

SECOND REGULAR SESSION

SENATE BILL NO. 879

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Read 1st time February 5, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3397.011

AN ACT

To repeal section 571.030, RSMo Supp. 1997, relating to firearms regulation, 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Section A. Section 571.030, RSMo Supp. 1997, is repealed and three new sections enacted in lieu thereof, to be known as sections 571.030, 1 and 2, to read as follows:

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

(1) Carries concealed upon or about his 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 school house, 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, **ammunition for a firearm, projectile weapon** or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school **or any school bus or other motor vehicle used for the transportation of children to or from school**, 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.

2. Subdivisions (1), (3), (4), (6), (7), (8) and (9) 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, authorized to carry a firearm pursuant to section 217.710, RSMo; 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) and (8) 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 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].

4. Unlawful use of weapons is a class D felony unless committed under subdivision (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, 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.

5. 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.

6. 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.

Section 1. 1. As used in this section, the following terms mean:

(1) "School zone", in, or on the grounds of a public, parochial, or private school, or within a distance of one thousand feet from the grounds of a public, parochial or private school;

(2) "Firearm", any weapon that is designed or adapted to expel a projectile by the action of an explosive, including but not limited to rifles, machine guns, short barrels, shotguns, and spring guns, whether or not such firearm is concealable or functioning, and whether or not ammunition for such firearm is readily accessible.

2. No person shall knowingly possess a firearm or any device designed or adapted to appear like a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone. Violation of this subsection is a class A misdemeanor. Violation of this subsection by any person who is attending any school shall be grounds for expulsion of such person from the school by proper school administrators.

3. Subsection 2 of this section shall not apply to the possession of a firearm:

(1) On private property not part of school grounds;

(2) If the person possessing the firearm is licensed by this state or a political subdivision of this state, and the law of this state or of the political subdivision requires that, before the person obtains such a license, the law enforcement authorities of this state or of the political subdivision verify that the person is qualified under law to receive the license;

(3) By a person for use in a program approved by a school in the school zone;

(4) By a person in accordance with a contract entered into between the school and the person or an employer of the person;

(5) By any law enforcement officer acting in an official capacity;

(6) That is not loaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities; or

(7) By a person traveling in a motor vehicle on a public road, street or highway, who is not actually on school grounds or property.

4. Except as otherwise provided in subsection 5 of this section, no person shall, knowingly and with reckless disregard for the safety of another, discharge or attempt to discharge a firearm at a place that the person knows is a school zone. Violation of this subsection is a class A misdemeanor. Violation of this subsection by any person attending any school shall constitute grounds for expulsion of such person from the school by proper school administrators.

5. Subsection 4 of this section shall not apply to the discharge of a firearm:

(1) On private property not part of school grounds;

(2) As part of a program approved by a school in the school zone, by an individual who is participating in the program;

(3) By an individual in accordance with a contract entered into between the school and the person or an employer of the person; or

(4) By a law enforcement officer acting in an official capacity.

Section 2. 1. This section shall be known and may be cited as "The Children's Firearm Accident and Prevention Act".

2. As used in this section, the following terms mean:

(1) "Child", a person under eighteen years of age;

(2) "Great bodily injury", significant or substantial physical injury;

(3) "Loaded firearm", a firearm as defined in section 1 of this act, in which there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot in or attached in any manner to the firearm, including in the firing chamber, magazine, or clip thereof attached to the firearm, except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder;

(4) "Locked container", a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device, but not including the utility or glove compartment of a motor vehicle unless such utility or glove compartment is securely locked by a key lock or similar locking device.

3. Except as provided in subsection 5 of this section, a person commits the crime of "criminal storage of a firearm in the first degree" if the person keeps any loaded firearm on any real property which is under the custody or control of such person, and which the person knows or reasonably should know that a child is likely to gain access

to the firearm without the supervision of the child's parent or legal guardian, and the child obtains access to the firearm and thereby causes death or great bodily injury to himself or to any other person.

4. Except as provided in subsection 5 of this section, a person commits the crime of "criminal storage of a firearm in the second degree" if the person keeps any loaded firearm on any real property which is under the custody or control of the person and the person knows or reasonably should know that a child is likely to gain access to the firearm without the supervision of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself or any other person, or possesses the firearm in a public place.

5. Subsections 3 and 4 of this section shall not apply whenever:

(1) The child obtains the firearm as a result of an illegal entry to any real property by any person;

(2) The firearm is kept in a locked container or in a location which a reasonable person would believe to be secure, including but not limited to a cabinet designed for the safe holding and storage of firearms;

(3) The firearm is carried on the person or within such close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person;

(4) The firearm is equipped with a trigger locking device;

(5) The person is currently a peace officer, as defined in section 590.100, RSMo, or a member of the armed forces or national guard, and the child obtains the firearm during, or incidental to, the performance of the person's duties;

(6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person;

(7) The person who keeps a loaded firearm on any real property which is under the custody or control of such person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the property.

6. Criminal storage of a firearm in the first degree is a class D felony.

7. Criminal storage of a firearm in the second degree is a class A misdemeanor.

8. If a person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the prosecuting attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when deciding whether to prosecute an alleged violation of this section. A parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subsection shall not otherwise restrict

in any manner the factors that a prosecuting attorney may consider when deciding whether to prosecute alleged violations of this section.

9. If a person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon which such accidental shooting occurred. In addition, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. Law enforcement officers shall delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

10. In any action or trial commenced under this section, the fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be admissible.

11. A violation of this section may not by itself:

- (1) Be considered evidence of negligence; or**
- (2) Be considered evidence of contributory negligence.**

12. All persons who engage in the transfer of firearms at retail in this state shall display conspicuously within the place of business a sign which contains the following: "Warning: Firearms must be stored safely away from children. Negligent or criminal storage of a firearm may result in civil and criminal liability". Any person who transfers firearms at retail who does not conspicuously display the sign required by this section is guilty of a class A misdemeanor.

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