

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1539

97TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 8, 2014, with recommendation that the Senate Committee Substitute do pass.

5330S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 84.340, 563.031, 571.030, and 571.111, RSMo, and to enact in lieu thereof five 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
2 repealed and five new sections enacted in lieu thereof, to be known as section
3 84.340, 563.031, 571.030, 571.111, and 590.750 to read as follows:

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

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

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

8 (a) He or she has withdrawn from the encounter and effectively
9 communicated such withdrawal to such other person but the latter persists in

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

10 continuing the incident by the use or threatened use of unlawful force; or

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

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

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

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

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

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

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

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

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

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

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

46 what he or she reasonably believed was the use or imminent use of unlawful
47 force.

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

3 (1) Carries concealed upon or about his or her person a knife, a firearm,
4 a blackjack or 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,
7 boat, aircraft, or motor vehicle as defined in section 302.010, or any building or
8 structure used for the assembling of people; or

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

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

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

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

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

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

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

33 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
34 apply to the persons described in this subsection, regardless of whether such uses

35 are reasonably associated with or are necessary to the fulfillment of such person's
36 official duties except as otherwise provided in this subsection. Subdivisions (3),
37 (4), (6), (7), and (9) of subsection 1 of this section shall not apply to or affect any
38 of the following persons, when such uses are reasonably associated with or are
39 necessary to the fulfillment of such person's official duties, except as otherwise
40 provided in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

86 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not
87 apply when the actor is transporting such weapons in a nonfunctioning state or
88 in an unloaded state when ammunition is not readily accessible or when such
89 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section
90 does not apply to any person twenty-one years of age or older or eighteen years
91 of age or older and a member of the United States Armed Forces, or honorably
92 discharged from the United States Armed Forces, transporting a concealable
93 firearm in the passenger compartment of a motor vehicle, so long as such
94 concealable firearm is otherwise lawfully possessed, nor when the actor is also in
95 possession of an exposed firearm or projectile weapon for the lawful pursuit of
96 game, or is in his or her dwelling unit or upon premises over which the actor has
97 possession, authority or control, or is traveling in a continuous journey peaceably
98 through this state. Subdivision (10) of subsection 1 of this section does not apply
99 if the firearm is otherwise lawfully possessed by a person while traversing school
100 premises for the purposes of transporting a student to or from school, or
101 possessed by an adult for the purposes of facilitation of a school-sanctioned
102 firearm-related event or club event.

103 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
104 apply to any person who has a valid concealed carry permit issued pursuant to
105 sections 571.101 to 571.121, a valid concealed carry endorsement issued before
106 August 28, 2013, or a valid permit or endorsement to carry concealed firearms

107 issued by another state or political subdivision of another state.

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

111 6. Notwithstanding any provision of this section to the contrary, the state
112 shall not prohibit any state employee from having a firearm in the employee's
113 vehicle on the state's property provided that the vehicle is locked and the firearm
114 is not visible. This subsection shall only apply to the state as an employer when
115 the state employee's vehicle is on property owned or leased by the state and the
116 state employee is conducting activities within the scope of his or her
117 employment. For the purposes of this subsection, "state employee" means an
118 employee of the executive, legislative, or judicial branch of the government of the
119 state of Missouri.

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

127 8. Unlawful use of weapons is a class D felony unless committed pursuant
128 to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a
129 class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in
130 which case it is a class A misdemeanor if the firearm is unloaded and a class D
131 felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section,
132 in which case it is a class B felony, except that if the violation of subdivision (9)
133 of subsection 1 of this section results in injury or death to another person, it is
134 a class A felony.

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

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

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

143 (3) For any violation by a persistent offender as defined in section
144 558.016, a person shall be sentenced to the maximum authorized term of
145 imprisonment for a class B felony without the possibility of parole, probation, or
146 conditional release;

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

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

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

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

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

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

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

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

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

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

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

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

179 (1) A photographic identification issued by the agency from which the
180 individual retired from service as a peace officer that indicates that the individual
181 has, not less recently than one year before the date the individual is carrying the
182 concealed firearm, been tested or otherwise found by the agency to meet the
183 standards established by the agency for training and qualification for active peace
184 officers to carry a firearm of the same type as the concealed firearm; or

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

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

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

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

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

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

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

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

16 (6) Submits proof that the applicant is currently certified as any class of
17 corrections officer by the Missouri department of corrections and has passed at
18 least one eight-hour firearms training course, approved by the director of the
19 Missouri department of corrections under the authority granted to him or her,
20 that includes instruction on the justifiable use of force as prescribed in chapter
21 563; or

22 (7) Submits a photocopy of a certificate of firearms safety training course

23 completion that was issued on August 27, 2011, or earlier so long as the
24 certificate met the requirements of subsection 2 of this section that were in effect
25 on the date it was issued.

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

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

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

38 (3) The basic principles of marksmanship;

39 (4) Care and cleaning of concealable firearms;

40 (5) Safe storage of firearms at home;

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

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

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

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

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

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

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

58 (2) Handles a firearm in a manner that, in the judgment of the qualified

59 firearm safety instructor, poses a danger to the applicant or to others; or

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

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

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

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

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

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

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

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

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

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

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

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

93 7. Any firearms safety instructor who knowingly provides any sheriff with
94 any false information concerning an applicant's performance on any portion of the

95 required training and qualification shall be guilty of a class C misdemeanor. A
96 violation of the provisions of this section shall result in the person being
97 prohibited from instructing concealed carry permit classes and issuing
98 certificates.

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

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

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

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

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

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