

# SENATE BILL NO. 1488

## 103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

6203S.011

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Section A. Sections 1.410, 1.420, 1.430, 1.440, 1.450, 2 1.460, 1.470, 1.480, and 1.485, RSMo, are repealed and five new 3 sections enacted in lieu thereof, to be known as sections 1.411, 4 1.451, 1.461, 1.481, and 1.484, to read as follows: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.

1.451. 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.

1.461. 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.

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

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

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

4 2. The general assembly finds and declares  
5 that:

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

16 (2) Acting through the Constitution of the  
17 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

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

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

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

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

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

(2) Given material aid and support to the efforts of another who enforces or attempts to enforce any of the infringements identified in 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.]

[1.480. 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

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

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

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

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

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

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

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

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