

SENATE BILL NO. 39

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

0458S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 1.320, RSMo, and to enact in lieu thereof nine new sections relating to the sole purpose of adding additional protections to the right to bear arms.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 1.320, RSMo, is repealed and nine new sections enacted in lieu thereof, to be known as sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, to read as follows:

1.410. 1. Sections 1.410 to 1.485 shall be known and may be cited as the "Second Amendment Preservation Act".

2. The general assembly finds and declares that:

(1) The general assembly of the state of Missouri is firmly resolved to support and defend the Constitution of the United States against every aggression, whether foreign or domestic, and is duty-bound to oppose every infraction of those principles that constitute the basis of the union of the states because only a faithful observance of those principles can secure the union's existence and the public happiness;

(2) Acting through the Constitution of the United States, the people of the several states created the federal government to be their agent in the exercise of a few defined powers, while reserving for the state governments the power to legislate on matters concerning the lives,

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 liberties, and properties of citizens in the ordinary course
18 of affairs;

19 (3) The limitation of the federal government's power
20 is affirmed under Amendment X of the Constitution of the
21 United States, which defines the total scope of federal
22 powers as being those that have been delegated by the people
23 of the several states to the federal government and all
24 powers not delegated to the federal government in the
25 Constitution of the United States are reserved to the states
26 respectively or the people themselves;

27 (4) If the federal government assumes powers that the
28 people did not grant it in the Constitution of the United
29 States, its acts are unauthoritative, void, and of no force;

30 (5) The several states of the United States respect
31 the proper role of the federal government but reject the
32 proposition that such respect requires unlimited
33 submission. If the federal government, created by a compact
34 among the states, were the exclusive or final judge of the
35 extent of the powers granted to it by the states through the
36 Constitution of the United States, the federal government's
37 discretion, and not the Constitution of the United States,
38 would necessarily become the measure of those powers. To
39 the contrary, as in all other cases of compacts among powers
40 having no common judge, each party has an equal right to
41 judge for itself as to whether infractions of the compact
42 have occurred, as well as to determine the mode and measure
43 of redress. Although the several states have granted
44 supremacy to laws and treaties made under the powers granted
45 in the Constitution of the United States, such supremacy
46 does not extend to various federal statutes, executive
47 orders, administrative orders, court orders, rules,
48 regulations, or other actions that collect data or restrict

49 or prohibit the manufacture, ownership, or use of firearms,
50 firearm accessories, or ammunition exclusively within the
51 borders of Missouri; such statutes, executive orders,
52 administrative orders, court orders, rules, regulations, and
53 other actions exceed the powers granted to the federal
54 government except to the extent they are necessary and
55 proper for governing and regulating the United States Armed
56 Forces or for organizing, arming, and disciplining militia
57 forces actively employed in the service of the United States
58 Armed Forces;

59 (6) The people of the several states have given
60 Congress the power "to regulate commerce with foreign
61 nations, and among the several states", but "regulating
62 commerce" does not include the power to limit citizens'
63 right to keep and bear arms in defense of their families,
64 neighbors, persons, or property nor to dictate what sorts of
65 arms and accessories law-abiding Missourians may buy, sell,
66 exchange, or otherwise possess within the borders of this
67 state;

68 (7) The people of the several states have also granted
69 Congress the powers "to lay and collect taxes, duties,
70 imports, and excises, to pay the debts, and provide for the
71 common defense and general welfare of the United States" and
72 "to make all laws which shall be necessary and proper for
73 carrying into execution the powers vested by the
74 Constitution of the United States in the government of the
75 United States, or in any department or office thereof".
76 These constitutional provisions merely identify the means by
77 which the federal government may execute its limited powers
78 and shall not be construed to grant unlimited power because
79 to do so would be to destroy the carefully constructed
80 equilibrium between the federal and state governments.

81 Consequently, the general assembly rejects any claim that
82 the taxing and spending powers of Congress may be used to
83 diminish in any way the right of the people to keep and bear
84 arms;

85 (8) The people of Missouri have vested the general
86 assembly with the authority to regulate the manufacture,
87 possession, exchange, and use of firearms within the borders
88 of this state, subject only to the limits imposed by
89 Amendment II of the Constitution of the United States and
90 the Constitution of Missouri; and

91 (9) The general assembly of the state of Missouri
92 strongly promotes responsible gun ownership, including
93 parental supervision of minors in the proper use, storage,
94 and ownership of all firearms; the prompt reporting of
95 stolen firearms; and the proper enforcement of all state gun
96 laws. The general assembly of the state of Missouri hereby
97 condemns any unlawful transfer of firearms and the use of
98 any firearm in any criminal or unlawful activity.

1.420. The following federal acts, laws, executive
2 orders, administrative orders, court orders, rules, and
3 regulations shall be considered infringements on the
4 people's right to keep and bear arms, as guaranteed by
5 Amendment II of the Constitution of the United States and
6 Article I, Section 23 of the Constitution of Missouri,
7 within the borders of this state including, but not limited
8 to:

9 (1) Any tax, levy, fee, or stamp imposed on firearms,
10 firearm accessories, or ammunition not common to all other
11 goods and services and that might reasonably be expected to
12 create a chilling effect on the purchase or ownership of
13 those items by law-abiding citizens;

14 (2) Any registration or tracking of firearms, firearm
15 accessories, or ammunition that might reasonably be expected
16 to create a chilling effect on the purchase or ownership of
17 those items by law-abiding citizens;

18 (3) Any registration or tracking of the owners of
19 firearms, firearm accessories, or ammunition that might
20 reasonably be expected to create a chilling effect on the
21 purchase or ownership of those items by law-abiding citizens;

22 (4) Any act forbidding the possession, ownership, use,
23 or transfer of a firearm, firearm accessory, or ammunition
24 by law-abiding citizens; and

25 (5) Any act ordering the confiscation of firearms,
26 firearm accessories, or ammunition from law-abiding citizens.

