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JIM HOWELL
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GENERAL GOVERNMENT BUDGET

Senate Natural Resources Committee

Hearing on

HB 2491, Lawfully possessed handguns permitted while hunting, fishing and furharvesting.

Dear Chairman Ostmeyer and committee members,

I will start with a little background information to explain why this important legislation needs to go forward.

In the 2010 General Election, Kansans voted by 88% to approve and adopt new language in the **Kansas Constitution**. The current language in section 4 now says,

"A person has the right to keep and bear arms for the defense of self, family, home and state, for lawful hunting and recreational use, and for any other lawful purpose.

Unfortunately, Kansas hunting regulations have not caught up. Here is an example of the current restrictive language:

(Regulation 115-4-4) Big Game Regs: (e) Big game permittees shall possess hunting equipment while hunting only as authorized by this regulation and by the most restrictive big game permit in possession while hunting.

This essentially says it is illegal to carry a firearm while hunting in non-firearm hunting seasons. This means a citizen authorized to own and possess a firearm must **DISARM THEMSELVES** to participate in hunting unless they have a Conceal Carry Permit (Law passed last year).

Furthermore, an assumption is made that if a handgun is carried during a firearm season, that it is intended for hunting and must be large enough caliber to be considered legal equipment for hunting.

Regardless of this bill, if someone was to unlawfully hunt with a firearm anytime, they could be prosecuted and held responsible for breaking the law. There are other valid purposes for carrying a handgun besides actual hunting. Allowing someone to possess a handgun for other than hunting purposes is what this bill is intended to clarify.

I encouraged KDWP commission to consider my objection in light of the new constitutional language and they met at my request but chose to retain the restriction.

Last year, SB152 gave CCH holders the opportunity to exercise their right to defend themselves during hunting, fishing and furharvesting. This bill passed both bodies of the legislature almost unanimously. In that bill, the language said this:

any person who is licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, from exercising the right to carry a concealed handgun while lawfully hunting, fishing or furharvesting;

I believe one of the reasons CCH legislation was created was to override municipalities from restrictive ordinances. Kansas, as a state does not have such a restriction. Open carry is still the law of the land. Someone outside of a municipality always has a constitutional right to carry a firearm for protection of self or family.

Under current law, law enforcement officers that we trust to carry a handgun everyday while they are on the job are restricted from being able to carry a handgun for self protection while hunting unless they also have a CCH permit!

Most sportsmen or sportswomen are excellent law abiding citizens. I personally do not know of any of them that do not religiously obey all the laws and regulations to the best of their ability. I think the contention that these law abiding sportsmen would use a handgun intended for self protection to hunt in a non-firearm season is unfounded. People that obey the law now will continue to obey the law. People willing to break the law may do that now.

Therefore, this bill simply allows for hunters/fisherman to carry a handgun. It says,

The provisions of this section shall not be construed to prevent...any person who lawfully possesses a handgun from carrying such handgun for purposes of self defense while lawfully hunting, fishing or furharvesting

Crime in rural areas is increasing. Many who live in rural areas have many stories to illustrate this point. Recently, I took my wife, children, and some close friends out to a friend's rural property to do some gun training and target practice. When I arrived at the owner's property, I caught a burglar breaking into the home. He got away as soon as I challenged him but thinking back now, I realize he could have chosen to hurt me or my family. I was unprepared. My guns were all in storage cases and unloaded and in the back of the vehicle. I have had Kansans tell me they have had all sorts of confrontations in rural settings where they feel vulnerable and would like to protect themselves. Currently, when hunting, we intentionally require sportsmen/women to disarm themselves.

The issues might be these:

- Turf conflicts – finding unauthorized hunters on a property, establishing who has permission to hunt if disagreement happens.
- Discovery of marijuana growers, roving meth operations, or other illegal operations and those that might intimidate people coming into their areas
- Finding evidence of poaching and those in the process of poaching (see attached story)
- Neighbors unsure why someone is in area (protecting adjacent land) and would threaten or intimidate those they confront.

I contend that Wildlife and Parks does not have authority to override the Kansas Constitution and therefore this regulation should be amended per HB2491.

Thank you Chairman and committee!

For additional reference, I am attaching just a couple of the pieces of written testimony that was submitted for the House Federal and State Hearing on HB2491:

Attachment 1 – Shawn Howell, Citizen of Wellington (relating story of crimes discovered on hunting leases)

Attachment 2 – Aaron Miller, Sedgwick County Sheriff Department officer, CCH holder

Note: There were 4 other citizen pieces of written testimony that are similar and therefore I did not include them.

Attachment 3 – Story of Hunting Murders in Minneapolis in 2004.

