

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1539

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLEY (127) (Sponsor), BRATTIN, BERRY, HOUGHTON, BAHK, ANDERSON, REIBOLDT, LANT, DAVIS, SPENCER, REMOLE, BLACK, ENGLISH, CURTMAN, POGUE, MARSHALL, MOON AND MCCAHERTY (Co-sponsors).

5330H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 84.340, 563.031, 571.030, and 571.111, RSMo, and to enact in lieu thereof six new sections relating to public safety, with existing penalty provisions and an emergency clause for certain sections.

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

Section A. Section 84.340, 563.031, 571.030, and 571.111, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as section 84.340, 160.850, 563.031, 571.030, 571.111, and 590.750 to read as follows:

84.340. **Except as provided under section 590.750**, the police commissioner of the said cities shall have power to regulate and license all private watchmen, private detectives and private policemen, serving or acting as such in said cities, and no person shall act as such private watchman, private detective or private policeman in said cities without first having obtained the written license of the president or acting president of said police commissioners of the said cities, under pain of being guilty of a misdemeanor.

160.850. 1. Notwithstanding any other provision of this chapter, chapter 167, or any other provision of law to the contrary, public school students shall not be subject to any civil or criminal penalties, fines, or discipline of any nature for simulating a weapon while playing. Simulating a weapon while playing includes, but is not limited to:

- (1) Brandishing a food item;**
- (2) Possessing a toy firearm less than two inches in length;**

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.

7 **(3) Using the hand or fingers to simulate a weapon;**

8 **(4) Vocalizing an imaginary weapon;**

9 **(5) Using a pen, pencil, or other writing instrument to simulate a weapon; or**

10 **(6) Drawing or possessing an image of a weapon.**

11 **2. Public school students may wear clothing and accessories depicting a weapon or**
12 **express opinions regarding the right to bear arms or the right of self defense unless such**
13 **actions or speech are properly restricted by a viewpoint-neutral school policy applying**
14 **equally to all students.**

15 **3. Nothing in this section shall prohibit civil or criminal penalties, fines, or**
16 **discipline imposed for acts of simulating a weapon that cause bodily harm to another**
17 **individual, disrupt the student learning environment, or constitute a serious threat which**
18 **reasonably places another person in fear of bodily harm.**

563.031. 1. A person may, subject to the provisions of subsection 2 of this section, use
2 physical force upon another person when and to the extent he or she reasonably believes such
3 force to be necessary to defend himself or herself or a third person from what he or she
4 reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

5 (1) The actor was the initial aggressor; except that in such case his or her use of force
6 is nevertheless justifiable provided:

7 (a) He or she has withdrawn from the encounter and effectively communicated such
8 withdrawal to such other person but the latter persists in continuing the incident by the use or
9 threatened use of unlawful force; or

10 (b) He or she is a law enforcement officer and as such is an aggressor [pursuant to]
11 **under** section 563.046; or

12 (c) The aggressor is justified under some other provision of this chapter or other
13 provision of law;

14 (2) Under the circumstances as the actor reasonably believes them to be, the person
15 whom he or she seeks to protect would not be justified in using such protective force;

16 (3) The actor was attempting to commit, committing, or escaping after the commission
17 of a forcible felony.

18 2. A person may not use deadly force upon another person under the circumstances
19 specified in subsection 1 of this section unless:

20 (1) He or she reasonably believes that such deadly force is necessary to protect himself,
21 or herself or her unborn child, or another against death, serious physical injury, or any forcible
22 felony;

23 (2) Such force is used against a person who unlawfully enters, remains after unlawfully
24 entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by
25 such person; or

26 (3) Such force is used against a person who unlawfully enters, remains after unlawfully
27 entering, or attempts to unlawfully enter private property that is owned or leased by an
28 individual, **or is occupied by an individual who has been given specific authority by the**
29 **property owner to occupy the property**, claiming a justification of using protective force under
30 this section.

31 3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where
32 the person is not unlawfully entering or unlawfully remaining. A person does not have a duty
33 to retreat from private property that is owned or leased by such individual **or if the individual**
34 **has been given specific authority by the property owner to occupy the property.**

35 4. The justification afforded by this section extends to the use of physical restraint as
36 protective force provided that the actor takes all reasonable measures to terminate the restraint
37 as soon as it is reasonable to do so.

