

SECOND REGULAR SESSION

HOUSE BILL NO. 1164

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SOMMER (Sponsor) AND ENGLISH (Co-sponsor).

4469H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 571.030, RSMo, and to enact in lieu thereof two new sections relating to firearms, with a penalty provision.

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

Section A. Section 571.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 21.755 and 571.030, to read as follows:

21.755. 1. This section shall be called and may be cited as the "Missouri Firearms Freedom Act".

2. The general assembly declares that the authority for this section is the following:

(1) Amendment X of the Constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Missouri certain powers as they were understood at the time that Missouri was admitted to statehood. The guarantee of those powers is a matter of contract between the state and people of Missouri and the United States as of the time that the compact with the United States was agreed upon and adopted by Missouri and the United States;

(2) Amendment IX of the Constitution of the United States guarantees to the people rights not granted in the Constitution and reserves to the people of Missouri certain rights as they were understood at the time that Missouri was admitted to statehood. The guarantee of those rights is a matter of contract between the state and people of Missouri and the United States as of the time that the compact with the United States was agreed upon and adopted by Missouri and the United States;

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.

17 **(3) The regulation of intrastate commerce is vested in the states under Amendments**
18 **IX and X of the Constitution of the United States, particularly if not expressly preempted**
19 **by federal law. Congress has not expressly preempted state regulation of intrastate**
20 **commerce pertaining to the manufacture on an intrastate basis of firearms, firearms**
21 **accessories, and ammunition;**

22 **(4) Amendment II of the Constitution of the United States reserves to the people the**
23 **right to keep and bear arms as that right was understood at the time that Missouri was**
24 **admitted to statehood, and the guarantee of the right is a matter of contract between the**
25 **state and people of Missouri and the United States as of the time that the compact with the**
26 **United States was agreed upon and adopted by Missouri and the United States; and**

27 **(5) Article I, section 23, Constitution of Missouri clearly secures to Missouri**
28 **citizens, and prohibits government interference with, the right of individual Missouri**
29 **citizens to keep and bear arms.**

30 **3. As used in this section, unless the context otherwise requires, the following terms**
31 **shall mean:**

32 **(1) "Firearms accessories", items that are used in conjunction with or mounted**
33 **upon a fire arm but are not essential to the basic function of a firearm, including but not**
34 **limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or**
35 **aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target**
36 **illumination;**

37 **(2) "Generic and insignificant parts", includes but is not limited to springs, screws,**
38 **nuts, and pins;**

39 **(3) "Manufactured", creating a firearm, a firearm accessory, or ammunition from**
40 **basic materials for functional usefulness, including but not limited to forging, casting,**
41 **machining, or other processes for working materials.**

42 **4. A personal firearm, a firearm accessory, or ammunition that is manufactured**
43 **commercially or privately in Missouri and that remains within the borders of Missouri is**
44 **not subject to federal law or federal regulation, including registration, under the authority**
45 **of Congress to regulate interstate commerce. It is declared by the legislature that those**
46 **items have not traveled in interstate commerce. This section applies to a firearm, a firearm**
47 **accessory, or ammunition that is manufactured in Missouri from basic materials and that**
48 **can be manufactured without the inclusion of any significant parts imported into this state.**
49 **Generic and insignificant parts that have other manufacturing or consumer product**
50 **applications are not firearms, fire arms accessories, or ammunition, and their importation**
51 **into Missouri and incorporation into a firearm, a firearm accessory, or ammunition**
52 **manufactured in Missouri does not subject the firearm, firearm accessory, or ammunition**

53 to federal regulation. It is declared by the legislature that basic materials, such as
54 unmachined steel and unshaped wood, are not firearms, firearms accessories, or
55 ammunition and are not subject to congressional authority to regulate firearms, firearms
56 accessories, or ammunition under interstate commerce as if they were actually firearms,
57 firearms accessories, or ammunition. The authority of Congress to regulate interstate
58 commerce in basic materials does not include the authority to regulate firearms, firearms
59 accessories, or ammunition made in Missouri from those materials. Firearms accessories
60 that are imported into Missouri from another state and that are subject to federal
61 regulation as being in interstate commerce do not subject a firearm to federal regulation
62 under interstate commerce because they are attached to or used in conjunction with a
63 firearm in Missouri.

64 **5. The provisions of this section shall not apply to:**

65 **(1) A firearm that cannot be carried and used by one person;**

66 **(2) A fire arm that has a bore diameter greater than one half inch and that uses**
67 **smokeless powder, not black powder, as a propellant;**

68 **(3) Ammunition with a projectile that explodes using an explosion of chemical**
69 **energy after the projectile leaves the firearm; or**

70 **(4) A firearm that discharges two or more projectiles with one activation of the**
71 **trigger or other firing device.**

72 **6. A firearm manufactured or sold in Missouri under the provisions of this section**
73 **shall have the words "Made in Missouri" clearly stamped on a central metallic part, such**
74 **as the receiver or frame.**

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

3 **(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or**
4 **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, boat, aircraft,**
7 **or motor vehicle as defined in section 302.010, or any building or structure used for the**
8 **assembling of people; or**

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

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

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.

