

SECOND REGULAR SESSION

HOUSE BILL NO. 3105

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHULTE.

6855H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, RSMo, and to enact in lieu thereof four new sections relating to firearms.

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

Section A. Sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 1.451, 1.461, 1.481, and 1.484, to read as follows:

1.451. No public officer or employee of this state or any political subdivision of this state shall have the authority to knowingly violate a law-abiding citizen's legal rights regarding firearms, firearm accessories, or ammunition. Nothing in sections 1.451 to 1.484 shall be construed to prohibit Missouri officials from accepting aid from federal officials or rendering aid to federal officials. Nothing in sections 1.451 to 1.484 shall prohibit law enforcement from working on federal task forces.

1.461. 1. Any political subdivision or law enforcement agency that employs a law enforcement officer who acts knowingly, as defined under section 562.016, to violate the provisions of section 1.451 or otherwise knowingly deprives a law-abiding 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 shall investigate such employee for potential discipline up to and including termination of employment.

2. The attorney general or the prosecuting attorney of the county in the jurisdiction where an individual has taken action violating the provisions of section 1.451 shall have standing to pursue an action for injunctive or other equitable relief in

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.

11 the circuit court of the county in which the action allegedly occurred. The court shall
12 hold a hearing on the motion for a temporary restraining order and preliminary
13 injunction within thirty days of service of the petition.

1.481. As used in sections 1.451 and 1.461, the term "law-abiding citizen" means
2 a person who:

- 3 (1) Is eighteen years of age or older;
- 4 (2) Is not under criminal investigation for, arrested for, or charged with a
5 criminal offense for which valid probable cause exists;
- 6 (3) Is not a danger to self or others;
- 7 (4) Is not otherwise precluded under state law from possessing a firearm; and
- 8 (5) Is legally present in the United States and in the state of Missouri.

1.484. It shall not be considered a violation of section 1.451 or 1.461 to provide
2 material aid to federal authorities in the investigation, arrest, detention, or prosecution
3 of any person if there is reasonable suspicion to believe that the person engaged in
4 criminal conduct.

~~2 [1.410. 1. Sections 1.410 to 1.485 shall be known and may be cited as
the "Second Amendment Preservation Act".~~

~~3 2. The general assembly finds and declares that:~~

~~4 (1) The general assembly of the state of Missouri is firmly resolved to
5 support and defend the Constitution of the United States against every
6 aggression, whether foreign or domestic, and is duty bound to oppose every
7 infraction of those principles that constitute the basis of the union of the states
8 because only a faithful observance of those principles can secure the union's
9 existence and the public happiness;~~

~~10 (2) Acting through the Constitution of the United States, the people of
11 the several states created the federal government to be their agent in the
12 exercise of a few defined powers, while reserving for the state governments
13 the power to legislate on matters concerning the lives, liberties, and properties
14 of citizens in the ordinary course of affairs;~~

~~15 (3) The limitation of the federal government's power is affirmed under
16 Amendment X of the Constitution of the United States, which defines the total
17 scope of federal powers as being those that have been delegated by the people
18 of the several states to the federal government and all powers not delegated to
19 the federal government in the Constitution of the United States are reserved to
20 the states respectively or the people themselves;~~

~~21 (4) If the federal government assumes powers that the people did not
22 grant it in the Constitution of the United States, its acts are unauthoritative,
23 void, and of no force;~~

~~24 (5) The several states of the United States respect the proper role of the
25 federal government but reject the proposition that such respect requires
26 unlimited submission. If the federal government, created by a compact among
27 the states, were the exclusive or final judge of the extent of the powers granted
28 to it by the states through the Constitution of the United States, the federal~~

29 government's discretion, and not the Constitution of the United States, would
30 necessarily become the measure of those powers. To the contrary, as in all
31 other cases of compacts among powers having no common judge, each party
32 has an equal right to judge for itself as to whether infractions of the compact
33 have occurred, as well as to determine the mode and measure of redress.
34 Although the several states have granted supremacy to laws and treaties made
35 under the powers granted in the Constitution of the United States, such
36 supremacy does not extend to various federal statutes, executive orders,
37 administrative orders, court orders, rules, regulations, or other actions that
38 collect data or restrict or prohibit the manufacture, ownership, or use of
39 firearms, firearm accessories, or ammunition exclusively within the borders of
40 Missouri; such statutes, executive orders, administrative orders, court orders,
41 rules, regulations, and other actions exceed the powers granted to the federal
42 government except to the extent they are necessary and proper for governing
43 and regulating the United States Armed Forces or for organizing, arming, and
44 disciplining militia forces actively employed in the service of the United States
45 Armed Forces;

