

FIRST REGULAR SESSION

HOUSE BILL NO. 462

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUNZLINGER (Sponsor), DOUGHERTY, SANDER, FISHER,
McGHEE, SATER, DUSENBERG, MOORE, SMITH (150), WELLS,
MEADOWS AND FRANZ (Co-sponsors).

Read 1st time January 18, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1453L.02I

AN ACT

To repeal sections 476.083, 571.080, and 571.090, RSMo, and to enact in lieu thereof two new sections relating to the criminal justice system, with penalty provisions.

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

Section A. Sections 476.083, 571.080, and 571.090, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 476.083 and 571.080, to read as follows:

476.083. 1. In addition to any appointments made pursuant to section 485.010, RSMo,
2 the presiding judge of each circuit containing one or more facilities operated by the department
3 of corrections with an average total inmate population in all such facilities in the circuit over the
4 previous two years of more than two thousand five hundred inmates may appoint a circuit court
5 marshal to aid the presiding judge in the administration of the judicial business of the circuit by
6 overseeing the physical security of the courthouse, serving court-generated papers and orders,
7 and assisting the judges of the circuit as the presiding judge determines appropriate. Such circuit
8 court marshal appointed pursuant to the provisions of this section shall serve at the pleasure of
9 the presiding judge. The circuit court marshal authorized by this section is in addition to staff
10 support from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks, and any
11 other staff personnel which may otherwise be provided by law.

12 2. The salary of a circuit court marshal shall be established by the presiding judge of the
13 circuit within funds made available for that purpose, but such salary shall not exceed ninety

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 percent of the salary of the highest paid sheriff serving a county wholly or partially within that
15 circuit. Personnel authorized by this section shall be paid from state funds or federal grant
16 moneys which are available for that purpose and not from county funds.

17 3. Any person appointed as a circuit court marshal pursuant to this section shall have at
18 least five years' prior experience as a law enforcement officer. In addition, any such person shall
19 within one year after appointment, or as soon as practicable, attend a court security school or
20 training program operated by the United States Marshal Service. In addition to all other powers
21 and duties prescribed in this section, a circuit court marshal may:

22 (1) Serve process;

23 (2) Wear a concealable firearm[, pursuant to a permit granted under section 571.090,
24 RSMo]; and

25 (3) Make an arrest based upon local court rules and state law, and as directed by the
26 presiding judge of the circuit.

571.080. 1. A person commits the crime of transfer of a concealable firearm [without
2 a permit if:

3 (1) He buys, leases, borrows, exchanges or otherwise receives any concealable firearm,
4 unless he first obtains and delivers to the person delivering the firearm a valid permit authorizing
5 the acquisition of the firearm; or

6 (2) He sells, leases, loans, exchanges, gives away or otherwise delivers any concealable
7 firearm, unless he first demands and receives from the person receiving the firearm a valid permit
8 authorizing such acquisition of the firearm.

9 2. A permit to acquire a concealable firearm shall only be valid for thirty days after the
10 issuance thereof.

11 3. Subsection 1 of this section shall not apply to the acquisition by or transfer of
12 concealable firearms among manufacturers, wholesalers or retailers of firearms for purposes of
13 commerce; nor shall it apply to antique firearms or replicas thereof; nor shall it apply to curio
14 or relic firearms as defined in section 571.010] **if such person violates 18 U.S.C. Section 922(b)**
15 **or 18 U.S.C. Section 922(x).**

16 [4.] **2. Transfer of concealable firearms [without a permit is a class A misdemeanor] is**
17 **an infraction punishable by a fine not to exceed one hundred dollars.**

[571.090. 1. A permit to acquire a concealable firearm shall be issued
2 by the sheriff of the county in which the applicant resides, if all of the statements
3 in the application are true, and the applicant:

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

6 (2) Has not pled guilty to or been convicted of a crime punishable by
7 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; and

(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.

2. 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 of the applicant, the reason for desiring the permit, 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. 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 seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays.

The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 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 of this section. If the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant.

4. The permit shall recite the date of issuance, that it is invalid after thirty days, the name and address of the person to whom granted, the nature of the transaction, and a physical description of the applicant. The applicant shall sign the permit in the presence of the sheriff.

5. If the permit is used, the person who receives the permit from the applicant shall return it to the sheriff within thirty days after its expiration, with a notation thereon showing the date and manner of disposition of the firearm and a description of the firearm including the make, model and serial number. The

sheriff shall keep a record of all applications for permits, his action thereon, and shall preserve all returned permits.

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

7. For the processing of the permit, the sheriff in each county and the city of St. Louis shall charge a fee not to exceed ten dollars which shall be paid into the treasury of the county or city 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 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.

9. 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 acquire a firearm with a barrel of less than sixteen inches was denied

92 by the sheriff of County, Missouri, without just cause. The denied
93 applicant affirms that all of the statements in the application are true.
94

95

96 Denied Applicant

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

99 11. If at the hearing the person shows he is entitled to the requested
100 permit, the court shall issue an appropriate order to cause the issuance of the
101 permit. Costs shall not be assessed against the sheriff in any case.

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

105 13. Violation of any provision of this section is a class A misdemeanor.]

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