

## HOUSE BILL No. 2339

By Representative Ousley

2-7

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1 AN ACT concerning firearms; relating to the Kansas bureau of  
2 investigation; enacting the Kansas voluntary do-not-sell firearms list  
3 act; providing penalties for violations of such act; amending K.S.A.  
4 2022 Supp. 21-6301 and repealing the existing section.

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

7 New Section 1. Sections 1 through 5, and amendments thereto, shall  
8 be known and may be cited as the Kansas voluntary do-not-sell firearms  
9 list act.

10 New Sec. 2. As used in the Kansas voluntary do-not-sell firearms list  
11 act:

12 (a) "Act" means sections 1 through 5, and amendments thereto.

13 (b) "List" means the Kansas voluntary do-not-sell firearms list  
14 established by section 3, and amendments thereto.

15 New Sec. 3. (a) The Kansas bureau of investigation shall establish the  
16 Kansas voluntary do-not-sell firearms list to prevent the purchase of  
17 firearms by any person who voluntarily registers to be placed onto the list.  
18 The Kansas bureau of investigation shall maintain and update the list, and  
19 the list shall be used in accordance with 18 U.S.C. § 922 to advise a dealer  
20 licensed under 18 U.S.C. § 923 if the Kansas bureau of investigation's  
21 records indicate a buyer of firearms is prohibited from purchasing a  
22 firearm. The Kansas bureau of investigation shall adopt any rules and  
23 regulations and develop any policies that are necessary for the  
24 implementation of the list.

25 (b) The Kansas bureau of investigation shall withhold from public  
26 disclosure all information regarding a request to be placed onto or  
27 removed from the list and any other personally identifiable information  
28 contained in or related to the list, except that such information may be  
29 disclosed to a law enforcement officer acting in the performance of such  
30 officer's official duties or the applicant with respect to such applicant's  
31 own information. The provisions of this subsection shall expire on July 1,  
32 2028, unless the legislature reviews and acts to continue such provisions  
33 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

34 New Sec. 4. (a) Any person 18 years of age or older may apply in  
35 writing to the Kansas bureau of investigation to request voluntary  
36 placement onto the list and, after being placed on such list, may apply in

1 writing to the Kansas bureau of investigation to request removal from such  
2 list. The application for placement onto or removal from the list shall be on  
3 forms prescribed by the Kansas bureau of investigation. Pursuant to  
4 subsection (d), the forms shall state that any person placed onto the list  
5 shall not be removed from the list until 21 days after the Kansas bureau of  
6 investigation has received such person's application for removal. The  
7 Kansas bureau of investigation shall make the forms available on the  
8 Kansas bureau of investigation's website.

9 (b) Any person requesting placement onto or removal from such list  
10 shall submit a photocopy of one valid form of photo identification issued  
11 by a governmental agency of the applicant's state of residency or by the  
12 United States department of defense or United States department of state  
13 to accompany the placement and removal form. Such request for  
14 placement onto or removal from the list may be submitted to the Kansas  
15 bureau of investigation by mail or in person at any publicly accessible  
16 Kansas bureau of investigation office.

17 (c) Upon placing a person onto the list, the Kansas bureau of  
18 investigation shall immediately forward a person's eligibility to purchase a  
19 firearm to the national instant criminal background check system created  
20 by the federal Brady handgun violence prevention act, public law 103-159,  
21 or any successor system. The Kansas bureau of investigation shall also  
22 notify such person by mail that such person has been placed onto the list.

23 (d) The Kansas bureau of investigation shall not remove any person  
24 from the list until 21 days after receipt of such person's removal request.  
25 Upon removal of a person's name from the list, the Kansas bureau of  
26 investigation shall update such person's eligibility to purchase a firearm to  
27 the national instant criminal background check system and shall destroy all  
28 records of such person's placement onto and request for removal from the  
29 list within a reasonable time thereafter.

30 New Sec. 5. (a) It shall be unlawful for any person to inquire as to  
31 whether another person has been placed onto the list for any purpose other  
32 than to determine such person's eligibility to purchase a firearm.

33 (b) It shall be unlawful for any person to knowingly give any false  
34 information or to make any false statement with the intent of placing or  
35 removing any other person onto or from the list.

