

SECOND REGULAR SESSION

SENATE BILL NO. 960

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time February 25, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S4006.03I

AN ACT

To repeal section 571.030, RSMo Supp. 1997, relating to certain weapons offenses, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions and a referendum clause.

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Section A. Section 571.030, RSMo Supp. 1997, is repealed and three new sections enacted in lieu thereof, to be known as sections 571.030, 571.093 and 571.094, to read as follows: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, **with or without a permit**, 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

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

(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 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[.]; or

(10) Carries concealed on or about his or her person a firearm, unless such person has a valid permit to carry a concealed firearm issued pursuant to section 571.091, or a valid permit to carry a concealed firearm issued in another state or a political subdivision of another state.

2. Subdivisions (1), (3), (4), (6), (7), (8) [and], (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] **peace** 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, **whether such officers are within or outside their jurisdictions or on or off duty**, 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; and

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

[4.] **5.** Unlawful use of weapons is a class D felony unless committed [under] **pursuant to** 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.] **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.

[6.] **7.** Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall **also** be subject to the [same penalty as that] **penalties** prescribed by **subsection 6** of this section [for violations by other persons].

571.093. 1. A permit to carry a concealed firearm shall be issued by the sheriff of the county or city not within a county in which the applicant resides, if the applicant:

(1) **Is at least twenty-one years of age, a citizen of the United States and has resided in this state for at least six months; and**

(2) **Has demonstrated to the sheriff a knowledge of handgun safety by submitting proof that the applicant has successfully completed a course approved by the department of public safety that included a minimum of twelve hours of handgun safety training by or under the supervision of a federal, state, county or municipal law enforcement agency, or under the supervision of a firearms instructor certified by the National Rifle Association.**

2. Application shall be made to the sheriff of the county in which the applicant resides. The sheriff shall take a set of fingerprints of the applicant for use in background and record checks. An application shall be filed in writing, signed and verified by the applicant, and shall state only the following: the name, social security number, occupation, date of birth, height, color of eyes and hair, residence and business

addresses of the applicant for the past three years, and whether the applicant complies with each of the requirements specified in subsection 1 of this section.

3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application, including a criminal background check with the state highway patrol. The sheriff may require that the applicant display a Missouri operator's license or other suitable identification. The sheriff shall issue the permit within a period not to exceed thirty days after submission of the properly completed application. The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 or 2 of this section have not been met or if he has reason to believe that the applicant has rendered a false statement regarding any of the provisions in subsection 1 or 2 of this section. If the application is approved, the sheriff shall issue the permit and a copy of the permit to the applicant.

4. The permit shall bear a photograph, date of birth and a physical description of the applicant on the front of the permit. The permit shall recite the date of issuance, the date of expiration and the name and address of the person to whom the permit is granted. The applicant shall sign the permit in the presence of the sheriff or his designee.

5. The permit shall be valid for a period of three years. The permit shall be renewed by application and compliance with the provisions of this section, except subdivision (8) of subsection 1 of this section. An applicant for renewal shall, at the request of the sheriff, demonstrate proficiency in the proper operation of a handgun, including safe use and handling and accuracy in discharging the handgun.

6. The sheriff shall keep a record of all applications for permits, his action on such applications, and shall report the issuance of permits to the Missouri uniform law enforcement system or MULES. The sheriff shall submit a copy of the permit to the state highway patrol for filing in the central repository pursuant to sections 43.500 to 43.530, RSMo.

7. For the processing of the permit, the sheriff of any county or city not within a county shall charge a fee not to exceed seventy-five dollars. Forty-five dollars of this fee shall be paid to the treasury of the county or city not within a county to the credit of the general revenue fund and thirty dollars shall be paid to the department of revenue for deposit into the general revenue fund of the state. The permittee shall pay a fee not to exceed thirty-five dollars to renew the permit, which shall be paid to the treasury of the county or city not within a county to the credit of the general revenue fund.

8. In any case when the sheriff refuses to issue or to act on an application for a permit, such refusal shall set forth in writing the reasons for such refusal. Such written

refusal shall explain the denied applicant's right to appeal and, with a copy of the completed application, shall be given to the denied applicant within a period not to exceed fifteen days after submission of the properly completed application. No sheriff shall be liable for the actions of a permit holder solely because the sheriff issued a permit to such individual. The denied applicant shall have the right to appeal the denial within thirty days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall apply to such appeals.

9. A denial of or refusal to act on any application or a renewal application of a permit may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of, Missouri

....., Applicant)

vs.)

....., Sheriff)

Case Number

Return Date

APPEAL OF DENIAL

OF PERMIT TO CARRY A CONCEALED WEAPON

The applicant states that his properly completed application (or renewal application) for a permit to carry a concealed firearm with a barrel of less than sixteen inches was denied by the sheriff of County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

.....
Denied Applicant

10. The notice of appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

11. If at the hearing the person shows he is entitled to the requested permit, the court shall issue an appropriate order to cause the issuance of the permit. Costs shall not be assessed against the sheriff unless the action of the sheriff is determined by the judge to be arbitrary and capricious.

12. Any person aggrieved by any final judgment rendered by a small claims court in an appeal of a denial of a permit to carry a concealed firearm may have a trial de novo as provided in sections 512.180 to 512.320, RSMo.

571.094. All citizens, merchants, not for profit entities, or public bodies have the right to deny access to persons who attempt to carry concealed firearms into buildings

they own or lease. Signs prohibiting concealed firearms shall be posted and shall be clearly visible to all entrances.

Section B. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in August, 1999, pursuant to the applicable laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and it shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise. The official ballot title shall be:

"Shall state or local law enforcement agencies be authorized to issue permits to law-abiding citizens at least twenty-one years of age to carry concealed firearms outside the home for personal protection after they have passed a state and federal criminal background check and have completed a firearms safety training course approved by the department of public safety?"

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Bill

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