

FIRST REGULAR SESSION

SENATE BILL NO. 367

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

Read 1st time February 7, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1848S.01I

AN ACT

To repeal section 1.320, RSMo, and to enact in lieu thereof nine new sections relating to additional protections to the right to bear arms.

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

Section A. Section 1.320, RSMo, is repealed and nine new sections enacted
2 in lieu thereof, to be known as sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460,
3 1.470, 1.480, and 1.485, to read as follows:

**1.410. 1. Sections 1.410 to 1.485 shall be known and may be cited
2 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
5 resolved to support and defend the United States Constitution against
6 every aggression, whether foreign or domestic, and is duty bound to
7 oppose every infraction of those principles which constitute the basis
8 of the Union of the States because only a faithful observance of those
9 principles can secure the nation's existence and the public happiness;**

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

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

21 people themselves;

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

25 (5) The several states of the United States of America respect the
26 proper role of the federal government, but reject the proposition that
27 such respect requires unlimited submission. If the government, created
28 by a compact among the states, was the exclusive or final judge of the
29 extent of the powers granted to it by the states through the United
30 States Constitution, the federal government's discretion, and not the
31 United States Constitution, would necessarily become the measure of
32 those 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 for itself as to if infractions of the compact have occurred, as well as to
35 determine the mode and measure of redress. Although the several
36 states have granted supremacy to laws and treaties made under the
37 powers granted in the United States Constitution, such supremacy does
38 not extend to various federal statutes, executive orders, administrative
39 orders, court orders, rules, regulations, or other actions which restrict
40 or prohibit the manufacture, ownership, and use of firearms, firearm
41 accessories, or ammunition exclusively within the borders of Missouri;
42 such statutes, executive orders, administrative orders, court orders,
43 rules, regulations, and other actions exceed the powers granted to the
44 federal government except to the extent they are necessary and proper
45 for governing and regulating land and naval forces of the United States
46 or for organizing, arming, and disciplining of militia forces actively
47 employed in the service of the United States Armed Forces;

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

55 (7) The people of the several states have also granted Congress
56 the power "to lay and collect taxes, duties, imports, and excises, to pay
57 the debts, and provide for the common defense and general welfare of

58 the United States" and "to make all laws which shall be necessary and
59 proper for carrying into execution the powers vested by the United
60 States Constitution in the government of the United States, or in any
61 department or office thereof". These constitutional provisions merely
62 identify the means by which the federal government may execute its
63 limited powers and shall not to be so construed to grant unlimited
64 power because to do so would be to destroy the carefully constructed
65 equilibrium between the federal and state governments. Consequently,
66 the general assembly rejects any claim that the taxing and spending
67 powers of Congress can be used to diminish in any way the right of the
68 people to keep and bear arms;

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

74 (9) The general assembly of the state of Missouri strongly
75 promotes responsible gun ownership, including parental supervision of
76 minors in the proper use, storage, and ownership of all firearms, the
77 prompt reporting of stolen firearms, and the proper enforcement of all
78 state gun laws. The general assembly of the state of Missouri hereby
79 condemns any unlawful transfer of firearms and the use of any firearm
80 in any criminal or unlawful activity.

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

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

11 (2) Any registering or tracking of firearms, firearm accessories,
12 or ammunition which might reasonably be expected to create a chilling
13 effect on the purchase or ownership of those items by law-abiding
14 citizens;

15 **(3) Any registering or tracking of the owners of firearms, firearm**
16 **accessories, or ammunition which might reasonably be expected to**
17 **create a chilling effect on the purchase or ownership of those items by**
18 **law-abiding citizens;**

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

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

1.430. All federal acts, laws, executive orders, administrative
2 orders, court orders, rules, and regulations, regardless if enacted
3 before or after the provisions of sections 1.410 to 1.485, which infringe
4 on the people's right to keep and bear arms as guaranteed by the
5 Second Amendment to the Constitution of the United States and Article
6 I, Section 23 of the Constitution of Missouri shall be invalid in this
7 state, shall not be recognized by this state, shall be specifically rejected
8 by this state, and shall be considered null and void and of no effect in
9 this state.

