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July 28, 2014

ATTORNEY GENERAL OPINION NO. 2014- 14

The Honorable Jim Howell
State Representative, 81st District
125 East Buckthorn Road
Derby, KS 67037

The Honorable Travis Couture-Lovelady
State Representative, 110th District
P.O. Box 34
Palco, KS 67657

The Honorable Connie O'Brien
State Representative, 42nd District
22123 211th St.
Tonganoxie, KS 66086

Re: Cities and Municipalities—Miscellaneous Provisions—Firearms and
Ammunition; Regulation by City or County, Limitations

Crimes and Punishments—Crimes Against the Public Safety—Criminal Use
of Weapons; Criminal Carrying of a Weapon; Unlawful Possession of
Firearms on Certain Government Property

State Departments; Public Officers and Employees—Firearms—Personal
and Family Protection Act

Synopsis: Effective July 1, 2014, a law-abiding person may openly carry a rifle,
shotgun or other long gun without violating state or municipal laws.
However, a person may not openly carry any firearm into a building that is
lawfully posted as prohibiting open carry.

Under Kansas law, a person may transport a loaded firearm in a vehicle, regardless of whether the person is licensed to carry a concealed handgun, and regardless of whether the loaded firearm is stored in a container or transported in plain view. Effective July 1, 2014, a city or county may not enforce local laws regulating the transportation of a firearm in a vehicle.

Federal law prohibits a person not licensed to carry a concealed handgun from possessing or transporting a loaded firearm in a school zone, except on private property. However, a Kansas concealed carry licensee may not carry a concealed handgun into any school building posted as prohibiting concealed carry. Cited herein: K.S.A. 2013 Supp. 12-16,124, as amended by L. 2014, Ch. 97, § 7; 21-6301, as amended by L. 2014, Ch. 97, § 11; 21-6302, as amended by L. 2014, Ch. 134, § 2; 21-6309, as amended by L. 2014, Ch. 134, § 3; 75-7c01; 75-7c10, as amended by L. 2014, Ch. 134, § 4; 75-7c17; 75-7c20, as amended by L. 2014, Ch. 134, § 5; 75-4514; 75-6102; K.A.R. 1-49-11; 18 U.S.C. § 921; 18 U.S.C. § 922.

* * *

Dear Representatives Howell, Couture-Lovelady and O'Brien:

As State Representatives for the 81st, 110th and 42nd Districts, respectively, you ask our opinion on three issues concerning the ability of law-abiding persons to openly carry, store and transport firearms following the enactment of 2014 House Bill 2578 (HB 2578),¹ which took effect on July 1, 2014.

We address each of your questions in turn.

Effective July 1, 2014, may a person lawfully openly carry a rifle or shotgun?

Generally speaking, the answer to this question is yes. There is no state statute that prohibits the open carry of legal² firearms, including rifles or shotguns, by persons who are otherwise legally allowed to possess firearms.³

¹ L. 2014, Ch. 97.

² See, e.g., K.S.A. 2013 Supp. 21-6301(a)(5), as amended by L. 2014, Ch. 97, § 11 (unlawful to knowingly possess 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).

³ Various state and federal laws prohibit certain persons from possessing *any* firearm. See, e.g., K.S.A. 2013 Supp. 21-6301(a)(10) (prohibiting possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance) and 18 U.S.C. § 922(g)(9) (unlawful for a person who has been convicted in any court of a misdemeanor crime of domestic violence to possess any firearm or ammunition).

In the absence of a state law prohibiting open carry, open carry has been regulated by some local governments through resolutions or ordinances that restrict or prohibit open carry within the local government's jurisdiction. Following the enactment of HB 2578, as of July 1, 2014, cities and counties may no longer enact or enforce local rules that regulate or ban open carry except in limited, specific circumstances.⁴

However, Kansas law still allows private building owners to prohibit the carrying of any firearm inside their buildings. Certain municipal buildings may also prohibit the carrying of *any* weapon within the building, including firearms.⁵ Beginning July 1, 2014, if a building is lawfully posted with signs prohibiting open carry,⁶ then it is unlawful for a person to openly carry a firearm inside that building.⁷ If a person openly carries a firearm into a building posted as prohibiting open carry, the person may be asked to leave the building.⁸

Kansas law also prohibits open carry inside the following state government buildings: the State Capitol; the Kansas Judicial Center; Memorial Hall; the Curtis, Docking, Eisenhower and Landon state office buildings; and any other state-owned or leased building if the Secretary of Administration has so designated the buildings as prohibiting firearms inside the building.⁹

Thus, although open carry is generally permitted in Kansas, it can be prohibited inside certain buildings that are lawfully posted with signs prohibiting open carry.

May a person lawfully store a loaded firearm in a glove box or container in a vehicle, even if that person does not have a concealed carry license?

