

FIRST REGULAR SESSION

HOUSE BILL NO. 87

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WARD (Sponsor) AND SAGER.

Pre-filed December 12, 2002, and copies ordered printed.

TED WEDEL, Chief Clerk

0249L.011

AN ACT

To repeal section 571.030, RSMo, and to enact in lieu thereof two new sections relating to concealable firearms, with a penalty provision.

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

Section A. Section 571.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 571.030 and 571.096, to read as follows:

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

(1) Carries concealed upon or about his or her 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 schoolhouse, 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 or any other weapon readily capable of lethal use into any church

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

17 or place where people have assembled for worship, or into any election precinct on any election
18 day, or into any building owned or occupied by any agency of the federal government, state
19 government, or political subdivision thereof, or into any public assemblage of persons met for
20 any lawful purpose; or

21 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
22 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any
23 person, or at any other motor vehicle, or at any building or habitable structure, unless the person
24 was lawfully acting in self-defense; or

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

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

30 (1) All state, county and municipal law enforcement officers possessing the duty and
31 power of arrest for violation of the general criminal laws of the state or for violation of
32 ordinances of counties or municipalities of the state, or any person summoned by such officers
33 to assist in making arrests or preserving the peace while actually engaged in assisting such
34 officer;

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

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

38 (4) Those persons vested by article V, section 1 of the Constitution of Missouri with the
39 judicial power of the state and those persons vested by article III of the Constitution of the United
40 States with the judicial power of the United States, the members of the federal judiciary;

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

42 (6) Any federal probation officer;

43 (7) Any state probation or parole officer, including supervisors and members of the
44 board of probation and parole; [and]

45 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
46 of the regulations established by the board of police commissioners under section 84.340, RSMo;
47 **and**

48 **(9) Any retired peace officer holding a valid permit to carry a concealed firearm**
49 **pursuant to section 571.096.**

50 3. Subdivisions (1), (5), (8) and (10) of subsection 1 of this section do not apply when
51 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
52 ammunition is not readily accessible or when such weapons are not readily accessible.

53 Subdivision (1) of subsection 1 of this section does not apply when the actor is also in possession
54 of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his dwelling
55 unit or upon business premises over which the actor has possession, authority or control, or is
56 traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection
57 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while
58 traversing school premises for the purposes of transporting a student to or from school, or
59 possessed by an adult for the purposes of facilitation of a school-sanctioned firearm- related
60 event.

61 4. Nothing in this section shall make it unlawful for a student to actually participate in
62 school-sanctioned gun safety courses, student military or ROTC courses, or other
63 school-sponsored firearm-related events, provided the student does not carry a firearm or other
64 weapon readily capable of lethal use into any school, onto any school bus, or onto the premises
65 of any function or activity sponsored or sanctioned by school officials or the district school
66 board.

67 5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
68 (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
69 subdivision (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the
70 firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection
71 1 of this section, in which case it is a class B felony, except that if the violation of subdivision
72 (9) of subsection 1 of this section results in injury or death to another person, it is a class A
73 felony.

74 6. Violations of subdivision (9) of subsection 1 of this section shall be punished as
75 follows:

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

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

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

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

86 7. Any person knowingly aiding or abetting any other person in the violation of
87 subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that
88 prescribed by this section for violations by other persons.

571.096. 1. A permit for a retired peace officer to carry a concealable firearm shall be issued by the sheriff of the county in which the applicant resides, if all of the statements in the application are true, and the applicant:

(1) Is a citizen of the United States and has resided in this state for at least six months;

(2) Has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(3) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(4) Has not been discharged under dishonorable conditions from the United States armed forces;

(5) Is not publicly known to be habitually in an intoxicated or drugged condition;

(6) Is not currently adjudged mentally incompetent and has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state; and

(7) Is a retired peace officer having completed a minimum of fifteen years service and terminating service in good standing whether in this state or another state and who is currently certified as a peace officer pursuant to chapter 590, RSMo.

2. A permit for a retired peace officer to carry a concealable firearm shall initially be issued for a period of three years and renewed for a period of three years by the sheriff of the county in which the applicant resides if the applicant satisfies all the requirements of subsection 1 of this section. All costs associated with obtaining or renewing a permit for a retired peace officer to carry a concealable weapon, including but not limited to, the cost of background checks and certifications and continuing education shall be borne by the applicant.

3. Applications shall be made to the sheriff of the county in which the applicant resides. 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, age, height, color of eyes and hair, residence and business addresses, if any, of the applicant, the reason

37 for desiring the permit, and whether the applicant complies with each of the requirements
38 specified in subsection 1 of this section. The applicant shall also submit documentation
39 signed by a licensed physician and no less than thirty days old that the applicant is in good
40 physical and mental health.

41 4. Before a permit is issued or renewed, the sheriff shall make only such inquiries
42 as he or she deems necessary into the accuracy of the statements made in the application,
43 but must conduct a criminal background check. The sheriff may require that the applicant
44 display a Missouri operator's license or other suitable identification. The sheriff shall issue
45 or renew the permit within a period not to exceed seven days after submission of the
46 properly completed application excluding Saturdays, Sundays, or legal holidays. The
47 sheriff may refuse to issue or renew the permit if he or she determines that any of the
48 requirements specified in subsection 1 of this section have not been met, has reason to
49 believe that the applicant has rendered a false statement regarding any of the provisions
50 in subsection 1 of this section, or if the applicant fails to provide documentation of good
51 physical and mental health pursuant to subsection 2 of this section. If the application is
52 approved, the sheriff shall issue or renew a permit and give a copy thereof to the applicant.
53 A permit shall be automatically and immediately revoked if the holder violates any of the
54 requirements to obtain a permit, fails to maintain certification as a peace officer, or if the
55 holder's peace officer certification is revoked or suspended pursuant to section 590.135,
56 RSMo, or if any of the causes for revocation or suspension itemized at subsection 2 of
57 section 590.135, RSMo, occur.

58 5. The permit shall recite the date of issuance, the name and address of the person
59 to whom granted, and a physical description of the applicant. The applicant shall sign the
60 permit in the presence of the sheriff.

61 6. The sheriff shall keep a record of all applications for permits, and his or her
62 action thereon.

63 7. No person shall in any manner transfer, alter, or change a permit, or make a
64 false notation thereon, or obtain a permit upon any false representation, or use, or attempt
65 to use a permit issued to another.

66 8. For the processing of the permit, the sheriff in each county and the city of St.
67 Louis shall charge a fee not to exceed twenty-five dollars for an initial three-year permit,
68 and a fee not to exceed twenty-five dollars to renew an existing permit for another three
69 years, which shall be paid into the county crime reduction fund, if such is established by
70 the county, otherwise into the general revenue fund.

71 9. In any case when the sheriff refuses to issue, or renew, or to act on an application
72 for a permit, such refusal shall be in writing setting forth 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 seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays. The denied applicant shall have the right to appeal the denial within ten 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.

10. A denial of or refusal to act on an application for 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

Case Number

....., Denied Applicant)

)

vs.)

)

....., Sheriff)

Return Date

DENIAL OF PERMIT APPEAL

The denied applicant states that his properly completed application for a permit to carry a 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

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

12. 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 in any case.

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

14. Violation of any provision of this section is a class A misdemeanor.