

SCS SB 613 -- 2ND AMENDMENT PRESERVATION ACT

SPONSOR: Nieves (Funderburk)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on General Laws by a vote of 9 to 4.

This bill changes the laws regarding firearms.

SECOND AMENDMENT PRESERVATION ACT (Section 1.320, RSMo)

The bill:

(1) Lists various declarations of the Missouri General Assembly regarding the United States Constitution and the scope of the federal government's authority. In addition, the bill declares that federal supremacy does not apply to federal laws that restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition within the state because the laws exceed the scope of the federal government's authority. Laws necessary for the regulation of the land and the United States Armed Forces are excluded from the types of federal firearms laws that exceed federal authority;

(2) Declares that the General Assembly strongly promotes responsible gun ownership and condemns unlawful transfers of firearms and the use of a firearm in criminal or unlawful activity;

(3) Declares as invalid all federal laws that infringe on the right to bear arms under the Second Amendment to the U.S. Constitution and Article I, Section 23 of the Missouri Constitution. Some laws declared invalid under the act include certain taxes, certain registration and tracking laws, certain prohibitions on the possession, ownership, use, or transfer of a specific type of firearm, and confiscation orders;

(4) Specifies that it is the duty of the courts and law enforcement agencies to protect the rights of law-abiding citizens to keep and bear arms;

(5) States that no public officer or state employee has the authority to enforce firearms laws declared invalid by the act. Any person who acts under the color of law to deprive a Missouri citizen of rights or privileges ensured by the federal and state constitutions must be liable for redress. In such an action attorney's fees and costs may be awarded, and official or qualified immunity must not be available to the defendant as a defense;

(6) Specifies that it is a class A misdemeanor for a federal

employee to enforce or attempt to enforce firearms laws declared invalid by the act. State law enforcement officers are provided the power to interpose on behalf of law-abiding citizens; and

(7) Specifies that these will become effective either by August 28, 2017, or upon the Revisor of Statutes receiving notification that at least four other states have enacted substantially similar language or upon passage of any federal acts or issuance of federal orders which infringe upon or curtail the right to keep and bear arms, whichever event occurs earlier.

OPEN CARRY ORDINANCES (Section 21.750)

The bill specifies that the open carrying of a firearm may not be prohibited by a political subdivision for any person with a valid concealed carry endorsement or permit in his or her possession who presents the endorsement or permit upon the demand of a law enforcement officer. No person carrying a concealed or unconcealed handgun may be disarmed or physically restrained by a law enforcement officer unless under arrest or if there is no reasonable and articulable suspicion of criminal activity. Any person who violates these provisions may be issued a citation for up to \$35. No ordinance of a political subdivision may be construed to preclude the use of a firearm to defend property or persons.

SCHOOL PROTECTION OFFICERS (Sections 160.665, 571.107, and 590.010 - 590.207)

The bill:

(1) Allows a school district to designate one or more school teachers or administrators as a school protection officer. School protection officers are authorized to carry a concealed firearm or self-defense spray device;

(2) Requires a school board that is seeking to designate a school protection officer to hold a public hearing on the matter. At the hearing, the school board must specify whether the school protection officer will carry a concealed firearm or a self-defense spray device or both. Notice of the hearing must be provided by publication in a newspaper of general circulation in the city or county in which the school district is located at least 15 days before the hearing;

(3) Requires the officer to keep the firearm or device under his or her personal control at all times while on school property. Violation of this provision is a class B misdemeanor and may result in the immediate removal of the officer from the classroom and the

commencement of employment termination proceedings;

(4) Specifies that school protection officers have the same power to detain and arrest as any other person would have under current law regarding defense of persons and property. Upon detention, the protection officer must immediately notify school administrators and school resource officers. If the person detained is a student, then the parents of the student must also be immediately notified;

(5) Specifies that a person seeking to be designated as a school protection officer must make a request in writing to the superintendent of the school district along with proof of ownership of a valid concealed carry endorsement or permit, if the person is seeking to carry a firearm, and a certificate of completion of a school protection officer training program;

(6) Requires the school district to notify the Director of the Department of Public Safety of the designation of any school protection officer. The department must make a list of all school protection officers available to all law enforcement agencies;

(7) Requires the Peace Officer Standards and Training Commission to establish standards and curriculum for training of school protection officers. The Director of the Department of Public Safety must develop and make available to all school districts a list of approved school protection officer training instructors, centers, and programs; and

(8) Requires a person to submit to a criminal history background check and, if the person will carry a firearm, prove he or she has a valid concealed carry endorsement or permit in order to attend a school protection officer training program.

HEALTH CARE PROFESSIONALS AND FIREARMS (Section 571.012)

The bill:

(1) Specifies that no licensed health care professional or person under the supervision of the professional may not be required by law to ask a patient whether he or she owns or has access to a firearm, document firearm ownership or access in a patient's medical records, or notify any governmental entity of the identity of a patient based solely on the patient's status as a firearm owner or the patient's access to a firearm; and

(2) Specifies that a licensed health care professional, anyone under his or her supervision, and anyone who possesses or controls medical records are prohibited from documenting or disclosing information regarding a person's status as a firearm owner except

under certain specified circumstances.

UNLAWFUL USE OF WEAPONS AND SPECIAL PROSECUTORS (Section 571.030)

The bill adds people appointed by the court to be special prosecutors to the list of people who may engage in otherwise unlawful uses of weapons.

CONCEALED CARRY PERMITS (Sections 571.030, 571.101, 571.111, and 571.117)

Currently, a person, who is not a member of the United States Armed Forces or honorably discharged from the armed forces, must be at least 21 years of age in order to qualify for a concealed carry endorsement. The bill lowers the age to at least 19 years of age.

The bill makes a concealed carry permit expire on the last day of the month rather than the same day the permit was issued or renewed. Concealed carry endorsements also expire on the last day of the month under this act.

The bill repeals an obsolete provision of current law that directs concealed carry permit applicants to take the permit they receive from the sheriff to the Department of Revenue for the issuance of an endorsement.

Any permit fees required for a concealed carry endorsement are waived for applicants who are disabled veterans.

Currently, a firearms safety instructor may only have 40 or fewer students in the classroom portion of the training required for a concealed carry permit. The bill specifies that a firearms safety instructor may not have more than 40 students per certified instructor in the classroom.

UNLAWFUL POSSESSION (Section 571.070)

A person commits the offense of unlawful possession of a firearm if he or she is illegally in the United States.

PROPONENTS: Supporters say that the bill protects Missourians' 2nd Amendment rights and addresses concerns that the federal government will further restrict these rights.

Testifying for the bill were Senator Nieves; Missouri First; and Missouri Family Network.

OPPONENTS: There was no opposition voiced to the committee.