38 5. The defendant shall have the burden of injecting the issue of justification under this
39 section. If a defendant asserts that his or her use of force is described under subdivision (2) of
40 subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable
41 doubt that the defendant did not reasonably believe that the use of such force was necessary to
42 defend against what he or she reasonably believed was the use or imminent use of unlawful
43 force.

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

3 (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or
4 any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,
7 or motor vehicle as defined in section 302.010, or any building or structure used for the
8 assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of
10 lethal use in an angry or threatening manner; or

11 (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person,
12 while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon
13 in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless
14 acting in self-defense; or

15 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,
16 courthouse, or church building; or

17 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or
18 across a public highway or discharges or shoots a firearm into any outbuilding; or

19 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
20 or place where people have assembled for worship, or into any election precinct on any election
21 day, or into any building owned or occupied by any agency of the federal government, state
22 government, or political subdivision thereof; or

23 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
24 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any
25 building or habitable structure, unless the person was lawfully acting in self-defense; or

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

29 **(11) Possesses a firearm while also illegally in possession of a controlled substance**
30 **sufficient for a felony violation under section 195.202.**

31 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the
32 persons described in this subsection, regardless of whether such uses are reasonably associated
33 with or are necessary to the fulfillment of such person's official duties except as otherwise
34 provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section
35 shall not apply to or affect any of the following persons, when such uses are reasonably
36 associated with or are necessary to the fulfillment of such person's official duties, except as
37 otherwise provided in this subsection:

38 (1) All state, county and municipal peace officers who have completed the training
39 required by the police officer standards and training commission pursuant to sections 590.030
40 to 590.050 and who possess the duty and power of arrest for violation of the general criminal
41 laws of the state or for violation of ordinances of counties or municipalities of the state, whether
42 such officers are on or off duty, and whether such officers are within or outside of the law
43 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection
44 11 of this section, and who carry the identification defined in subsection 12 of this section, or
45 any person summoned by such officers to assist in making arrests or preserving the peace while
46 actually engaged in assisting such officer;

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

49 (3) Members of the Armed Forces or National Guard while performing their official
50 duty;

51 (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with
52 the judicial power of the state and those persons vested by Article III of the Constitution of the
53 United States with the judicial power of the United States, the members of the federal judiciary;

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

55 (6) Any federal probation officer or federal flight deck officer as defined under the
56 federal flight deck officer program, 49 U.S.C. Section 44921 regardless of whether such officers
57 are on duty, or within the law enforcement agency's jurisdiction;

58 (7) Any state probation or parole officer, including supervisors and members of the
59 board of probation and parole;

60 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
61 of the regulations established by the [board of police commissioners under section 84.340]
62 **department of public safety under section 590.750;**

63 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

64 (10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney
65 or assistant circuit attorney who has completed the firearms safety training course required under
66 subsection 2 of section 571.111;

67 (11) Any member of a fire department or fire protection district who is employed on a
68 full-time basis as a fire investigator and who has a valid concealed carry endorsement issued
69 prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such
70 uses are reasonably associated with or are necessary to the fulfillment of such person's official
71 duties; and

72 (12) Upon the written approval of the governing body of a fire department or fire
73 protection district, any paid fire department or fire protection district chief who is employed on
74 a full-time basis and who has a valid concealed carry endorsement, when such uses are
75 reasonably associated with or are necessary to the fulfillment of such person's official duties.

76 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when
77 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
78 ammunition is not readily accessible or when such weapons are not readily accessible.
79 Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of
80 age or older or eighteen years of age or older and a member of the United States Armed Forces,
81 or honorably discharged from the United States Armed Forces, transporting a concealable
82 firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm
83 is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm
84 or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon
85 premises over which the actor has possession, authority or control, or is traveling in a continuous
86 journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not

87 apply if the firearm is otherwise lawfully possessed by a person while traversing school premises
88 for the purposes of transporting a student to or from school, or possessed by an adult for the
89 purposes of facilitation of a school-sanctioned firearm-related event or club event.

90 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
91 person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121,
92 a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or
93 endorsement to carry concealed firearms issued by another state or political subdivision of
94 another state.

