

FIRST REGULAR SESSION

SENATE BILL NO. 439

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS GIBBONS AND YECKEL.

Read 1st time February 7, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1228S.021

AN ACT

To repeal sections 571.015 and 571.030, RSMo 2000, relating to firearm crimes, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 571.015 and 571.030, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 571.015, 571.030 and 571.099, to read as follows:

571.015. 1. [Except as provided in subsection 4 of this section,] Any person who commits any felony under the laws of this state by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon is also guilty of the crime of armed criminal action and, upon conviction, shall be punished by imprisonment by the department of corrections and human resources for a term of not less than [three] **five** years. The punishment imposed pursuant to this subsection shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted [under] **pursuant to** this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of [three] **five** calendar years.

2. Any person convicted of a second offense of armed criminal action shall be punished by imprisonment by the department of corrections and human resources for a term of not less than [five] **seven** years. The punishment imposed pursuant to this subsection shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted [under] **pursuant to** this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of [five] **seven** calendar years.

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

3. Any person convicted of a third or subsequent offense of armed criminal action shall be punished by imprisonment by the department of corrections and human resources for a term of not less than ten years. The punishment imposed pursuant to this subsection shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted [under] **pursuant to** this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of ten calendar years.

[4. The provisions of this section shall not apply to the felonies defined in sections 564.590, 564.610, 564.620, 564.630, and 564.640, RSMo.]

571.030. 1. A person commits the crime of unlawful use of weapons if [he or she] **such person** knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board; **or**

(11) Carries a firearm while possessing a controlled substance in violation of

chapter 195, RSMo.

2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole; and

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo.

3. Subdivisions (1), (5), (8) and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in **[his] the actor's** dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

4. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (5), (6), (7) or (8) of subsection 1 of this section, in which **[cases] case** it is a class B misdemeanor, or subdivision (10) **or (11)** of subsection 1 of this section, in which case it is a class A misdemeanor

if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

6. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

7. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

571.099. 1. The state of Missouri shall review each person's case as described in this section for the possibility of prosecution pursuant to federal law. The prosecutor and law enforcement agencies shall cooperate with federal authorities if the prosecution pursuant to federal law is reasonably likely to result in more restrictive bail, stricter enforcement or greater penalties being assessed. This program shall be referred to as Project Exile and shall apply to any person being prosecuted for:

(1) Violating subdivision (10) of subsection 1 of section 571.030;

(2) Violating subdivision (11) of subsection 1 of section 571.030;

(3) Violating any provision of this chapter and has pled guilty to or been convicted of any felony;

(4) Violating any provision of this chapter and is not legally in the United States;

(5) Possession of a firearm in violation of this chapter and has been found not guilty of any crime by reason of mental disease or defect pursuant to chapter 552, RSMo;

(6) Possession of a firearm in violation of this chapter and has an outstanding arrest warrant, has escaped from any correctional institution or jail or is addicted to any controlled substance;

(7) Possession of a firearm in violation of this chapter and is currently under indictment for any other criminal offense;

(8) Possession of a firearm in violation of this chapter and has pled guilty to or

been convicted of any domestic violence misdemeanor;

(9) Violating section 571.020;

(10) Violating section 571.015;

(11) Committing any act of domestic violence by, with or through the use, assistance or aid of a firearm.

2. The attorney general shall be notified of and keep a record of investigations and prosecutions implemented pursuant to this section.

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