A handwritten signature in black ink that reads "Jim Howell". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Representative Jim Howell

District 82, Derby

785-296-7665

ATTACHMENT 1

Sunday, January 29th, 2012

Chairman Brunk and members of the House Federal and State Affairs Committee,

My name is Shawn Howell and I wrote this letter to describe a series of events that happened to me last year starting the latter part of May 2011.

I made a trip to the land that I lease for the purpose of hunting that is located in South Sumner County. The property line to the west is the I-35 turnpike and the property line to the south is the Kansas-Oklahoma border. My intentions that day were to scout for deer and their sign. I planned to put out some game cameras and a blind to hunt prior to deer season. Upon arriving at this property I observed a truck with a trailer parked several hundred yards off the gravel road on my leased property. I scanned the area carefully with my binocular for people, and found no one. I attempted to call the farmer from who I leased the land to find out if he knew who was here or if anyone else had received permission to be here but could not get a hold of him. But I was unable to get a cellphone signal. I then proceeded in my truck out to this vehicle finding no one in or nearby. I exited my truck and walked around this truck, wrote down the license plate number when I heard sounds in the distance and observed two ATV's coming out of the thick brushy area heading toward me. I was curious what these people were doing there and felt some anxiety as they approached but really was not fearful due to the fact that I had the legal right to be there and I was armed. I had strapped on my pistol after I got out of my truck.

When these two gentlemen reached me and shut off their ATV's, I said "Hey, what are you two guys doing here?" One of them with limited English speaking ability said they were surveying the land. I informed them that they were on private property and I was not aware or notified of any surveys and they would have to leave. The man said alright and that they were done anyway. They then proceeded to leave.

After they left, my scouting revealed that they had driven their ATV's all over the property and I assumed their visit was more recreational than business because I observed no survey flags or markers. I contacted the land owner after I returned from home and I was told that he knew nothing of any survey or anyone else allowed to be on the property.

About the middle of July, I returned to this same location and found the same two individuals standing outside of the same truck parked on my leased property. This time they did not have a trailer or ATV's. As soon as they saw me I could tell they knew there was trouble. I stopped at the bottom of the hill next to their truck. I parked on the road and jumped out. I was extremely annoyed and confronted them saying that I knew they were not just surveying the land and asked what they were doing. As I waited for some explanation, one of the men started to walk off to the side, not in the direction of their truck. That's when all of the sudden I felt like I was in danger and about to be jumped. I had left my pistol in the seat of my truck so I turned and ran the short distance to the cab and grabbed my pistol. I had to remove it from the holster and I then displayed it to these men and I announced that I was calling the Sherriff. I got back into my truck and drove back across the bridge over the turnpike and tried to call for help but once again could not get signal. I drove to the next mile road slowly, trying to get a phone signal. I was unable to get the signal. The two men drove past me on their way out.

This incident scared me pretty bad, and I feel like they had bad intentions the second time I confronted them. I was unable to find the tag number that I had written down in May. During the second confrontation I was so adrenalin charged by what was happening I didn't think to write down their tag number again. I told this story to a Deputy Sherriff and the game warden for the Department of Wildlife and Parks that is assigned for this area and was told that I should be careful because the game warden said he thought perhaps these men may have been cultivating marijuana on the property.

I am a bow hunter. As such, I am forbidden by Kansas State law to carry a pistol while bow hunting. I feel this law violates my 2nd Amendment rights afforded to me by the Constitution.

I feel unable to safely participate in what I enjoy doing most (bow hunting) on this and two other leases I have adjacent to the I-35 corridor due to fear for my life should I encounter these men on my leased land again. Furthermore, The I-35 corridor on any other remote place could host an array of shady characters that would possibly kill me, rob me of my wallet, check book, guns, truck, and leave me in a place I may never be found.

These men may be better prepared to deal with me should we meet again.

I pay a lot of money to lease land in South Sumner County. Costs include Licenses, tags, etc. I also host many other hunters on these excursions. At this time, I do not possess a conceal carry weapons permit. I have never really felt the need to conceal carry as I perform normal business functions as a plumber. But this is different. I am very busy and find it very hard to enroll in weekend long classes, background checks, waiting periods, and all of the intense scrutiny for me to carry a gun while hunting out in the country on my own leased property.

Please reconsider rewording or re-evaluating the law that forbids me to protect and defend myself in the Kansas badlands!

Please enact H.B. 2491.

You may contact me with any questions.

Sincerely,



Shawn Howell
422 W. Harvey
Wellington, Kansas 67152

316-993-9241

ATTACHMENT 2

Monday, January 30th, 2012

Chairman Brunk and members of the House Federal and State Affairs Committee,

My name is Aaron Miller, and I live in Sedgwick County. I could not travel there today because of work obligations. I am a Deputy with the Sedgwick County Sheriff Department, but I am also an avid hunter. I am a great hunter and obey all the laws and regulations.

