

HB 2196 -- SECOND AMENDMENT PRESERVATION ACT

SPONSOR: Pogue

The bill establishes the Second Amendment Preservation Act that:

(1) Declares that laws, rules, orders, or other actions which restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within this state exceed the powers granted to the federal government except to the extent they are necessary and proper for governing and regulating of land and naval forces of the United States or for organizing, arming, and disciplining militia forces actively employed in the service of the United States Armed Forces;

(2) Declares Congress' power to regulate commerce with foreign nations and among the states does not include the power to limit citizens' right to keep and bear arms;

(3) Rejects any claim that Congress' taxing and spending powers can be used to diminish in any way the right of people to keep and bear arms in defense of persons or property or to dictate what sort of arms and accessories law-abiding Missourians may buy, sell, or otherwise possess within the borders of this state;

(4) Declares that all federal acts, laws, executive orders, administrative orders, court orders, rules, and regulations, whether past, present, or future, that infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution must be invalid in this state, must not be recognized by this state, must be specifically rejected by this state, and must be considered null and void and of no effect in this state, including those that impose a tax, levy, fee, or stamp on these items as specified in the bill; require the registration or tracking of these items or their owners; prohibit the possession, ownership, use, or transfer of a firearm; or order the confiscation of these items;

(5) Declares that it must be the duty of the courts and law enforcement agencies to protect the rights of law-abiding citizens to keep and bear arms and that no person, including a public officer or state employee of this state or any political subdivision of this state, can have authority to enforce or attempt to enforce any federal laws, orders, or rules infringing on the right to keep and bear arms;

(6) Specifies that any entity or person who knowingly acts under the color of any federal or state law to deprive a Missouri citizen

of the rights or privileges ensured by the federal and state constitutions to keep and bear arms must be liable to the injured party for redress. Reasonable attorney fees and costs may be awarded to the prevailing party with specified exceptions;

(7) Specifies that certain federal acts, laws, executive orders, administrative orders, court orders, rules, and regulations must be considered infringements on the people's right to keep and bear arms as guaranteed by the Second Amendment of the Constitution of the United States within the borders of this state;

(8) Specifies that it must be the duty of the courts and law enforcement agencies of Missouri to protect the rights of law-abiding citizens to keep and bear arms within the borders of the state and to protect these rights from the infringements defined in these provisions;

(9) Specifies that no person, including any public officer or employee of this state or any political subdivision of this state, will have authority to enforce or attempt to enforce any federal acts, laws, executive orders, administrative orders, court orders, rules, regulations, statutes, or ordinances infringing on the right to keep and bear arms;

(10) Specifies that any entity or person who knowingly violates these provisions or otherwise knowingly deprives a citizen of Missouri of the rights or privileges ensured by the Second Amendment of the Constitution of the United States or Article I, Section 23 of the Constitution of Missouri, while acting under the color of any state or federal law, must be liable to the injured party in an action at law, suit in equity, or other proper proceeding for redress;

(11) Specifies that the court may award the prevailing party, other than the State of Missouri or any political subdivision of the state, reasonable attorney fees and costs;

(12) Specifies that sovereign, official, or qualified immunity must not be an affirmative defense in these cases; and

(13) Specifies that the firearm rights in the bill apply to law abiding citizens who are not otherwise prohibited from possessing a firearm by state law and must not be construed to include anyone who is not legally present in the United States or the State of Missouri.