

SECOND REGULAR SESSION

SENATE BILL NO. 1488

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

6203S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, RSMo, and to enact in lieu thereof five new sections relating to additional protections to bear arms.

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

Section A. Sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 1.411, 1.451, 1.461, 1.481, and 1.484, to read as follows:

1.411. 1. Sections 1.411 to 1.484 shall be known and
2 may be cited as the "Second Amendment Preservation Act".

3 2. The general assembly finds and declares that:

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

12 (2) The general assembly of the state of Missouri
13 strongly promotes responsible gun ownership, including
14 parental supervision of minors in the proper use, storage,
15 and ownership of all firearms; the prompt reporting of
16 stolen firearms; and the proper enforcement of all state gun

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

17 laws. The general assembly of the state of Missouri hereby
18 condemns any unlawful transfer of firearms and the use of
19 any firearm in any criminal or unlawful activity;

20 (3) The general assembly of the state of Missouri
21 supports law enforcement and calls on sworn peace officers
22 to assist in defending second amendment rights for all law-
23 abiding citizens of the state.

1 1.451. No public officer or employee of this state or
2 any political subdivision of this state shall have the
3 authority to knowingly violate a law-abiding citizen's legal
4 rights regarding firearms, firearm accessories, or
5 ammunition. Nothing in sections 1.451 to 1.484 shall be
6 construed to prohibit Missouri officials from accepting aid
7 from federal officials or rendering aid to federal
8 officials. Nothing in sections 1.451 to 1.484 shall
9 prohibit law enforcement from working on federal task forces.

1 1.461. 1. Any political subdivision or law
2 enforcement agency that employs a law enforcement officer
3 who acts knowingly, as defined under section 562.016, to
4 violate the provisions of section 1.451 or otherwise
5 knowingly deprives a law-abiding citizen of Missouri of the
6 rights or privileges ensured by the Second Amendment of the
7 Constitution of the United States or Article I, Section 23
8 of the Constitution of Missouri while acting under the color
9 of any state or federal law shall investigate such employee
10 for potential discipline up to and including termination of
11 employment.

12 2. The attorney general or the prosecuting attorney of
13 the county in the jurisdiction where an individual has taken
14 action violating the provisions of this section shall have
15 standing to pursue an action for injunctive or other
16 equitable relief in the circuit court of the county in which

17 the action allegedly occurred. The court shall hold a
18 hearing on the motion for a temporary restraining order and
19 preliminary injunction within thirty days of service of the
20 petition.

1.481. For sections 1.451 to 1.461, the term "law-abiding citizen" shall mean a person who is eighteen years of age or older, not under arrest or in the process of being investigated for being arrested or charged with a crime, where valid probable cause exists, a person who is not a danger to self or others, and is not otherwise precluded under state law from possessing a firearm but shall not be construed to include anyone who is not legally present in the United States or the state of Missouri.

1.484. It shall not be considered a violation of sections 1.451 or 1.461 to provide material aid to federal authorities in the investigation, arrest, detention, or prosecution of any case in which there is reasonable suspicion to believe that the suspect or suspects engaged in criminal conduct.

[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

18 created the federal government to be their agent
19 in the exercise of a few defined powers, while
20 reserving for the state governments the power to
21 legislate on matters concerning the lives,
22 liberties, and properties of citizens in the
23 ordinary course of affairs;

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

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

38 (5) The several states of the United
39 States respect the proper role of the federal
40 government but reject the proposition that such
41 respect requires unlimited submission. If the
42 federal government, created by a compact among
43 the states, were the exclusive or final judge of
44 the extent of the powers granted to it by the
45 states through the Constitution of the United
46 States, the federal government's discretion, and
47 not the Constitution of the United States, would
48 necessarily become the measure of those powers.

