

FIRST REGULAR SESSION

HOUSE BILL NO. 727

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KRATKY (Sponsor), McDONALD, WALTON GRAY, HUMMEL, COLONA, NEWMAN, OXFORD, ATKINS, PACE, MONTECILLO, CARTER, NICHOLS, CARLSON, KIRKTON AND SPRENG (Co-sponsors).

1523L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 571.030 and 571.101, RSMo, and to enact in lieu thereof three new sections relating to unlawful use of a weapon, with existing penalty provisions.

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

Section A. Sections 571.030 and 571.101, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 571.030, 571.101, and 571.106, to read as follows:

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

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

(2) Sets a spring gun; or

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

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

(5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;

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.

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

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

19 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
20 or place where people have assembled for worship, or into any election precinct on any election
21 day, or into any building owned or occupied by any agency of the federal government, state
22 government, or political subdivision thereof; or

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

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

29 **(11) Commits a felony offense while in possession of an otherwise lawfully**
30 **concealed firearm, regardless of whether the firearm was used in the commission of the**
31 **felony offense.**

32 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall
33 not apply to or affect any of the following when such uses are reasonably associated with or are
34 necessary to the fulfillment of such person's official duties:

35 (1) All state, county and municipal peace officers who have completed the training
36 required by the police officer standards and training commission pursuant to sections 590.030
37 to 590.050 and who possess the duty and power of arrest for violation of the general criminal
38 laws of the state or for violation of ordinances of counties or municipalities of the state, whether
39 such officers are on or off duty, and whether such officers are within or outside of the law
40 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection
41 [10] **11** of this section, and who carry the identification defined in subsection [11] **12** of this
42 section, or any person summoned by such officers to assist in making arrests or preserving the
43 peace while actually engaged in assisting such officer;

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

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

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

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

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

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

55 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
56 of the regulations established by the board of police commissioners under section 84.340;

57 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner; and

58 (10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney
59 or assistant circuit attorney who has completed the firearms safety training course required under
60 subsection 2 of section 571.111.

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

74 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
75 person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to
76 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or
77 political subdivision of another state.

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

80 6. Nothing in this section shall make it unlawful for a student to actually participate in
81 school-sanctioned gun safety courses, student military or ROTC courses, or other
82 school-sponsored firearm-related events, provided the student does not carry a firearm or other
83 weapon readily capable of lethal use into any school, onto any school bus, or onto the premises
84 of any other function or activity sponsored or sanctioned by school officials or the district school
85 board.

86 7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
87 (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
88 subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor
89 if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of
90 subsection 1 of this section, in which case it is a class B felony, except that if the violation of
91 subdivision (9) of subsection 1 of this section results in injury or death to another person, it is
92 a class A felony.

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

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

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

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

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

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

108 **10. Notwithstanding any other provision of law, no person who is convicted of**
109 **violating the provisions of subsection 1 of this section shall, for a first offense, be placed on**
110 **probation if such person was a documented member of a gang at the time of the**
111 **commission of the offense or if such person was in possession of illegal controlled**
112 **substances at the time of the commission of the offense.**

113 **11.** As used in this section "qualified retired peace officer" means an individual who:

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

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

119 (3) Before such retirement, was regularly employed as a peace officer for an aggregate
120 of fifteen years or more, or retired from service with such agency, after completing any

121 applicable probationary period of such service, due to a service-connected disability, as
122 determined by such agency;

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

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

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

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

130 [11.] **12.** The identification required by subdivision (1) of subsection 2 of this section
131 is:

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

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

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

571.101. 1. All applicants for concealed carry endorsements issued pursuant to
2 subsection 7 of this section must satisfy the requirements of sections 571.101 to 571.121. If the
3 said applicant can show qualification as provided by sections 571.101 to 571.121, the county or
4 city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon
5 receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's
6 license with the director of revenue in order to obtain a concealed carry endorsement. Any
7 person who has been issued a concealed carry endorsement on a driver's license or nondriver's
8 license and such endorsement or license has not been suspended, revoked, canceled, or denied
9 may carry concealed firearms on or about his or her person or within a vehicle. A concealed
10 carry endorsement shall be valid for a period of three years from the date of issuance or renewal.
11 The concealed carry endorsement is valid throughout this state.