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

1.450. No person, including any public officer or employee of this
2 state or any political subdivision of this state, shall have the authority
3 to enforce or attempt to enforce any federal acts, laws, executive
4 orders, administrative orders, court orders, rules, regulations, statutes,
5 or ordinances infringing on the right to keep and bear arms as
6 described under section 1.410.

1.460. 1. Any entity or person who acts knowingly, as defined
2 under section 562.016, to violate the provisions of section 1.450 or
3 otherwise knowingly deprives a citizen of Missouri of the rights or
4 privileges ensured by the Second Amendment of the Constitution of the
5 United States or Article I, Section 23 of the Constitution of Missouri,
6 while acting under the color of any state or federal law, shall be liable
7 to the injured party in an action at law, suit in equity, or other proper
8 proceeding for redress.

9 2. In such actions, the court may award the prevailing party,

10 other than the state of Missouri or any political subdivision of the
11 state, reasonable attorney's fees and costs.

12 3. Sovereign, official, or qualified immunity shall not be an
13 affirmative defense in such actions.

1.470. 1. Any person while acting as an official, agent, employee,
2 or deputy of the government of the United States, or while otherwise
3 acting under the color of federal law while within the borders of this
4 state, who knowingly, as defined under section 562.016:

5 (1) Enforces or attempts to enforce any of the infringements
6 identified in section 1.410; or

7 (2) Gives material aid and support to the efforts of others who
8 enforce or attempt to enforce any of the infringements identified in
9 section 1.410;

10 shall be permanently ineligible to serve as a law enforcement officer or
11 to supervise law enforcement officers for the state or any political
12 subdivision of the state.

13 2. Neither the state nor any political subdivision of the state
14 shall employ as a law enforcement officer or supervisor of law
15 enforcement officers any person who is ineligible to serve in such
16 capacity under this section.

17 3. Any person residing in or conducting business in a jurisdiction
18 who believes that a law enforcement officer or supervisor of law
19 enforcement officers of such jurisdiction has taken action that would
20 render that person ineligible under this section to serve in such
21 capacity shall have standing to pursue an action for declaratory
22 judgment in the circuit court of the county in which the action
23 allegedly occurred, or in the circuit court of Cole County, with respect
24 to the employment eligibility of the law enforcement officer or the
25 supervisor of law enforcement officers under this section.

26 4. If a court determines that a law enforcement officer or
27 supervisor of law enforcement officers has taken any action that would
28 render him or her ineligible to serve in that capacity under this
29 section:

30 (1) The law enforcement officer or supervisor of law enforcement
31 officers shall immediately be terminated from his or her position; and

32 (2) The jurisdiction that had employed the ineligible law
33 enforcement officer or supervisor of law enforcement officers shall be

34 required to pay the court costs and attorney's fees associated with the
35 declaratory judgment action that resulted in the finding of ineligibility.

36 5. Nothing in this section shall preclude a person's right of
37 appeal or remediation, as provided under chapter 590.

1.480. For the purposes of sections 1.410 to 1.485, the term "law-
2 abiding citizen" shall mean a person who is not otherwise precluded
3 under state law from possessing a firearm and shall not be construed
4 to include anyone who is not legally present in the United States or the
5 state of Missouri.

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

[1.320. The general assembly of the state of Missouri
2 strongly promotes responsible gun ownership, including parental
3 supervision of minors in the proper use, storage, and ownership of
4 all firearms, the prompt reporting of stolen firearms, and the
5 proper enforcement of all state gun laws. The general assembly of
6 the state of Missouri hereby condemns any unlawful transfer of
7 firearms and the use of any firearm in any criminal or unlawful
8 activity.]

✓
Copy