I want to exercise my right to protect myself during my hunting activities. The current regulations restrict this right, even though I am law enforcement. I believe making me disarm makes me vulnerable. In the line of work that I am in, I get multiple threats every day. I accept that fact as part of my job. Law enforcement officers should not have to give up their handgun to go hunting or fishing as the laws are now making us. Thanks to the Kansas Legislature for passing a good law last year that allows Conceal Carry Handgun permit holders to defend themselves while hunting and fishing. I went out and received my Concealed Carry Permit as a result of that law. I believe all lawful owners of handguns should have that same right to protect themselves while hunting and fishing. I should not have to become a Conceal Carry Permit holder to carry a handgun while hunting or fishing because Kansas Constitution clearly gives me this right. Obtaining a Conceal Carry Permit is a burden and is unnecessary especially in rural settings. The Concealed Carry law was a way to compensate for municipalities that create restrictive ordinances. The state of Kansas rightfully does not have such a restriction, that is unless you are hunting or fishing. This needs to change!

I think it is a good idea for hunters and fisherman to have the right to open carry. I know for me, I run into someone that has been arrested or made threats against me on a daily basis. Hunting is no problem to me since I am carrying a weapon already and know how to use it thanks to the CCH laws. I believe that if hunters and fishers were allowed to open carry, they will not have problems if they arise.

Thank you for considering this important legislation.

Please support and pass HB2491.

You may contact me with questions.

Aaron Miller

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ATTACHMENT 3

Six Killed in Wisconsin Hunting Incident

Chai Vang Arrested in Shooting

By Charles Montaldo, About.com Guide

Nov 24 2004

A Minneapolis hunter who was asked to leave a deer stand located on private property in Wisconsin apparently opened fire on the property owner and his hunting guests, killing six and wounding two others.

The incident took place in northwestern Wisconsin on the day after deer season opened in rural Sawyer County, where deer hunting is a way of life for hundreds of local sportsmen.

Authorities investigating the case pieced together the events leading up to the shootings:

Chai Vang, 36, of St. Paul, Minnesota apparently became lost while hunting in the area and asked two hunters for directions. He ended up on 400 acres of private property and climbed up on a deer stand he found there.

Terry Willers, a member of the private hunting party rode by the site and saw someone in the deer stand and radioed back to the hunting cabin to ask who was in the stand. When he was told no one was supposed to be in the deer stand.

The hunter said he would ask the hunter to leave the stand, and others from the private party, including the property owner, drove their ATVs to the scene.

When asked to leave the deer stand, Vang complied and began to walk away from the scene. As he walked away, someone in the private party wrote down Vang's out-of-state hunting license number -- properly posted on Vang's back -- in the dust on his ATV.

According to survivors of the incident, Vang walked about 40 yards away from the party, took the scope off his Chinese style SKS semi-automatic rifle, and turned and began to fire at private party. Three of the hunters were shot in the initial burst of fire.

Rescuers Shot At Also

Someone in the hunting party radioed back to the cabin and said they were under fire. As others from the cabin arrived at the scene, unarmed, to try to rescue the wounded hunters, they too were shot, Sawyer County Sheriff Jim Meier said. Some of the victims had multiple gunshot wounds.

Vang fled the scene and apparently became lost again. Two other hunters, who were unaware of the shooting incident, walked him out of the woods. As they left the woods, a Department of

Natural Resources officer recognized the hunting license number on Vang's back and took him into custody.

Killed in the incident were Robert Crotteau, 42; his son Joey, 20; Al Laski, 43; Mark Roidt, 28; and Jessica Willers, 27, the daughter of Terry Willers. Dennis Drew died of his wounds Monday night. Still hospitalized are Terry Willers, who was listed in critical condition, and Lauren Hesebeck, listed in fair condition.

Vang 'Calm' After Shootings

According to Sheriff Meier, Vang is a U.S. military veteran and a naturalized citizen originally from Laos. Meier also said Vang appears to be mentally stable.

"From my dealings with him, he seems mentally capable of conducting his affairs. His criminal history is, I believe, there's a misdemeanor warrant for trespass out of a county in Minnesota, and he does have an entry in his file for an aggravated assault," Meier said. Meier said in a press conference that Vang has remained extremely calm and has not confessed to shooting anybody. He described the suspect's calm as "frightening."

"I just don't think any of this makes sense. And the demeanor makes no sense, and the action makes no sense. I can't even speculate on ... what was in his mind or what he was thinking," Meier said.

<http://crime.about.com/od/news/a/vang041122.htm>