

FIRST REGULAR SESSION

SENATE BILL NO. 83

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILSON.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0058S.011

AN ACT

To repeal sections 571.010 and 571.030, RSMo, and to enact in lieu thereof two new sections relating to stun guns, with penalty provisions.

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

Section A. Section 571.010 and 571.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 571.010 and 571.030, to read as follows:

571.010. As used in this chapter, the following terms shall mean:

(1) "Antique, curio or relic firearm", any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol Tobacco and Firearms, 27 CFR Section 178.11:

(a) "Antique firearm" is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof;

(b) "Curio or relic firearm" is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty years old, associated with a historical event, renown personage or major war;

(2) "Blackjack", any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use;

(3) "Blasting agent", any material or mixture, consisting of fuel and oxidizer that is intended for blasting, but not otherwise defined as an explosive under this section, provided that the finished product, as mixed for use of

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

19 shipment, cannot be detonated by means of a numbered 8 test blasting cap when
20 unconfined;

21 (4) "Concealable firearm", any firearm with a barrel less than sixteen
22 inches in length, measured from the face of the bolt or standing breech;

23 (5) "Deface", to alter or destroy the manufacturer's or importer's serial
24 number or any other distinguishing number or identification mark;

25 (6) "Detonator", any device containing a detonating charge that is used for
26 initiating detonation in an explosive, including but not limited to, electric blasting
27 caps of instantaneous and delay types, nonelectric blasting caps for use with
28 safety fuse or shock tube and detonating cord delay connectors;

29 (7) "Explosive weapon", any explosive, incendiary, or poison gas bomb or
30 similar device designed or adapted for the purpose of inflicting death, serious
31 physical injury, or substantial property damage; or any device designed or
32 adapted for delivering or shooting such a weapon. For the purposes of this
33 subdivision, the term "explosive" shall mean any chemical compound mixture or
34 device, the primary or common purpose of which is to function by explosion,
35 including but not limited to, dynamite and other high explosives, pellet powder,
36 initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter
37 cords, and igniters or blasting agents;

38 (8) "Firearm", any weapon that is designed or adapted to expel a projectile
39 by the action of an explosive;

40 (9) "Firearm silencer", any instrument, attachment, or appliance that is
41 designed or adapted to muffle the noise made by the firing of any firearm;

42 (10) "Gas gun", any gas ejection device, weapon, cartridge, container or
43 contrivance other than a gas bomb that is designed or adapted for the purpose of
44 ejecting any poison gas that will cause death or serious physical injury, but not
45 any device that ejects a repellant or temporary incapacitating substance;

46 (11) "Intoxicated", substantially impaired mental or physical capacity
47 resulting from introduction of any substance into the body;

48 (12) "Knife", any dagger, dirk, stiletto, or bladed hand instrument that is
49 readily capable of inflicting serious physical injury or death by cutting or
50 stabbing a person. For purposes of this chapter, "knife" does not include any
51 ordinary pocketknife with no blade more than four inches in length;

52 (13) "Knuckles", any instrument that consists of finger rings or guards
53 made of a hard substance that is designed or adapted for the purpose of inflicting
54 serious physical injury or death by striking a person with a fist enclosed in the

55 knuckles;

56 (14) "Machine gun", any firearm that is capable of firing more than one
57 shot automatically, without manual reloading, by a single function of the trigger;

58 (15) "Projectile weapon", any bow, crossbow, pellet gun, slingshot or other
59 weapon that is not a firearm, which is capable of expelling a projectile that could
60 inflict serious physical injury or death by striking or piercing a person;

61 (16) "Rifle", any firearm designed or adapted to be fired from the shoulder
62 and to use the energy of the explosive in a fixed metallic cartridge to fire a
63 projectile through a rifled bore by a single function of the trigger;

64 (17) "Short barrel", a barrel length of less than sixteen inches for a rifle
65 and eighteen inches for a shotgun, both measured from the face of the bolt or
66 standing breech, or an overall rifle or shotgun length of less than twenty-six
67 inches;

68 (18) "Shotgun", any firearm designed or adapted to be fired from the
69 shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a
70 number of shot or a single projectile through a smooth bore barrel by a single
71 function of the trigger;

72 (19) "Spring gun", any fused, timed or nonmanually controlled trap or
73 device designed or adapted to set off an explosion for the purpose of inflicting
74 serious physical injury or death;

75 (20) **"Stun gun or taser", any portable device or weapon from**
76 **which an electric current, impulse, wave, or beam is produced that is**
77 **capable of incapacitating temporarily, injuring, or killing a human**
78 **being;**

79 (21) "Switchblade knife", any knife which has a blade that folds or closes
80 into the handle or sheath, and:

81 (a) That opens automatically by pressure applied to a button or other
82 device located on the handle; or

83 (b) That opens or releases from the handle or sheath by the force of
84 gravity or by the application of centrifugal force.