 1.430. All federal acts, laws, executive orders,
2 administrative orders, court orders, rules, and regulations,
3 whether enacted before or after the provisions of sections
4 1.410 to 1.485, that infringe on the people's right to keep
5 and bear arms as guaranteed by Amendment II of the
6 Constitution of the United States and Article I, Section 23
7 of the Constitution of Missouri shall be invalid in this
8 state, shall not be recognized by this state, shall be
9 specifically rejected by this state, and shall be considered
10 null, void, and of no effect in this state.

 1.440. It shall be the duty of the courts and law
2 enforcement agencies of this state to protect the rights of
3 law-abiding citizens to keep and bear arms within the
4 borders of this state and to protect these rights from the
5 infringements defined under section 1.420.

 1.450. No entity or person, including any public
2 officer or employee of this state or any political
3 subdivision of this state, shall have the authority to
4 enforce or attempt to enforce any federal acts, laws,

5 executive orders, administrative orders, court orders,
6 rules, regulations, statutes, or ordinances infringing on
7 the right to keep and bear arms as described under section
8 1.410.

1.460. 1. Any entity or person who acts knowingly, as
2 defined under section 562.016, to violate the provisions of
3 section 1.450 or otherwise knowingly deprives a citizen of
4 Missouri of the rights or privileges ensured by Amendment II
5 of the Constitution of the United States or Article I,
6 Section 23 of the Constitution of Missouri while acting
7 under the color of any state or federal law shall be liable
8 to the injured party in an action at law, suit in equity, or
9 other proper proceeding for redress.

10 2. In such actions, the court may award the prevailing
11 party, other than the state of Missouri or any political
12 subdivision of the state, reasonable attorney's fees and
13 costs.

14 3. Sovereign, official, or qualified immunity shall
15 not be an affirmative defense in such actions.

1.470. 1. Any person acting as an official, agent,
2 employee, or deputy of the government of the United States,
3 or otherwise acting under the color of federal law within
4 the borders of this state, who knowingly, as defined under
5 section 562.016:

6 (1) Enforces or attempts to enforce any of the
7 infringements identified in section 1.420; or

8 (2) Gives material aid and support to the efforts of
9 another who enforces or attempts to enforce any of the
10 infringements identified in section 1.420

11 shall be permanently ineligible to serve as a law
12 enforcement officer or to supervise law enforcement officers
13 for the state or any political subdivision of the state.

14 2. Neither the state nor any political subdivision of
15 the state shall employ as a law enforcement officer or
16 supervisor of law enforcement officers any person who is
17 ineligible to serve in such capacity under this section.

18 3. Any person residing or conducting business in a
19 jurisdiction who believes that a law enforcement officer or
20 supervisor of law enforcement officers of such jurisdiction
21 has taken action that would render that officer or
22 supervisor ineligible under this section to serve in such
23 capacity shall have standing to pursue an action for
24 declaratory judgment in the circuit court of the county in
25 which the action allegedly occurred, or in the circuit court
26 of Cole County, with respect to the employment eligibility
27 of the law enforcement officer or the supervisor of law
28 enforcement officers under this section.

29 4. If a court determines that a law enforcement
30 officer or supervisor of law enforcement officers has taken
31 any action that would render him or her ineligible to serve
32 in that capacity under this section:

33 (1) The law enforcement officer or supervisor of law
34 enforcement officers shall immediately be terminated from
35 his or her position; and

36 (2) The jurisdiction that employed the ineligible law
37 enforcement officer or supervisor of law enforcement
38 officers shall be required to pay the court costs and
39 attorney's fees associated with the declaratory judgment
40 action that resulted in the finding of ineligibility.

41 5. Nothing in this section shall preclude a person's
42 right of appeal or remediation, as provided under chapter
43 590.

 1.480. For sections 1.410 to 1.485, the term "law-
2 abiding citizen" shall mean a person who is not otherwise
3 precluded under state law from possessing a firearm and
4 shall not be construed to include anyone who is not legally
5 present in the United States or the state of Missouri.

 1.485. If any provision of sections 1.410 to 1.485 or
2 the application thereof to any person or circumstance is
3 held invalid, such determination shall not affect the
4 provisions or applications of sections 1.410 to 1.485 that
5 may be given effect without the invalid provision or
6 application, and the provisions of sections 1.410 to 1.485
7 are severable.

 [1.320. The general assembly of the state
2 of Missouri strongly promotes responsible gun
3 ownership, including parental supervision of
4 minors in the proper use, storage, and ownership
5 of all firearms, the prompt reporting of stolen
6 firearms, and the proper enforcement of all
7 state gun laws. The general assembly of the
8 state of Missouri hereby condemns any unlawful
9 transfer of firearms and the use of any firearm
10 in any criminal or unlawful activity.]

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