- (1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized,

regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and

(3) in possession of commercially manufactured devices which are:

(A) Owned by the law enforcement agency;

(B) in such officer's possession only during specific operations; and

(C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

(i) (1) Subsection (a)(4) shall not apply to or affect any person in possession of a device or attachment designed, used or intended for use in suppressing the report of any firearm, if such device or attachment satisfies the description of a Kansas-made firearm accessory as set forth in K.S.A. 2018 Supp. 50-1204, and amendments thereto.

(2) The provisions of this subsection shall apply to any violation of subsection (a)(4) that occurred on or after April 25, 2013.

(j) Subsection (a)(11) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) possession of a concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law.

(k) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2018 Supp. 75-7c26, and amendments thereto.

(l) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, or at another private range with permission of such person's parent or legal guardian;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (l)(1) through (l)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 2018 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto.

(m) As used in this section:

(1) "Domestic violence" means the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a dating relationship or is a family or household member.

(2) "Fugitive from justice" means any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person under K.S.A. 22-2713, and amendments thereto.

(3) "Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.

(4) "Throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

History: L. 2010, ch. 136, § 186; L. 2011, ch. 30, § 48; L. 2013, ch. 88, § 2; L. 2014, ch. 97, § 11; L. 2015, ch. 16, § 2; L. 2018, ch. 61, § 1; May 3.