571.030. 1. A person commits the crime of unlawful use of weapons if he
2 or she knowingly:

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

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,

7 boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any
8 building or structure used for the assembling of people; or

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

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

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

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

18 (8) Carries a firearm or any other weapon readily capable of lethal use
19 into any church or place where people have assembled for worship, or into any
20 election precinct on any election day, or into any building owned or occupied by
21 any agency of the federal government, state government, or political subdivision
22 thereof; or

23 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined
24 in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any
25 other motor vehicle, or at any building or habitable structure, unless the person
26 was lawfully acting in self-defense; [or]

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

31 **(11) Owns, possesses, or discharges a stun gun or taser.**

32 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) [and], (10), and (11) of
33 subsection 1 of this section shall not apply to or affect any of the following:

34 (1) All state, county and municipal peace officers who have completed the
35 training required by the police officer standards and training commission
36 pursuant to sections 590.030 to 590.050, RSMo, and possessing the duty and
37 power of arrest for violation of the general criminal laws of the state or for
38 violation of ordinances of counties or municipalities of the state, whether such
39 officers are on or off duty, and whether such officers are within or outside of the
40 law enforcement agency's jurisdiction, or all qualified retired peace officers, as
41 defined in subsection 10 of this section, and who carry the identification defined
42 in subsection 11 of this section, or any person summoned by such officers to assist

43 in making arrests or preserving the peace while actually engaged in assisting
44 such officer;

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

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

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

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

55 (6) Any federal probation officer or federal flight deck officer as defined
56 under the federal flight deck officer program, 49 U.S.C. Section 44921;

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

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

62 (9) Any coroner, deputy coroner, medical examiner, or assistant medical
63 examiner.

64 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not
65 apply when the actor is transporting such weapons in a nonfunctioning state or
66 in an unloaded state when ammunition is not readily accessible or when such
67 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section
68 does not apply to any person twenty-one years of age or older transporting a
69 concealable firearm in the passenger compartment of a motor vehicle, so long as
70 such concealable firearm is otherwise lawfully possessed, nor when the actor is
71 also in possession of an exposed firearm or projectile weapon for the lawful
72 pursuit of game, or is in his or her dwelling unit or upon premises over which the
73 actor has possession, authority or control, or is traveling in a continuous journey
74 peaceably through this state. Subdivision (10) of subsection 1 of this section does
75 not apply if the firearm is otherwise lawfully possessed by a person while
76 traversing school premises for the purposes of transporting a student to or from
77 school, or possessed by an adult for the purposes of facilitation of a
78 school-sanctioned firearm-related event.

79 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
80 apply to any person who has a valid concealed carry endorsement issued pursuant
81 to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed
82 firearms issued by another state or political subdivision of another state.

83 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this
84 section shall not apply to persons who are engaged in a lawful act of defense
85 pursuant to section 563.031, RSMo.

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

92 7. Unlawful use of weapons is a class D felony unless committed pursuant
93 to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a
94 class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in
95 which case it is a class A misdemeanor if the firearm is unloaded and a class D
96 felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section,
97 in which case it is a class B felony, except that if the violation of subdivision (9)
98 of subsection 1 of this section results in injury or death to another person, it is
99 a class A felony.

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

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

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

108 (3) For any violation by a persistent offender as defined in section
109 558.016, RSMo, a person shall be sentenced to the maximum authorized term of
110 imprisonment for a class B felony without the possibility of parole, probation, or
111 conditional release;

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

114 9. Any person knowingly aiding or abetting any other person in the

115 violation of subdivision (9) of subsection 1 of this section shall be subject to the
116 same penalty as that prescribed by this section for violations by other persons.

117 10. As used in this section "qualified retired peace officer" means an
118 individual who:

119 (1) Retired in good standing from service with a public agency as a peace
120 officer, other than for reasons of mental instability;

121 (2) Before such retirement, was authorized by law to engage in or
122 supervise the prevention, detection, investigation, or prosecution of, or the
123 incarceration of any person for, any violation of law, and had statutory powers of
124 arrest;

125 (3) Before such retirement, was regularly employed as a peace officer for
126 an aggregate of fifteen years or more, or retired from service with such agency,
127 after completing any applicable probationary period of such service, due to a
128 service-connected disability, as determined by such agency;

129 (4) Has a nonforfeitable right to benefits under the retirement plan of the
130 agency if such a plan is available;

131 (5) During the most recent twelve-month period, has met, at the expense
132 of the individual, the standards for training and qualification for active peace
133 officers to carry firearms;

134 (6) Is not under the influence of alcohol or another intoxicating or
135 hallucinatory drug or substance; and

136 (7) Is not prohibited by federal law from receiving a firearm.

137 11. The identification required by subdivision (1) of subsection 2 of this
138 section is:

139 (1) A photographic identification issued by the agency from which the
140 individual retired from service as a peace officer that indicates that the individual
141 has, not less recently than one year before the date the individual is carrying the
142 concealed firearm, been tested or otherwise found by the agency to meet the
143 standards established by the agency for training and qualification for active peace
144 officers to carry a firearm of the same type as the concealed firearm; or

145 (2) A photographic identification issued by the agency from which the
146 individual retired from service as a peace officer; and

147 (3) A certification issued by the state in which the individual resides that
148 indicates that the individual has, not less recently than one year before the date
149 the individual is carrying the concealed firearm, been tested or otherwise found
150 by the state to meet the standards established by the state for training and

151 qualification for active peace officers to carry a firearm of the same type as the
152 concealed firearm.

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