29 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the
30 persons described in this subsection, regardless of whether such uses are reasonably associated
31 with or are necessary to the fulfillment of such person's official duties except as otherwise
32 provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section
33 shall not apply to or affect any of the following persons, when such uses are reasonably
34 associated with or are necessary to the fulfillment of such person's official duties, except as
35 otherwise provided in this subsection:

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

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

47 (3) Members of the Armed Forces or National Guard while performing their official
48 duty;

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

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

53 (6) Any federal probation officer or federal flight deck officer as defined under the
54 federal flight deck officer program, 49 U.S.C. Section 44921 regardless of whether such officers
55 are on duty, or within the law enforcement agency's jurisdiction;

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

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

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

61 (10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney
62 or assistant circuit attorney who has completed the firearms safety training course required under
63 subsection 2 of section 571.111;

64 (11) Any member of a fire department or fire protection district who is employed on a
65 full-time basis as a fire investigator and who has a valid concealed carry endorsement issued
66 prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such
67 uses are reasonably associated with or are necessary to the fulfillment of such person's official
68 duties; [and]

69 (12) Upon the written approval of the governing body of a fire department or fire
70 protection district, any paid fire department or fire protection district chief who is employed on
71 a full-time basis and who has a valid concealed carry endorsement, when such uses are
72 reasonably associated with or are necessary to the fulfillment of such person's official duties; **and**

73 **(13) Any member of an ambulance service, who is employed on a full-time basis as**
74 **an emergency medical technician or paramedic and who has met the training requirements**
75 **for a concealed carry endorsement under section 571.111.**

76 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when
77 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
78 ammunition is not readily accessible or when such weapons are not readily accessible.
79 Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of
80 age or older or eighteen years of age or older and a member of the United States Armed Forces,
81 or honorably discharged from the United States Armed Forces, transporting a concealable
82 firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm
83 is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm
84 or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon

85 premises over which the actor has possession, authority or control, or is traveling in a continuous
86 journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not
87 apply if the firearm is otherwise lawfully possessed by a person while traversing school premises
88 for the purposes of transporting a student to or from school, or possessed by an adult for the
89 purposes of facilitation of a school-sanctioned firearm-related event or club event.

90 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
91 person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121,
92 a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or
93 endorsement to carry concealed firearms issued by another state or political subdivision of
94 another state.

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

97 6. Notwithstanding any provision of this section to the contrary, the state shall not
98 prohibit any state employee from having a firearm in the employee's vehicle on the state's
99 property provided that the vehicle is locked and the firearm is not visible. This subsection shall
100 only apply to the state as an employer when the state employee's vehicle is on property owned
101 or leased by the state and the state employee is conducting activities within the scope of his or
102 her employment. For the purposes of this subsection, "state employee" means an employee of
103 the executive, legislative, or judicial branch of the government of the state of Missouri.

104 7. Nothing in this section shall make it unlawful for a student to actually participate in
105 school-sanctioned gun safety courses, student military or ROTC courses, or other
106 school-sponsored or club-sponsored firearm-related events, provided the student does not carry
107 a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or
108 onto the premises of any other function or activity sponsored or sanctioned by school officials
109 or the district school board.

110 8. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
111 (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
112 subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor
113 if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of
114 subsection 1 of this section, in which case it is a class B felony, except that if the violation of
115 subdivision (9) of subsection 1 of this section results in injury or death to another person, it is
116 a class A felony.

117 9. Violations of subdivision (9) of subsection 1 of this section shall be punished as
118 follows:

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

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

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

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

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

132 11. Notwithstanding any other provision of law, no person who pleads guilty to or is
133 found guilty of a felony violation of subsection 1 of this section shall receive a suspended
134 imposition of sentence if such person has previously received a suspended imposition of sentence
135 for any other firearms- or weapons-related felony offense.

136 12. As used in this section "qualified retired peace officer" means an individual who:

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

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

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

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

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

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

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

153 13. The identification required by subdivision (1) of subsection 2 of this section is:

154 (1) A photographic identification issued by the agency from which the individual retired
155 from service as a peace officer that indicates that the individual has, not less recently than one
156 year before the date the individual is carrying the concealed firearm, been tested or otherwise

157 found by the agency to meet the standards established by the agency for training and qualification
158 for active peace officers to carry a firearm of the same type as the concealed firearm; or

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

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

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