The answer to your question is yes. There is no state law that prohibits a person who is otherwise legally allowed to possess firearms from storing a loaded firearm in a glove box or container in their own vehicle, regardless of whether the person is licensed to carry a concealed handgun. It is a crime in Kansas to knowingly carry a concealed firearm *on one's person* if that person is not licensed to do so,¹⁰ but there are no state prohibitions on transporting a loaded firearm in a vehicle.

⁴ L. 2014, Ch. 97, § 7. Effective July 1, 2014, subsection (d) of this statute will still allow a city or county to adopt and enforce personnel policies that regulate or prohibit the open carry of firearms by employees while on duty, and to adopt an ordinance, resolution or regulation to restrict or prohibit the carrying of weapons inside municipal buildings as authorized by the Personal and Family Protection Act (PFPA), K.S.A. 2013 Supp. 75-7c01 *et seq.*

⁵ See, e.g., K.S.A. 2013 Supp. 75-7c20, as amended by L. 2014, Ch. 134, § 5.

⁶ See K.A.R. 16-11-7 and 16-13-1.

⁷ L. 2014, Ch. 97, § 5(a).

⁸ L. 2014, Ch. 97, § 5(c).

⁹ K.S.A. 2013 Supp. 21-6309, as amended by L. 2014, Ch. 134, § 3. See also K.S.A. 2013 Supp. 75-4514, K.A.R. 1-49-11.

¹⁰ K.S.A. 2013 Supp. 21-6302(a)(4), as amended by L. 2014, Ch. 134, § 2.

Prior to the enactment of HB 2578, K.S.A. 2013 Supp. 12-16,124(b)(4) allowed a city or county to adopt “an ordinance, resolution or regulation requiring a firearm transported in any air, land or water vehicle to be unloaded and encased in a container which completely encloses the firearm or any less restrictive provision governing the transporting of firearms, provided such ordinance, resolution or regulation shall not apply to persons licensed or recognized under the personal and family protection act.” However, as noted above, cities and counties may no longer enforce such ordinances, resolutions or regulations as of July 1, 2014. This means that as of July 1, 2014, there are no state or local laws that regulate the manner of transporting a firearm in a vehicle.

It should be noted that certain federal laws may apply to the storage of a loaded firearm in a vehicle. The Gun-Free School Zones Act generally prohibits the possession of any firearm in a school zone,¹¹ but there are two exceptions to this law that are relevant to your question.

First, a Kansas concealed carry licensee may possess a firearm in a school zone without violating the Gun-Free School Zones Act,¹² but a licensee may *not* carry a concealed handgun inside any school building posted as prohibiting concealed carry.¹³

Second, a person may possess a firearm within a school zone if the person is on private property that is not part of the school grounds.¹⁴ This means that a person may store a loaded firearm in a vehicle parked within 1,000 feet from the grounds of a school so long as the vehicle is parked on private property.

You ask specifically about the ability of a person to store a *loaded* firearm in a vehicle, but we note that the Gun-Free School Zones Act also allows a person to possess a firearm in a school zone if the firearm is *unloaded* and stored in a locked container or rack.¹⁵

May a person lawfully transport a loaded firearm in a vehicle when the firearm is in plain view?

Under Kansas law, the answer to this question is yes, provided that the person is allowed by law to possess a firearm, and provided that the firearm itself is lawful. Effective July 1, 2014, HB 2578 rendered unenforceable any preexisting city or county regulation that prohibited the transportation of a loaded firearm in a vehicle in plain view. However, as previously noted, the Gun-Free School Zones Act prohibits a person who is not licensed to carry a concealed handgun from transporting a loaded firearm in a school zone.

¹¹ 18 U.S.C. § 922(q)(2). “School zone” means in or on the grounds of, or within a distance of 1,000 feet from the grounds of a public, private or parochial elementary or secondary school. 18 U.S.C. § 921(a)(25) and (26).

¹² 18 U.S.C. § 922(q)(2)(B)(ii).

¹³ K.S.A 2013 Supp. 75-7c10(a), as amended by L. 2014, Ch. 134, § 4.

¹⁴ 18 U.S.C. § 922(q)(2)(B)(i).

¹⁵ 18 U.S.C. § 922(q)(2)(B)(iii).

In summary, a law-abiding person may openly carry rifles and shotguns in Kansas, but it is unlawful to openly carry any firearm into a building posted as prohibiting open carry. Kansas law does not prohibit a person from transporting a loaded firearm in a vehicle, regardless of whether the firearm is stored in a container or transported in plain view. However, federal laws prohibit persons who are not licensed to concealed carry from possessing a loaded firearm within school zones, except on private property.

Sincerely,

Derek Schmidt
Attorney General

Sarah Fertig
Assistant Attorney General

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