12 2. A certificate of qualification for a concealed carry endorsement issued pursuant to
13 subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or
14 city in which the applicant resides, if the applicant:

15 (1) Is at least twenty-three years of age, is a citizen of the United States and either:

16 (a) Has assumed residency in this state; or

17 (b) Is a member of the armed forces stationed in Missouri, or the spouse of such member
18 of the military;

19 (2) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a
20 crime punishable by imprisonment for a term exceeding one year under the laws of any state or
21 of the United States other than a crime classified as a misdemeanor under the laws of any state
22 and punishable by a term of imprisonment of one year or less that does not involve an explosive
23 weapon, firearm, firearm silencer or gas gun;

24 (3) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one
25 or more misdemeanor offenses involving crimes of violence within a five-year period
26 immediately preceding application for a certificate of qualification for a concealed carry
27 endorsement or if the applicant has not been convicted of two or more misdemeanor offenses
28 involving driving while under the influence of intoxicating liquor or drugs or the possession or
29 abuse of a controlled substance within a five-year period immediately preceding application for
30 a certificate of qualification for a concealed carry endorsement;

31 (4) Is not a fugitive from justice or currently charged in an information or indictment
32 with the commission of a crime punishable by imprisonment for a term exceeding one year under
33 the laws of any state of the United States other than a crime classified as a misdemeanor under
34 the laws of any state and punishable by a term of imprisonment of two years or less that does not
35 involve an explosive weapon, firearm, firearm silencer, or gas gun;

36 (5) Has not been discharged under dishonorable conditions from the United States armed
37 forces;

38 (6) Has not engaged in a pattern of behavior, documented in public records, that causes
39 the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;

40 (7) Is not adjudged mentally incompetent at the time of application or for five years prior
41 to application, or has not been committed to a mental health facility, as defined in section
42 632.005, or a similar institution located in another state following a hearing at which the
43 defendant was represented by counsel or a representative;

44 (8) Submits a completed application for a certificate of qualification as [defined]
45 **described** in subsection 3 of this section;

46 (9) Submits an affidavit attesting that the applicant complies with the concealed carry
47 safety training requirement pursuant to subsections 1 and 2 of section 571.111;

48 (10) Is not the respondent of a valid full order of protection which is still in effect;

49 **(11) Has not had his or her concealed carry endorsement permanently revoked**
50 **under the provisions of section 571.106.**

51 3. The application for a certificate of qualification for a concealed carry endorsement
52 issued by the sheriff of the county of the applicant's residence shall contain only the following
53 information:

54 (1) The applicant's name, address, telephone number, gender, and date and place of birth;

55 (2) An affirmation that the applicant has assumed residency in Missouri or is a member
56 of the armed forces stationed in Missouri or the spouse of such a member of the armed forces
57 and is a citizen of the United States;

58 (3) An affirmation that the applicant is at least twenty-three years of age;

59 (4) An affirmation that the applicant has not pled guilty to or been convicted of a crime
60 punishable by imprisonment for a term exceeding one year under the laws of any state or of the
61 United States other than a crime classified as a misdemeanor under the laws of any state and
62 punishable by a term of imprisonment of one year or less that does not involve an explosive
63 weapon, firearm, firearm silencer, or gas gun;

64 (5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered
65 a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence
66 within a five-year period immediately preceding application for a certificate of qualification to
67 obtain a concealed carry endorsement or if the applicant has not been convicted of two or more
68 misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs
69 or the possession or abuse of a controlled substance within a five-year period immediately
70 preceding application for a certificate of qualification to obtain a concealed carry endorsement;

71 (6) An affirmation that the applicant is not a fugitive from justice or currently charged
72 in an information or indictment with the commission of a crime punishable by imprisonment for
73 a term exceeding one year under the laws of any state or of the United States other than a crime
74 classified as a misdemeanor under the laws of any state and punishable by a term of
75 imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm
76 silencer or gas gun;

77 (7) An affirmation that the applicant has not been discharged under dishonorable
78 conditions from the United States armed forces;