49 To the contrary, as in all other cases of
50 compacts among powers having no common judge,
51 each party has an equal right to judge for
52 itself as to whether infractions of the compact
53 have occurred, as well as to determine the mode
54 and measure of redress. Although the several
55 states have granted supremacy to laws and
56 treaties made under the powers granted in the
57 Constitution of the United States, such
58 supremacy does not extend to various federal
59 statutes, executive orders, administrative
60 orders, court orders, rules, regulations, or
61 other actions that collect data or restrict or

62 prohibit the manufacture, ownership, or use of
63 firearms, firearm accessories, or ammunition
64 exclusively within the borders of Missouri; such
65 statutes, executive orders, administrative
66 orders, court orders, rules, regulations, and
67 other actions exceed the powers granted to the
68 federal government except to the extent they are
69 necessary and proper for governing and
70 regulating the United States Armed Forces or for
71 organizing, arming, and disciplining militia
72 forces actively employed in the service of the
73 United States Armed Forces;

74 (6) The people of the several states have
75 given Congress the power "to regulate commerce
76 with foreign nations, and among the several
77 states", but "regulating commerce" does not
78 include the power to limit citizens' right to
79 keep and bear arms in defense of their families,
80 neighbors, persons, or property nor to dictate
81 what sorts of arms and accessories law-abiding
82 Missourians may buy, sell, exchange, or
83 otherwise possess within the borders of this
84 state;

85 (7) The people of the several states have
86 also granted Congress the powers "to lay and
87 collect taxes, duties, imports, and excises, to
88 pay the debts, and provide for the common
89 defense and general welfare of the United
90 States" and "to make all laws which shall be
91 necessary and proper for carrying into execution
92 the powers vested by the Constitution of the
93 United States in the government of the United
94 States, or in any department or office
95 thereof". These constitutional provisions
96 merely identify the means by which the federal
97 government may execute its limited powers and
98 shall not be construed to grant unlimited power
99 because to do so would be to destroy the
100 carefully constructed equilibrium between the
101 federal and state governments. Consequently,
102 the general assembly rejects any claim that the
103 taxing and spending powers of Congress may be
104 used to diminish in any way the right of the
105 people to keep and bear arms;

(8) The general assembly finds that the federal excise tax rate on arms and ammunition in effect prior to January 1, 2021, which funds programs under the Wildlife Restoration Act, does not have a chilling effect on the purchase or ownership of such arms and ammunition;

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

(10) The general assembly of the state of Missouri strongly promotes responsible gun ownership, including parental supervision of minors in the proper use, storage, and ownership of all firearms; the prompt reporting of stolen firearms; and the proper enforcement of all state gun laws. The general assembly of the state of Missouri hereby condemns any unlawful transfer of firearms and the use of any firearm in any criminal or unlawful activity.]

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

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

(2) Any registration or tracking of firearms, firearm accessories, or ammunition;

(3) Any registration or tracking of the ownership of firearms, firearm accessories, or ammunition;

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

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

[1.430. All federal acts, laws, executive orders, administrative orders, rules, and regulations, regardless of whether they were enacted before or after the provisions of sections 1.410 to 1.485, that infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the Constitution of the United States and Article I, Section 23 of the Constitution of Missouri shall be invalid to this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state.]

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

[1.450. No entity or person, including any public officer or employee of this state or any political subdivision of this state, shall have the authority to enforce or attempt to enforce any federal acts, laws, executive orders, administrative orders, rules, regulations, statutes, or ordinances infringing on the right to keep and bear arms as described under section 1.420. Nothing in sections 1.410 to 1.480 shall be construed to prohibit Missouri officials from accepting aid from federal officials in an effort to enforce Missouri laws.]

[1.460. 1. Any political subdivision or law enforcement agency that employs a law enforcement officer who acts knowingly, as defined under section 562.016, to violate the

5 provisions of section 1.450 or otherwise
6 knowingly deprives a citizen of Missouri of the
7 rights or privileges ensured by Amendment II of
8 the Constitution of the United States or Article
9 I, Section 23 of the Constitution of Missouri
10 while acting under the color of any state or
11 federal law shall be liable to the injured party
12 in an action at law, suit in equity, or other
13 proper proceeding for redress, and subject to a
14 civil penalty of fifty thousand dollars per
15 occurrence. Any person injured under this
16 section shall have standing to pursue an action
17 for injunctive relief in the circuit court of
18 the county in which the action allegedly
19 occurred or in the circuit court of Cole County
20 with respect to the actions of such individual.
21 The court shall hold a hearing on the motion for
22 temporary restraining order and preliminary
23 injunction within thirty days of service of the
24 petition.