36 (c) It shall be unlawful for any person to discriminate against a  
37 person with respect to healthcare services, employment, education,  
38 housing, insurance, governmental benefits or contracting because that  
39 person is not on the list, is on the list or has previously been on the list.

40 (d) Violation of this section is a class B nonperson misdemeanor.

41 Sec. 6. K.S.A. 2022 Supp. 21-6301 is hereby amended to read as  
42 follows: 21-6301. (a) Criminal use of weapons is knowingly:

43 (1) Selling, manufacturing, purchasing or possessing any bludgeon,

1 sand club or metal knuckles;

2 (2) possessing with intent to use the same unlawfully against another,  
3 a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged  
4 razor, throwing star, stiletto or any other dangerous or deadly weapon or  
5 instrument of like character;

6 (3) setting a spring gun;

7 (4) possessing any device or attachment of any kind designed, used or  
8 intended for use in suppressing the report of any firearm;

9 (5) selling, manufacturing, purchasing or possessing a shotgun with a  
10 barrel less than 18 inches in length, or any firearm designed to discharge or  
11 capable of discharging automatically more than once by a single function  
12 of the trigger, whether the person knows or has reason to know the length  
13 of the barrel or that the firearm is designed or capable of discharging  
14 automatically;

15 (6) possessing, manufacturing, causing to be manufactured, selling,  
16 offering for sale, lending, purchasing or giving away any cartridge ~~which~~  
17 *that* can be fired by a handgun and ~~which that~~ *that* has a plastic-coated bullet  
18 that has a core of less than 60% lead by weight, whether the person knows  
19 or has reason to know that the plastic-coated bullet has a core of less than  
20 60% lead by weight;

21 (7) selling, giving or otherwise transferring any firearm with a barrel  
22 less than 12 inches long to any person under 18 years of age whether the  
23 person knows or has reason to know the length of the barrel;

24 (8) selling, giving or otherwise transferring any firearms to any  
25 person who is both addicted to and an unlawful user of a controlled  
26 substance;

27 (9) selling, giving or otherwise transferring any firearm to any person  
28 who is or has been a mentally ill person subject to involuntary  
29 commitment for care and treatment, as defined in K.S.A. 59-2946, and  
30 amendments thereto, or a person with an alcohol or substance abuse  
31 problem subject to involuntary commitment for care and treatment as  
32 defined in K.S.A. 59-29b46, and amendments thereto;

33 (10) possessing any firearm by a person who is both addicted to and  
34 an unlawful user of a controlled substance;

35 (11) possessing any firearm by any person, other than a law  
36 enforcement officer, in or on any school property or grounds upon which is  
37 located a building or structure used by a unified school district or an  
38 accredited nonpublic school for student instruction or attendance or  
39 extracurricular activities of pupils enrolled in kindergarten or any of the  
40 grades one through 12 or at any regularly scheduled school sponsored  
41 activity or event whether the person knows or has reason to know that such  
42 person was in or on any such property or grounds;

43 (12) refusing to surrender or immediately remove from school

1 property or grounds or at any regularly scheduled school sponsored  
 2 activity or event any firearm in the possession of any person, other than a  
 3 law enforcement officer, when so requested or directed by any duly  
 4 authorized school employee or any law enforcement officer;

5 (13) possessing any firearm by a person who is or has been a  
 6 mentally ill person subject to involuntary commitment for care and  
 7 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or  
 8 persons with an alcohol or substance abuse problem subject to involuntary  
 9 commitment for care and treatment as defined in K.S.A. 59-29b46, and  
 10 amendments thereto;

11 (14) possessing a firearm with a barrel less than 12 inches long by  
 12 any person less than 18 years of age;

13 (15) possessing any firearm while a fugitive from justice;

14 (16) possessing any firearm by a person who is an alien illegally or  
 15 unlawfully in the United States;

16 (17) possessing any firearm by a person while such person is subject  
 17 to a court order that:

18 (A) Was issued after a hearing, ~~of which~~ *where* such person received  
 19 actual notice; and ~~at which such person~~ had an opportunity to participate;