79 (8) An affirmation that the applicant is not adjudged mentally incompetent at the time
80 of application or for five years prior to application, or has not been committed to a mental health
81 facility, as defined in section 632.005, or a similar institution located in another state, except that
82 a person whose release or discharge from a facility in this state pursuant to chapter 632, or a

83 similar discharge from a facility in another state, occurred more than five years ago without
84 subsequent recommitment may apply;

85 (9) An affirmation that the applicant has received firearms safety training that meets the
86 standards of applicant firearms safety training defined in subsection 1 or 2 of section 571.111;

87 (10) An affirmation that the applicant, to the applicant's best knowledge and belief, is
88 not the respondent of a valid full order of protection which is still in effect; and

89 (11) A conspicuous warning that false statements made by the applicant will result in
90 prosecution for perjury pursuant to the laws of the state of Missouri.

91 4. An application for a certificate of qualification for a concealed carry endorsement shall
92 be made to the sheriff of the county or any city not within a county in which the applicant
93 resides. An application shall be filed in writing, signed under oath and under the penalties of
94 perjury, and shall state whether the applicant complies with each of the requirements specified
95 in subsection 2 of this section. In addition to the completed application, the applicant for a
96 certificate of qualification for a concealed carry endorsement must also submit the following:

97 (1) A photocopy of a firearms safety training certificate of completion or other evidence
98 of completion of a firearms safety training course that meets the standards established in
99 subsection 1 or 2 of section 571.111; and

100 (2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11
101 of this section.

102 5. Before an application for a certificate of qualification for a concealed carry
103 endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary
104 into the accuracy of the statements made in the application. The sheriff may require that the
105 applicant display a Missouri driver's license or nondriver's license or military identification and
106 orders showing the person being stationed in Missouri. In order to determine the applicant's
107 suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall
108 be fingerprinted. The sheriff shall request a criminal background check through the appropriate
109 law enforcement agency within three working days after submission of the properly completed
110 application for a certificate of qualification for a concealed carry endorsement. If no
111 disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall
112 be forwarded to the Federal Bureau of Investigation for a national criminal history record check.
113 Upon receipt of the completed background check, the sheriff shall issue a certificate of
114 qualification for a concealed carry endorsement within three working days. The sheriff shall
115 issue the certificate within forty-five calendar days if the criminal background check has not been
116 received, provided that the sheriff shall revoke any such certificate and endorsement within
117 twenty-four hours of receipt of any background check that results in a disqualifying record, and
118 shall notify the department of revenue.

119 6. The sheriff may refuse to approve an application for a certificate of qualification for
120 a concealed carry endorsement if he or she determines that any of the requirements specified in
121 subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable
122 reason to believe that the applicant has rendered a false statement regarding any of the provisions
123 of sections 571.101 to 571.121. If the applicant is found to be ineligible, the sheriff is required
124 to deny the application, and notify the applicant in writing, stating the grounds for denial and
125 informing the applicant of the right to submit, within thirty days, any additional documentation
126 relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff
127 shall reconsider his or her decision and inform the applicant within thirty days of the result of
128 the reconsideration. The applicant shall further be informed in writing of the right to appeal the
129 denial pursuant to subsections 2, 3, 4, and 5 of section 571.114. After two additional reviews
130 and denials by the sheriff, the person submitting the application shall appeal the denial pursuant
131 to subsections 2, 3, 4, and 5 of section 571.114.

132 7. If the application is approved, the sheriff shall issue a certificate of qualification for
133 a concealed carry endorsement to the applicant within a period not to exceed three working days
134 after his or her approval of the application. The applicant shall sign the certificate of
135 qualification in the presence of the sheriff or his or her designee and shall within seven days of
136 receipt of the certificate of qualification take the certificate of qualification to the department of
137 revenue. Upon verification of the certificate of qualification and completion of a driver's license
138 or nondriver's license application pursuant to chapter 302, the director of revenue shall issue a
139 new driver's license or nondriver's license with an endorsement which identifies that the
140 applicant has received a certificate of qualification to carry concealed weapons issued pursuant
141 to sections 571.101 to 571.121 if the applicant is otherwise qualified to receive such driver's
142 license or nondriver's license. The requirements for the director of revenue to issue a concealed
143 carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the
144 certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall
145 allow the person issued such certificate to carry a concealed weapon pursuant to the requirements
146 of subsection 1 of section 571.107 in lieu of the concealed carry endorsement issued by the
147 director of revenue from October 11, 2003, until the concealed carry endorsement is issued by
148 the director of revenue on or after July 1, 2004, unless such certificate of qualification has been
149 suspended or revoked for cause.

