

FIRST REGULAR SESSION

# SENATE BILL NO. 325

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NIEVES.

Read 1st time February 14, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1666S.011

## AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to firearms, with a penalty provision.

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

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.320, to read as follows:

**1.320. 1. This section shall be known and may be cited as the "Second Amendment Preservation Act".**

**2. The general assembly finds and declares that:**

**(1) The general assembly of the state of Missouri is firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic, and the general assembly is duty-bound to watch over and oppose every infraction of those principles which constitute the basis of the Union of the States, because only a faithful observance of those principles can secure the nation's existence and the public happiness;**

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

**(3) The limitation of the federal government's power is affirmed under the Tenth Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively,**

22 or to the people themselves;

23 (4) Whenever the federal government assumes powers that the  
24 people did not grant it in the Constitution, its acts are unauthoritative,  
25 void, and of no force;

26 (5) The several states of the United States of America are not  
27 united on the principle of unlimited submission to their federal  
28 government. The government created by the compact among the states  
29 is not the exclusive or final judge of the extent of the powers granted  
30 to it by the Constitution, because that would have made the federal  
31 government's discretion, and not the Constitution, the measure of those  
32 powers. To the contrary, as in all other cases of compacts among  
33 powers having no common judge, each party has an equal right to judge  
34 itself, as well of infractions as of the mode and measure of  
35 redress. Although the several states have granted supremacy to laws  
36 and treaties made pursuant to the powers granted in the Constitution,  
37 such supremacy does not apply to various federal statutes, orders,  
38 rules, regulations, or other actions which restrict or prohibit the  
39 manufacture, ownership, and use of firearms, firearm accessories, or  
40 ammunition exclusively within the borders of Missouri; such statutes,  
41 orders, rules, regulations, and other actions exceed the powers granted  
42 to the federal government except to the extent they are necessary and  
43 proper for the government and regulation of the land and naval forces  
44 of the United States or for the organizing, arming, and disciplining  
45 militia forces actively employed in the service of the United States  
46 Armed Forces;

47 (6) The people of the several states have given Congress the  
48 power "to regulate commerce with foreign nations, and among the  
49 several states, and with the Indian tribes", but "regulating commerce"  
50 does not include the power to limit citizens' right to keep and bear  
51 arms in defense of their families, neighbors, persons, or property, or to  
52 dictate to what sort of arms and accessories law-abiding mentally  
53 competent Missourians may buy, sell, exchange, or otherwise possess  
54 within the borders of this state;

55 (7) The people of the several states have also given Congress the  
56 power "to lay and collect taxes, duties, imports, and excises, to pay the  
57 debts, and provide for the common defense and general welfare of the  
58 United States" and "to make all laws which shall be necessary and

59 proper for carrying into execution the powers vested by the  
60 Constitution in the government of the United States, or in any  
61 department or officer thereof". These constitutional provisions merely  
62 identify the means by which the federal government may execute its  
63 limited powers and ought not to be so construed as themselves to give  
64 unlimited powers because to do so would be to destroy the balance of  
65 power between the federal government and the state governments. We  
66 deny any claim that the taxing and spending powers of Congress can be  
67 used to diminish in any way the people's right to keep and bear arms;

68 (8) The people of Missouri have vested the general assembly with  
69 the authority to regulate the manufacture, possession, exchange, and  
70 use of firearms within this state's borders, subject only to the limits  
71 imposed by the Second Amendment to the United States Constitution  
72 and the Missouri Constitution.

73 3. (1) All federal acts, laws, orders, rules, and regulations,  
74 whether past, present, or future, which infringe on the people's right  
75 to keep and bear arms as guaranteed by the Second Amendment to the  
76 United States Constitution and Article I, Section 23 of the Missouri  
77 Constitution shall be invalid in this state, shall not be recognized by  
78 this state, are specifically rejected by this state, and shall be  
79 considered null and void and of no effect in this state.

80 (2) Such federal acts, laws, orders, rules, and regulations include,  
81 but are not limited to:

82 (a) The provisions of the federal Gun Control Act of 1934;

83 (b) The provisions of the federal Gun Control Act of 1968;

84 (c) Any tax, levy, fee, or stamp imposed on firearms, firearm  
85 accessories, or ammunition not common to all other goods and services  
86 which could have a chilling effect on the purchase or ownership of  
87 those items by law-abiding citizens;

88 (d) Any registering or tracking of firearms, firearm accessories,  
89 or ammunition which could have a chilling effect on the purchase or  
90 ownership of those items by law-abiding citizens;

91 (e) Any registering or tracking of the owners of firearms, firearm  
92 accessories, or ammunition which could have a chilling effect on the  
93 purchase or ownership of those items by law-abiding citizens;

94 (f) Any act forbidding the possession, ownership, or use or  
95 transfer of any type of firearm, firearm accessory, or ammunition by

96 law-abiding citizens;

97 (g) Any act ordering the confiscation of firearms, firearm  
98 accessories, or ammunition from law-abiding citizens.

99 4. It shall be the duty of the courts and law enforcement agencies  
100 of this state to protect the rights of law-abiding citizens to keep and  
101 bear arms within the border of this state from the infringements in  
102 subsection 3 of this section.

103 5. No public officer or employee of this state shall have any  
104 authority to enforce or attempt to enforce any of the infringements on  
105 the right to keep and bear arms included in subsection 3 of this section.

106 6. Any official, agent, or employee of the United States  
107 government who enforces or attempts to enforce any of the  
108 infringements on the right to keep and bear arms included in  
109 subsection 3 of this section is guilty of a class A misdemeanor.

110 7. Any Missouri citizen who has been subject to an effort to  
111 enforce any of the infringements on the right to keep and bear arms  
112 included in subsection 3 of this section shall have a private cause of  
113 action for declaratory judgment and for damages against any person or  
114 entity attempting such enforcement.

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