25 2. In such actions, the court may award
26 the prevailing party, other than the state of
27 Missouri or any political subdivision of the
28 state, reasonable attorney's fees and costs.

29 3. Sovereign immunity shall not be an
30 affirmative defense in any action pursuant to
31 this section.]

1 [1.470. 1. Any political subdivision or
2 law enforcement agency that knowingly employs an
3 individual acting or who previously acted as an
4 official, agent, employee, or deputy of the
5 government of the United States, or otherwise
6 acted under the color of federal law within the
7 borders of this state, who has knowingly, as
8 defined under section 562.016, after the
9 adoption of this section:

10 (1) Enforced or attempted to enforce any
11 of the infringements identified in section
12 1.420; or

13 (2) Given material aid and support to the
14 efforts of another who enforces or attempts to
15 enforce any of the infringements identified in
16 section 1.420;

17 shall be subject to a civil penalty of fifty
18 thousand dollars per employee hired by the
19 political subdivision or law enforcement
20 agency. Any person residing in a jurisdiction
21 who believes that an individual has taken action
22 that would violate the provisions of this
23 section shall have standing to pursue an action.

24 2. Any person residing or conducting
25 business in a jurisdiction who believes that an
26 individual has taken action that would violate
27 the provisions of this section shall have
28 standing to pursue an action for injunctive
29 relief in the circuit court of the county in
30 which the action allegedly occurred or in the
31 circuit court of Cole County with respect to the
32 actions of such individual. The court shall
33 hold a hearing on the motion for a temporary
34 restraining order and preliminary injunction
35 within thirty days of service of the petition.

36 3. In such actions, the court may award
37 the prevailing party, other than the state of
38 Missouri or any political subdivision of the
39 state, reasonable attorney's fees and costs.

40 4. Sovereign immunity shall not be an
41 affirmative defense in any action pursuant to
42 this section.]

1 1.480. 1. For sections 1.410 to 1.485,
2 the term "law-abiding citizen" shall mean a
3 person who is not otherwise precluded under
4 state law from possessing a firearm and shall
5 not be construed to include anyone who is not
6 legally present in the United States or the
7 state of Missouri.

8 2. For the purposes of sections 1.410 to
9 1.480, "material aid and support" shall include
10 voluntarily giving or allowing others to make
11 use of lodging; communications equipment or
12 services, including social media accounts;
13 facilities; weapons; personnel; transportation;
14 clothing; or other physical assets. Material
15 aid and support shall not include giving or
16 allowing the use of medicine or other materials
17 necessary to treat physical injuries, nor shall

18 the term include any assistance provided to help
19 persons escape a serious, present risk of life-
20 threatening injury.

21 3. It shall not be considered a violation
22 of sections 1.410 to 1.480 to provide material
23 aid to federal officials who are in pursuit of a
24 suspect when there is a demonstrable criminal
25 nexus with another state or country and such
26 suspect is either not a citizen of this state or
27 is not present in this state.

28 4. It shall not be considered a violation
29 of sections 1.410 to 1.480 to provide material
30 aid to federal prosecution for:

31 (1) Felony crimes against a person when
32 such prosecution includes weapons violations
33 substantially similar to those found in chapter
34 570 or 571 so long as such weapons violations
35 are merely ancillary to such prosecution; or

36 (2) Class A or class B felony violations
37 substantially similar to those found in chapter
38 579 when such prosecution includes weapons
39 violations substantially similar to those found
40 in chapter 570 or 571 so long as such weapons
41 violations are merely ancillary to such
42 prosecution.

43 5. The provisions of sections 1.410 to
44 1.485 shall be applicable to offenses occurring
45 on or after August 28, 2021.]

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

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