150 8. The sheriff shall keep a record of all applications for a certificate of qualification for
151 a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance
152 of a certificate of qualification to the Missouri uniform law enforcement system. All information
153 on any such certificate that is protected information on any driver's or nondriver's license shall
154 have the same personal protection for purposes of sections 571.101 to 571.121. An applicant's

155 status as a holder of a certificate of qualification or a concealed carry endorsement shall not be
156 public information and shall be considered personal protected information. Any person who
157 violates the provisions of this subsection by disclosing protected information shall be guilty of
158 a class A misdemeanor.

159 9. Information regarding any holder of a certificate of qualification or a concealed carry
160 endorsement is a closed record.

161 10. For processing an application for a certificate of qualification for a concealed carry
162 endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a
163 nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the
164 county to the credit of the sheriff's revolving fund.

165 11. For processing a renewal for a certificate of qualification for a concealed carry
166 endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a
167 nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to
168 the credit of the sheriff's revolving fund.

169 12. For the purposes of sections 571.101 to 571.121, the term "sheriff" shall include the
170 sheriff of any county or city not within a county or his or her designee and in counties of the first
171 classification the sheriff may designate the chief of police of any city, town, or municipality
172 within such county.

**571.106. 1. A concealed carry endorsement issued under sections 571.101 to
2 571.121 shall be suspended upon the filing with the court of an indictment or information
3 charging the concealed carry endorsement holder with unlawful use of a weapon under
4 subdivision (11) of subsection 1 of section 571.030. The court shall immediately order the
5 suspension of such concealed carry endorsement and cause notification of the suspension
6 to be made to the concealed carry endorsement holder.**

7 **2. Upon notification of the suspension order, the holder of the concealed carry
8 endorsement shall immediately surrender the driver's license or nondriver's license
9 containing the concealed carry endorsement to the officer or other official serving the
10 notice of suspension.**

11 **3. The officer or other official to whom the driver's license or nondriver's license
12 containing the concealed carry endorsement is surrendered shall issue a receipt to the
13 licensee for the license upon a form, approved by the director of revenue, that serves as a
14 driver's license or a nondriver's license and clearly states that the concealed carry
15 endorsement has been suspended. The officer or other official shall then transmit the
16 driver's license or nondriver's license containing the concealed carry endorsement to the
17 circuit court of the county issuing the order. The concealed carry endorsement shall be
18 suspended until the order is terminated, the charge or indictment is dismissed or until the**

19 **concealed carry endorsement holder is found not guilty of the charge of violating**
20 **subdivision (11) of subsection 1 of section 571.030. Upon dismissal of the charge or a**
21 **finding of not guilty, the court holding the driver's license or nondriver's license containing**
22 **the concealed carry endorsement shall return it to the individual. Upon a plea of guilty or**
23 **a finding of guilt to the charge the concealed carry endorsement shall be permanently**
24 **revoked. The court shall forward a notice of the plea or conviction along with the driver's**
25 **license or nondriver's license which has the concealed carry endorsement to the**
26 **department of revenue. The department of revenue shall notify the sheriff of the county**
27 **which issued the certificate of qualification for a concealed carry endorsement and shall**
28 **report the change in status of the concealed carry endorsement to the Missouri uniform law**
29 **enforcement system. The director of revenue shall immediately remove the endorsement**
30 **issued under sections 571.101 to 571.121 from the individual's driving record within three**
31 **days of the receipt of the notice from the court. The director of revenue shall notify the**
32 **licensee that he or she must apply for a new license under chapter 302 which does not**
33 **contain such endorsement. This requirement does not affect the driving privileges of the**
34 **licensee. The notice issued by the department of revenue shall be mailed to the last known**
35 **address shown on the individual's driving record. The notice is deemed received three**
36 **days after mailing.**

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