95 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall
96 not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

97 6. Notwithstanding any provision of this section to the contrary, the state shall not
98 prohibit any state employee from having a firearm in the employee's vehicle on the state's
99 property provided that the vehicle is locked and the firearm is not visible. This subsection shall
100 only apply to the state as an employer when the state employee's vehicle is on property owned
101 or leased by the state and the state employee is conducting activities within the scope of his or
102 her employment. For the purposes of this subsection, "state employee" means an employee of
103 the executive, legislative, or judicial branch of the government of the state of Missouri.

104 7. Nothing in this section shall make it unlawful for a student to actually participate in
105 school-sanctioned gun safety courses, student military or ROTC courses, or other school-
106 sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm
107 or other weapon readily capable of lethal use into any school, onto any school bus, or onto the
108 premises of any other function or activity sponsored or sanctioned by school officials or the
109 district school board.

110 8. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
111 (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
112 subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor
113 if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of
114 subsection 1 of this section, in which case it is a class B felony, except that if the violation of
115 subdivision (9) of subsection 1 of this section results in injury or death to another person, it is
116 a class A felony.

117 9. Violations of subdivision (9) of subsection 1 of this section shall be punished as
118 follows:

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

(2) For any violation by a prior offender as defined in section 558.016, 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, 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.

10. 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.

11. Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of subsection 1 of this section shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms- or weapons-related felony offense.

12. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

13. The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise

157 found by the agency to meet the standards established by the agency for training and qualification
158 for active peace officers to carry a firearm of the same type as the concealed firearm; or

159 (2) A photographic identification issued by the agency from which the individual retired
160 from service as a peace officer; and

161 (3) A certification issued by the state in which the individual resides that indicates that
162 the individual has, not less recently than one year before the date the individual is carrying the
163 concealed firearm, been tested or otherwise found by the state to meet the standards established
164 by the state for training and qualification for active peace officers to carry a firearm of the same
165 type as the concealed firearm.

571.111. 1. An applicant for a concealed carry permit shall demonstrate knowledge of
2 firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed
3 carry permit:

4 (1) Submits a photocopy of a certificate of firearms safety training course completion,
5 as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as
6 defined in subsection 5 of this section; or

7 (2) Submits a photocopy of a certificate that shows the applicant completed a firearms
8 safety course given by or under the supervision of any state, county, municipal, or federal law
9 enforcement agency; or

10 (3) Is a qualified firearms safety instructor as defined in subsection 5 of this section; or

11 (4) Submits proof that the applicant currently holds any type of valid peace officer
12 license issued under the requirements of chapter 590; or

13 (5) Submits proof that the applicant is currently allowed to carry firearms in accordance
14 with the certification requirements of section 217.710; or

15 (6) Submits proof that the applicant is currently certified as any class of corrections
16 officer by the Missouri department of corrections and has passed at least one eight-hour firearms
17 training course, approved by the director of the Missouri department of corrections under the
18 authority granted to him or her, that includes instruction on the justifiable use of force as
19 prescribed in chapter 563; or

20 (7) Submits a photocopy of a certificate of firearms safety training course completion
21 that was issued on August 27, 2011, or earlier so long as the certificate met the requirements of
22 subsection 2 of this section that were in effect on the date it was issued.

23 2. A certificate of firearms safety training course completion may be issued to any
24 applicant by any qualified firearms safety instructor. On the certificate of course completion the
25 qualified firearms safety instructor shall affirm that the individual receiving instruction has taken
26 and passed a firearms safety course of at least eight hours in length taught by the instructor that
27 included:

28 (1) Handgun safety in the classroom, at home, on the firing range and while carrying the
29 firearm;

30 (2) A physical demonstration performed by the applicant that demonstrated his or her
31 ability to safely load and unload **either** a revolver [and] **or** a semiautomatic pistol and
32 demonstrated his or her marksmanship with [both] **either firearm**;

33 (3) The basic principles of marksmanship;

34 (4) Care and cleaning of concealable firearms;

35 (5) Safe storage of firearms at home;

36 (6) The requirements of this state for obtaining a concealed carry permit from the sheriff
37 of the individual's county of residence;

