

SECOND REGULAR SESSION

SENATE BILL NO. 740

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time January 11, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4235S.011

AN ACT

To repeal section 571.030, RSMo, and to enact in lieu thereof one new section relating to unlawful use of weapons, with penalty provisions.

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

Section A. Section 571.030, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 571.030, to read as follows:

571.030. 1. A person commits the crime of unlawful use of weapons if he
2 or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm,
4 a blackjack or any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,
7 boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any
8 building or structure used for the assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily
10 capable of lethal use in an angry or threatening manner; or

11 (5) Possesses or discharges a firearm or projectile weapon while
12 intoxicated; or

13 (6) Discharges a firearm within one hundred yards of any occupied
14 schoolhouse, courthouse, or church building; or

15 (7) Discharges or shoots a firearm at a mark, at any object, or at random,
16 on, along or across a public highway or discharges or shoots a firearm into any
17 outbuilding; or

18 (8) Carries a firearm or any other weapon readily capable of lethal use
19 into any church or place where people have assembled for worship, or into any

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 election precinct on any election day, or into any building owned or occupied by
21 any agency of the federal government, state government, or political subdivision
22 thereof; or

23 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined
24 in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any
25 other motor vehicle, or at any building or habitable structure, unless the person
26 was lawfully acting in self-defense; or

27 (10) Carries a firearm, whether loaded or unloaded, or any other weapon
28 readily capable of lethal use into any school, onto any school bus, or onto the
29 premises of any function or activity sponsored or sanctioned by school officials or
30 the district school board.

31 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this
32 section shall not apply to or affect any of the following:

33 (1) All state, county and municipal peace officers who have completed the
34 training required by the police officer standards and training commission
35 pursuant to sections 590.030 to 590.050, RSMo, and **[possessing] who possess**
36 the duty and power of arrest for violation of the general criminal laws of the state
37 or for violation of ordinances of counties or municipalities of the state, whether
38 such officers are on or off duty, and whether such officers are within or outside
39 of the law enforcement agency's jurisdiction, or all qualified retired peace officers,
40 as defined in subsection 10 of this section, and who carry the identification
41 defined in subsection 11 of this section, or any person summoned by such officers
42 to assist in making arrests or preserving the peace while actually engaged in
43 assisting such officer;

44 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails
45 and other institutions for the detention of persons accused or convicted of crime;

46 (3) Members of the armed forces or national guard while performing their
47 official duty;

48 (4) Those persons vested by article V, section 1 of the Constitution of
49 Missouri with the judicial power of the state and those persons vested by Article
50 III of the Constitution of the United States with the judicial power of the United
51 States, the members of the federal judiciary;

52 (5) Any person whose bona fide duty is to execute process, civil or
53 criminal;

54 (6) Any federal probation officer or federal flight deck officer as defined
55 under the federal flight deck officer program, 49 U.S.C. Section 44921;

56 (7) Any state probation or parole officer, including supervisors and
57 members of the board of probation and parole;

58 (8) Any corporate security advisor meeting the definition and fulfilling the
59 requirements of the regulations established by the board of police commissioners
60 under section 84.340, RSMo; [and]

61 (9) Any coroner, deputy coroner, medical examiner, or assistant medical
62 examiner; **and**

63 **(10) Any prosecuting attorney or assistant prosecuting attorney**
64 **or any circuit attorney or assistant circuit attorney who has completed**
65 **the firearms safety training course required under subsection 2 of**
66 **section 571.111.**

67 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not
68 apply when the actor is transporting such weapons in a nonfunctioning state or
69 in an unloaded state when ammunition is not readily accessible or when such
70 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section
71 does not apply to any person twenty-one years of age or older transporting a
72 concealable firearm in the passenger compartment of a motor vehicle, so long as
73 such concealable firearm is otherwise lawfully possessed, nor when the actor is
74 also in possession of an exposed firearm or projectile weapon for the lawful
75 pursuit of game, or is in his or her dwelling unit or upon premises over which the
76 actor has possession, authority or control, or is traveling in a continuous journey
77 peaceably through this state. Subdivision (10) of subsection 1 of this section does
78 not apply if the firearm is otherwise lawfully possessed by a person while
79 traversing school premises for the purposes of transporting a student to or from
80 school, or possessed by an adult for the purposes of facilitation of a
81 school-sanctioned firearm-related event.