46 (6) The people of the several states have given Congress the power "to
47 regulate commerce with foreign nations, and among the several states", but
48 "regulating commerce" does not include the power to limit citizens' right to
49 keep and bear arms in defense of their families, neighbors, persons, or property
50 nor to dictate what sorts of arms and accessories law-abiding Missourians may
51 buy, sell, exchange, or otherwise possess within the borders of this state;

52 (7) The people of the several states have also granted Congress the
53 powers "to lay and collect taxes, duties, imports, and excises, to pay the debts,
54 and provide for the common defense and general welfare of the United States"
55 and "to make all laws which shall be necessary and proper for carrying into
56 execution the powers vested by the Constitution of the United States in the
57 government of the United States, or in any department or office thereof".
58 These constitutional provisions merely identify the means by which the federal
59 government may execute its limited powers and shall not be construed to grant
60 unlimited power because to do so would be to destroy the carefully
61 constructed equilibrium between the federal and state governments.
62 Consequently, the general assembly rejects any claim that the taxing and
63 spending powers of Congress may be used to diminish in any way the right of
64 the people to keep and bear arms;

65 (8) The general assembly finds that the federal excise tax rate on arms
66 and ammunition in effect prior to January 1, 2021, which funds programs
67 under the Wildlife Restoration Act, does not have a chilling effect on the
68 purchase or ownership of such arms and ammunition;

69 (9) The people of Missouri have vested the general assembly with the
70 authority to regulate the manufacture, possession, exchange, and use of
71 firearms within the borders of this state, subject only to the limits imposed by
72 Amendment II of the Constitution of the United States and the Constitution of
73 Missouri; and

74 (10) The general assembly of the state of Missouri strongly promotes
75 responsible gun ownership, including parental supervision of minors in the
76 proper use, storage, and ownership of all firearms; the prompt reporting of

77 stolen firearms; and the proper enforcement of all state gun laws. The general
78 assembly of the state of Missouri hereby condemns any unlawful transfer of
79 firearms and the use of any firearm in any criminal or unlawful activity.]

2 [1.420. The following federal acts, laws, executive orders,
3 administrative orders, rules, and regulations shall be considered
4 infringements on the people's right to keep and bear arms, as guaranteed by
5 Amendment II of the Constitution of the United States and Article I, Section
6 23 of the Constitution of Missouri, within the borders of this state including,
7 but not limited to:

8 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm
9 accessories, or ammunition not common to all other goods and services and
10 that might reasonably be expected to create a chilling effect on the purchase or
11 ownership of those items by law-abiding citizens;

12 (2) Any registration or tracking of firearms, firearm accessories, or
13 ammunition;

14 (3) Any registration or tracking of the ownership of firearms, firearm
15 accessories, or ammunition;

16 (4) Any act forbidding the possession, ownership, use, or transfer of a
17 firearm, firearm accessory, or ammunition by law-abiding citizens; and

18 (5) Any act ordering the confiscation of firearms, firearm accessories,
or ammunition from law-abiding citizens.]

2 [1.430. All federal acts, laws, executive orders, administrative orders,
3 rules, and regulations, regardless of whether they were enacted before or after
4 the provisions of sections 1.410 to 1.485, that infringe on the people's right to
5 keep and bear arms as guaranteed by the Second Amendment to the
6 Constitution of the United States and Article I, Section 23 of the Constitution
7 of Missouri shall be invalid to this state, shall not be recognized by this state,
8 shall be specifically rejected by this state, and shall not be enforced by this
state.]

2 [1.440. It shall be the duty of the courts and law enforcement agencies
3 of this state to protect the rights of law-abiding citizens to keep and bear arms
4 within the borders of this state and to protect these rights from the
infringements defined under section 1.420.]

2 [1.450. No entity or person, including any public officer or employee
3 of this state or any political subdivision of this state, shall have the authority to
4 enforce or attempt to enforce any federal acts, laws, executive orders,
5 administrative orders, rules, regulations, statutes, or ordinances infringing on
6 the right to keep and bear arms as described under section 1.420. Nothing in
7 sections 1.410 to 1.480 shall be construed to prohibit Missouri officials from
accepting aid from federal officials in an effort to enforce Missouri laws.]