20 (B) restrains such person from harassing, stalking or threatening an  
 21 intimate partner of such person or a child of such person or such intimate  
 22 partner, or engaging in other conduct that would place an intimate partner  
 23 in reasonable fear of bodily injury to the partner or the child; and

24 (C) (i) includes a finding that such person represents a credible threat  
 25 to the physical safety of such intimate partner or child; or

26 (ii) by its terms explicitly prohibits the use, attempted use or  
 27 threatened use of physical force against such intimate partner or child that  
 28 would reasonably be expected to cause bodily injury; ~~or~~

29 (18) possessing any firearm by a person who, within the preceding  
 30 five years, has been convicted of a misdemeanor for a domestic violence  
 31 offense, or a misdemeanor under a law of another jurisdiction ~~which~~ *that* is  
 32 substantially the same as such misdemeanor offense; *or*

33 (19) *purchasing any firearm by a person who has been placed onto*  
 34 *the Kansas voluntary do-not-sell firearms list established by section 3, and*  
 35 *amendments thereto.*

36 (b) Criminal use of weapons as defined in:

37 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a  
 38 class A nonperson misdemeanor;

39 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson  
 40 felony;

41 (3) subsection (a)(10) ~~or~~, (a)(11) *or (a)(19)* is a class B nonperson  
 42 select misdemeanor;

43 (4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity

1 level 8, nonperson felony; and

2 (5) subsection (a)(14) is a:

3 (A) Class A nonperson misdemeanor except as provided in subsection  
4 (b)(5)(B);

5 (B) severity level 8, nonperson felony upon a second or subsequent  
6 conviction.

7 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

8 (1) Law enforcement officers, or any person summoned by any such  
9 officers to assist in making arrests or preserving the peace while actually  
10 engaged in assisting such officer;

11 (2) wardens, superintendents, directors, security personnel and  
12 keepers of prisons, penitentiaries, jails and other institutions for the  
13 detention of persons accused or convicted of crime, while acting within the  
14 scope of their authority;

15 (3) members of the armed services or reserve forces of the United  
16 States or the Kansas national guard while in the performance of their  
17 official duty; or

18 (4) the manufacture of, transportation to, or sale of weapons to a  
19 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess  
20 such weapons.

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

29 (e) Subsection (a)(6) shall not apply to a governmental laboratory or  
30 solid plastic bullets.

31 (f) Subsection (a)(4) shall not apply to a law enforcement officer who  
32 is:

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

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

37 (3) in possession of commercially manufactured devices ~~which that~~  
38 *are*:

39 (A) Owned by the law enforcement agency;

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

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

43 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person

1 employed by a laboratory—~~which~~ *that* is certified by the United States  
2 department of justice, national institute of justice, while actually engaged  
3 in the duties of their employment and on the premises of such certified  
4 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the  
5 manufacture of, transportation to or sale of weapons to such certified  
6 laboratory.

7 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any  
8 person or entity in compliance with the national firearms act, 26 U.S.C. §  
9 5801 et seq.

10 (i) (1) Subsection (a)(4) shall not apply to or affect any person in  
11 possession of a device or attachment designed, used or intended for use in  
12 suppressing the report of any firearm, if such device or attachment satisfies  
13 the description of a Kansas-made firearm accessory as set forth in K.S.A.  
14 2022 Supp. 50-1204, and amendments thereto.

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

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

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

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

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

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

30 (5) possession of a concealed handgun by an individual who is not  
31 prohibited from possessing a firearm under either federal or state law, and  
32 who is either: (A) 21 years of age or older; or (B) possesses a valid  
33 provisional license issued pursuant to K.S.A. 75-7c03, and amendments  
34 thereto, or a valid license to carry a concealed handgun issued by another  
35 jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and  
36 amendments thereto.

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

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

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

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

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

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

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

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

20 (7) at such person's residence and who, with the permission of such  
21 person's parent or legal guardian, possesses such firearm for the purpose of  
22 exercising the rights contained in K.S.A. 2022 Supp. 21-5222, 21-5223 or  
23 21-5225, and amendments thereto.

24 (m) As used in this section:

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

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

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

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

42 Sec. 7. K.S.A. 2022 Supp. 21-6301 is hereby repealed.

43 Sec. 8. This act shall take effect and be in force from and after its

- 1 publication in the statute book.