82 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
83 apply to any person who has a valid concealed carry endorsement issued pursuant
84 to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed
85 firearms issued by another state or political subdivision of another state.

86 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this
87 section shall not apply to persons who are engaged in a lawful act of defense
88 pursuant to section 563.031, RSMo.

89 6. Nothing in this section shall make it unlawful for a student to actually
90 participate in school-sanctioned gun safety courses, student military or ROTC
91 courses, or other school-sponsored firearm-related events, provided the student

92 does not carry a firearm or other weapon readily capable of lethal use into any
93 school, onto any school bus, or onto the premises of any other function or activity
94 sponsored or sanctioned by school officials or the district school board.

95 7. Unlawful use of weapons is a class D felony unless committed pursuant
96 to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a
97 class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in
98 which case it is a class A misdemeanor if the firearm is unloaded and a class D
99 felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section,
100 in which case it is a class B felony, except that if the violation of subdivision (9)
101 of subsection 1 of this section results in injury or death to another person, it is
102 a class A felony.

103 8. Violations of subdivision (9) of subsection 1 of this section shall be
104 punished as follows:

105 (1) For the first violation a person shall be sentenced to the maximum
106 authorized term of imprisonment for a class B felony;

107 (2) For any violation by a prior offender as defined in section 558.016,
108 RSMo, a person shall be sentenced to the maximum authorized term of
109 imprisonment for a class B felony without the possibility of parole, probation or
110 conditional release for a term of ten years;

111 (3) For any violation by a persistent offender as defined in section
112 558.016, RSMo, a person shall be sentenced to the maximum authorized term of
113 imprisonment for a class B felony without the possibility of parole, probation, or
114 conditional release;

115 (4) For any violation which results in injury or death to another person,
116 a person shall be sentenced to an authorized disposition for a class A felony.

117 9. Any person knowingly aiding or abetting any other person in the
118 violation of subdivision (9) of subsection 1 of this section shall be subject to the
119 same penalty as that prescribed by this section for violations by other persons.

120 10. As used in this section "qualified retired peace officer" means an
121 individual who:

122 (1) Retired in good standing from service with a public agency as a peace
123 officer, other than for reasons of mental instability;

124 (2) Before such retirement, was authorized by law to engage in or
125 supervise the prevention, detection, investigation, or prosecution of, or the
126 incarceration of any person for, any violation of law, and had statutory powers of
127 arrest;

128 (3) Before such retirement, was regularly employed as a peace officer for
129 an aggregate of fifteen years or more, or retired from service with such agency,
130 after completing any applicable probationary period of such service, due to a
131 service-connected disability, as determined by such agency;

132 (4) Has a nonforfeitable right to benefits under the retirement plan of the
133 agency if such a plan is available;

134 (5) During the most recent twelve-month period, has met, at the expense
135 of the individual, the standards for training and qualification for active peace
136 officers to carry firearms;

137 (6) Is not under the influence of alcohol or another intoxicating or
138 hallucinatory drug or substance; and

139 (7) Is not prohibited by federal law from receiving a firearm.

140 11. The identification required by subdivision (1) of subsection 2 of this
141 section is:

142 (1) A photographic identification issued by the agency from which the
143 individual retired from service as a peace officer that indicates that the individual
144 has, not less recently than one year before the date the individual is carrying the
145 concealed firearm, been tested or otherwise found by the agency to meet the
146 standards established by the agency for training and qualification for active peace
147 officers to carry a firearm of the same type as the concealed firearm; or

148 (2) A photographic identification issued by the agency from which the
149 individual retired from service as a peace officer; and

150 (3) A certification issued by the state in which the individual resides that
151 indicates that the individual has, not less recently than one year before the date
152 the individual is carrying the concealed firearm, been tested or otherwise found
153 by the state to meet the standards established by the state for training and
154 qualification for active peace officers to carry a firearm of the same type as the
155 concealed firearm.

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