38 (7) The laws relating to firearms as prescribed in this chapter;

39 (8) The laws relating to the justifiable use of force as prescribed in chapter 563;

40 (9) A live firing exercise of sufficient duration for each applicant to fire [both] **either**
41 a revolver [and] **or** a semiautomatic pistol, from a standing position or its equivalent, a minimum
42 of twenty rounds from [each] **the** handgun at a distance of seven yards from a B-27 silhouette
43 target or an equivalent target;

44 (10) A live fire test administered to the applicant while the instructor was present of
45 twenty rounds from [each handgun] **either a revolver or a semiautomatic pistol** from a
46 standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent
47 target, of seven yards.

48 3. A qualified firearms safety instructor shall not give a grade of passing to an applicant
49 for a concealed carry permit who:

50 (1) Does not follow the orders of the qualified firearms instructor or cognizant range
51 officer; or

52 (2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety
53 instructor, poses a danger to the applicant or to others; or

54 (3) During the live fire testing portion of the course fails to hit the silhouette portion of
55 the targets with at least fifteen rounds[, with both handguns].

56 4. Qualified firearms safety instructors who provide firearms safety instruction to any
57 person who applies for a concealed carry permit shall:

58 (1) Make the applicant's course records available upon request to the sheriff of the
59 county in which the applicant resides;

60 (2) Maintain all course records on students for a period of no less than four years from
61 course completion date; and

62 (3) Not have more than forty students in the classroom portion of the course or more than
63 five students per range officer engaged in range firing.

64 5. A firearms safety instructor shall be considered to be a qualified firearms safety
65 instructor by any sheriff issuing a concealed carry permit pursuant to sections 571.101 to 571.121
66 if the instructor:

67 (1) Is a valid firearms safety instructor certified by the National Rifle Association
68 holding a rating as a personal protection instructor or pistol marksmanship instructor; or

69 (2) Submits a photocopy of a notarized certificate from a firearms safety instructor's
70 course offered by a local, state, or federal governmental agency; or

71 (3) Submits a photocopy of a notarized certificate from a firearms safety instructor
72 course approved by the department of public safety; or

73 (4) Has successfully completed a firearms safety instructor course given by or under the
74 supervision of any state, county, municipal, or federal law enforcement agency; or

75 (5) Is a certified police officer firearms safety instructor.

76 6. Any firearms safety instructor qualified under subsection 5 of this section may submit
77 a copy of a training instructor certificate, course outline bearing notarized signature of instructor,
78 and recent photograph of his or herself to the sheriff of the county in which he or she resides.
79 Each sheriff shall collect an annual registration fee of ten dollars from each qualified instructor
80 who chooses to submit such information and shall retain a database of qualified instructors. This
81 information shall be a closed record except for access by any sheriff.

82 7. Any firearms safety instructor who knowingly provides any sheriff with any false
83 information concerning an applicant's performance on any portion of the required training and
84 qualification shall be guilty of a class C misdemeanor. A violation of the provisions of this
85 section shall result in the person being prohibited from instructing concealed carry permit classes
86 and issuing certificates.

**590.750. 1. The department of public safety shall have the sole authority to regulate
2 and license all corporate security advisors. The authority and jurisdiction of a corporate
3 security advisor shall be limited only by the geographical limits of the state, unless the
4 corporate security advisor's license is recognized by the laws or regulations of another state
5 or the federal government.**

**6 2. Acting as a corporate security advisor without a license from the department of
7 public safety is a class A misdemeanor.**

**8 3. The director may promulgate rules to implement the provisions of this section
9 under chapter 536 and section 590.190.**

**10 4. Any corporate security advisor licensed as of February 1, 2014 shall not be
11 required to apply for a new license from the department until the advisor's license expires
12 or is otherwise revoked.**

Section B. Because of the need to provide for the regulation and licensure of corporate
2 security advisors, the repeal and reenactment of sections 84.340 and 571.030 and the enactment
3 of section 590.750 of this act is deemed necessary for the immediate preservation of the public
4 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and the repeal and reenactment of sections 84.340 and 571.030 and
6 the enactment of section 590.750 of this act shall be in full force and effect upon its passage and
7 approval.

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