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December 12, 2017

ATTORNEY GENERAL OPINION NO. 2017-18

The Honorable John E. Barker
State Representative, 70th District
103 Wassinger Ave.
Abilene, KS 67410

Re: Crimes and Punishments—Crimes Against the Public Safety—Criminal
Carrying of a Weapon

State Departments; Public Officers and Employees—Firearms—Personal and
Family Protection Act; License to Carry Concealed Handgun

Synopsis: It is unlawful for a person 18 to 20 years of age to carry a concealed
handgun except when on the person's land or in the person's abode or
fixed place of business. Cited herein: K.S.A. 21-4201; K.S.A. 2015 Supp.
21-6302; K.S.A. 2017 Supp. 75-7c01; K.S.A. 2013 Supp. 75-7c04; K.S.A.
2017 Supp. 75-7c04.

* * *

Dear Representative Barker:

As the State Representative for the 70th District, you ask for our opinion regarding
whether, under current Kansas law, a person 18 to 20 years of age may lawfully carry a
concealed handgun. For the reasons described below, we believe the answer to your
question is no.

Prior to the 2006 enactment of the Personal and Family Protection Act (PFPA)¹,
commonly known as the concealed carry law, it was generally unlawful for any person

¹ K.S.A. 2017 Supp. 75-7c01 *et seq.*

to knowingly carry any concealed firearm “except when on the person’s land or in the person’s abode or fixed place of business.”² Therefore, even without the availability of concealed carry licenses, a person 18 to 20 years of age could lawfully carry a concealed handgun on his or her land or in his or her abode or fixed place of business.

Since the enactment of the PFPA in 2006, the availability of Kansas concealed carry licenses has been limited to persons at least 21 years of age.³ In 2013, the PFPA was amended to allow concealed carry licenses issued by other jurisdictions to be “recognized” in Kansas, irrespective of whether the requirements for those licenses were consistent with Kansas law.⁴ Such recognition “entitle[d] the lawful holder thereof to carry concealed handguns . . . in this state. . . .” and was limited to non-Kansas residents.⁵ Thus, a non-resident who did not necessarily meet Kansas’ requirements for a concealed carry license, such as minimum age requirements, could lawfully carry a concealed handgun in Kansas so long as he or she had a valid license issued by another jurisdiction.

As you note in your letter, in 2015 the Kansas Legislature passed Senate Bill 45 (SB 45),⁶ which amended various laws governing the carrying of firearms. SB 45 amended the PFPA to strike all statutory provisions allowing other jurisdictions’ concealed carry licenses to be recognized in Kansas.⁷

SB 45 also amended K.S.A. 2014 Supp. 21-6302(a)(4), the statute that generally criminalized concealed carry except when on the person’s land or in the person’s abode or fixed place of business, to read as follows:

Criminal carrying of a weapon is knowingly carrying:

...

Any pistol, revolver or other firearm concealed on one’s person *if such person is under 21 years of age*, except when on such person’s land or in such person’s abode or fixed place of business.⁸

The same statute was also amended to remove a provision which said that K.S.A. 21-6302(a)(4) shall not apply to “any person carrying a concealed handgun as authorized by [the PFPA].”⁹

² K.S.A. 21-4201(a)(4). In 2011 this statute was repealed and the quoted provision was recodified at K.S.A. 21-6302. See L. 2011, Ch. 30, § 49.

³ K.S.A. 2017 Supp. 75-7c04(a)(3).

⁴ L. 2013, Ch. 36, § 4.

⁵ K.S.A. 2013 Supp. 75-7c03(c)(1).

⁶ L. 2015, Ch. 16.

⁷ *Id.*

⁸ K.S.A. 2015 Supp. 21-6302(a)(4) (emphasis added).

⁹ L. 2015, Ch. 16, § 8.

Taken together, the SB 45 amendments clarified that concealed carry by a person under 21 years of age is illegal except when on that person's land or in their home or fixed place of business, and statutory provisions that could have provided an exception through recognition of out-of-state concealed carry licenses were stricken. Legislation was introduced during the 2017 session to reinstate the recognition of other jurisdictions' licenses,¹⁰ but that bill has not yet passed either chamber. As a consequence, concealed carry by persons 18 and 20 years of age is illegal except in limited circumstances as described above.

To summarize, prior to July 1, 2015, it was generally unlawful to carry a concealed handgun in Kansas without a license. Then, as now, Kansas law prohibited the issuance of concealed carry licenses to persons under the age of 21.

Between July 1, 2013 and July 1, 2015, a non-Kansas resident 18 to 20 years of age could lawfully carry a concealed handgun in Kansas if that person possessed a valid license issued by another jurisdiction. Following the enactment of SB 45, which became effective July 1, 2015, it is a crime for persons under the age of 21 to carry a concealed handgun except in limited circumstances, and Kansas law no longer allows out-of-state concealed carry licenses to be recognized.

Sincerely,

/s/Derek Schmidt

Derek Schmidt
Attorney General

/s/Sarah Fertig

Sarah Fertig
Assistant Attorney General

DS:AA:SF:sb

¹⁰ 2017 House Bill 2042. This bill was reported favorably for passage by the House Committee on Federal and State Affairs on March 16, 2017. See 2017 House Journal 456.