2 [1.460. 1. Any political subdivision or law enforcement agency that
3 employs a law enforcement officer who acts knowingly, as defined under
section 562.016, to violate the provisions of section 1.450 or otherwise

4 knowingly deprives a citizen of Missouri of the rights or privileges ensured by
5 ~~Amendment II of the Constitution of the United States or Article I, Section 23~~
6 ~~of the Constitution of Missouri while acting under the color of any state or~~
7 ~~federal law shall be liable to the injured party in an action at law, suit in equity,~~
8 ~~or other proper proceeding for redress, and subject to a civil penalty of fifty~~
9 ~~thousand dollars per occurrence. Any person injured under this section shall~~
10 ~~have standing to pursue an action for injunctive relief in the circuit court of the~~
11 ~~county in which the action allegedly occurred or in the circuit court of Cole~~
12 ~~County with respect to the actions of such individual. The court shall hold a~~
13 ~~hearing on the motion for temporary restraining order and preliminary~~
14 ~~injunction within thirty days of service of the petition.~~

15 2. ~~In such actions, the court may award the prevailing party, other than~~
16 ~~the state of Missouri or any political subdivision of the state, reasonable~~
17 ~~attorney's fees and costs.~~

18 3. ~~Sovereign immunity shall not be an affirmative defense in any~~
19 ~~action pursuant to this section.]~~

2 ~~[1.470. 1. Any political subdivision or law enforcement agency that~~
3 ~~knowingly employs an individual acting or who previously acted as an official,~~
4 ~~agent, employee, or deputy of the government of the United States, or~~
5 ~~otherwise acted under the color of federal law within the borders of this state,~~
6 ~~who has knowingly, as defined under section 562.016, after the adoption of~~
7 ~~this section:~~

8 ~~(1) Enforced or attempted to enforce any of the infringements~~
9 ~~identified in section 1.420; or~~

10 ~~(2) Given material aid and support to the efforts of another who~~
11 ~~enforces or attempts to enforce any of the infringements identified in section~~
12 ~~1.420;~~

13 ~~shall be subject to a civil penalty of fifty thousand dollars per employee hired~~
14 ~~by the political subdivision or law enforcement agency. Any person residing~~
15 ~~in a jurisdiction who believes that an individual has taken action that would~~
16 ~~violate the provisions of this section shall have standing to pursue an action.~~

17 2. ~~Any person residing or conducting business in a jurisdiction who~~
18 ~~believes that an individual has taken action that would violate the provisions of~~
19 ~~this section shall have standing to pursue an action for injunctive relief in the~~
20 ~~circuit court of the county in which the action allegedly occurred or in the~~
21 ~~circuit court of Cole County with respect to the actions of such individual.~~
22 ~~The court shall hold a hearing on the motion for a temporary restraining order~~
23 ~~and preliminary injunction within thirty days of service of the petition.~~

24 3. ~~In such actions, the court may award the prevailing party, other than~~
25 ~~the state of Missouri or any political subdivision of the state, reasonable~~
26 ~~attorney's fees and costs.~~

27 4. ~~Sovereign immunity shall not be an affirmative defense in any~~
28 ~~action pursuant to this section.]~~

2 ~~[1.480. 1. For sections 1.410 to 1.485, the term "law abiding citizen"~~
3 ~~shall mean a person who is not otherwise precluded under state law from~~

3 possessing a firearm and shall not be construed to include anyone who is not
4 legally present in the United States or the state of Missouri.

5 2. For the purposes of sections 1.410 to 1.480, "material aid and
6 support" shall include voluntarily giving or allowing others to make use of
7 lodging; communications equipment or services, including social media
8 accounts; facilities; weapons; personnel; transportation; clothing; or other
9 physical assets. Material aid and support shall not include giving or allowing
10 the use of medicine or other materials necessary to treat physical injuries, nor
11 shall the term include any assistance provided to help persons escape a serious,
12 present risk of life-threatening injury.

13 3. It shall not be considered a violation of sections 1.410 to 1.480 to
14 provide material aid to federal officials who are in pursuit of a suspect when
15 there is a demonstrable criminal nexus with another state or country and such
16 suspect is either not a citizen of this state or is not present in this state.

17 4. It shall not be considered a violation of sections 1.410 to 1.480 to
18 provide material aid to federal prosecution for:

19 (1) Felony crimes against a person when such prosecution includes
20 weapons violations substantially similar to those found in chapter 570 or 571
21 so long as such weapons violations are merely ancillary to such prosecution; or

22 (2) Class A or class B felony violations substantially similar to those
23 found in chapter 579 when such prosecution includes weapons violations
24 substantially similar to those found in chapter 570 or 571 so long as such
25 weapons violations are merely ancillary to such prosecution.

26 5. The provisions of sections 1.410 to 1.485 shall be applicable to
27 offenses occurring on or after August 28, 2021.]

2 [1.485. If any provision of sections 1.410 to 1.485 or the application
3 thereof to any person or circumstance is held invalid, such determination shall
4 not affect the provisions or applications of sections 1.410 to 1.485 that may be
5 given effect without the invalid provision or application, and the provisions of
sections 1.410 to 1.485 are severable.]

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