

HCS HB 436 -- FIREARMS (Funderburk)

COMMITTEE OF ORIGIN: Committee on General Laws

This substitute changes the laws regarding firearms.

SECOND AMENDMENT PRESERVATION ACT

The substitute establishes the Second Amendment Preservation Act in which all past, present, or future federal acts, laws, orders, rules, or regulations that infringe on the people's right to keep and bear arms, as guaranteed by both the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution, are invalid, will not be recognized, are specifically rejected, and will be considered null and void and of no effect in this state.

The substitute specifies that it will be the duty of the courts and law enforcement agencies of the state to protect the rights of law-abiding citizens to keep and bear arms within the borders of the state, and no public officer or employee of the state has any authority to enforce or attempt to enforce any of the infringements on the right. Any official, agent, or employee of the federal government who enforces or attempts to enforce any of the infringements on the right to keep or bear arms is guilty of a class A misdemeanor.

Any state citizen who has been subject to an effort to enforce any of the infringements on the right to keep and bear arms specified will have a private cause of action for declaratory judgment and for damages against any person or entity attempting the enforcement.

OPEN CARRY OF FIREARMS

The substitute specifies that in any jurisdiction that prohibits the open carry of a firearm by ordinance, the prohibition is lifted if the person has a valid concealed carry endorsement from this state or another state that is recognized by this state in his or her possession at all times and displays the endorsement or permit upon the demand of a law enforcement officer and the firearm being openly carried is 16 inches or less in overall length. In the absence of any reasonable and articulable suspicion of criminal activity, a person carrying a concealed or unconcealed handgun cannot be disarmed or physically restrained by a law enforcement officer unless under arrest. Any concealed carry endorsement holder who violates these requirements may be issued a citation for an amount of up to \$35, but it will not be a criminal offense.

SCHOOL PROTECTION OFFICERS

The substitute allows any school district to designate one or more elementary or secondary school teachers or administrators as a school protection officer, whose responsibilities and duties are voluntary and in addition to their normal responsibilities and duties. Any compensation for serving as a school protection officer must be funded by the local school district without using state funds.

The substitute authorizes a school protection officer to carry concealed firearms in any school of the district, but he or she must keep the firearm on his or her person while on school property. A person violating these provisions must be removed immediately from the classroom, is guilty of a class A misdemeanor, and is subject to employment termination proceedings within the school district.

A school protection officer may detain any person the officer sees violating or the officer has reasonable grounds to believe has violated, any state law or school policy. Any person detained for violation of a state law must be turned over to a law enforcement officer. Any person detained for a violation of a school policy must be turned over to a school administrator. However, a person cannot be detained for more than four hours.

The substitute specifies the requirements to be designated as a school protection officer, including requesting the designation in writing to the school district superintendent, holding a valid concealed carry endorsement, and completion of a school protection officer training program approved by the Director of the Department of Public Safety. Any school district that designates a teacher or administrator as a school protection officer must notify the director in writing within 30 days.

The substitute allows a school district to revoke the designation of a person as a school protection officer for any reason. The district must immediately notify the person in writing and must notify the department in writing within 30 days of the revocation.

The substitute requires the department to maintain a listing of all persons designated as a school protection officer and to make the list available to all law enforcement agencies. However, any identifying information collected is not considered public information and is not subject to an information request under the Open Meetings and Records Law, commonly known as the Sunshine Law.

Any school employee who discloses any information to anyone, other than those authorized to receive it, will be guilty of a class B

misdemeanor and will be subject to employment termination proceedings within the school district.

Currently, a person with a valid concealed carry endorsement cannot carry a concealed firearm in any higher education institution or elementary or secondary school facility without the consent of the governing body or a school official or the district school board. The substitute exempts any teacher or administrator of an elementary or secondary school who has been designated by his or her school district as a school protection officer and is carrying a firearm in a school within that district from the requirement of obtaining consent.

The substitute requires the Peace Officer Standards and Training Commission to establish minimum standards for the training of school protection officers and specifies the minimum training requirements. The commission must also establish minimum standards for school protection officer training instructors, centers, and programs. The director of the commission must develop and maintain a list of approved school protection officer training instructors, centers, and programs, and make the list available to every school district in the state. The substitute specifies the information that must be submitted by each person seeking entrance into a school protection officer training center or program. A certificate of school protection officer training program completion may be issued to any applicant by any approved instructor affirming that the person has taken and passed a program that meets all requirements specified in the bill and the person has a valid concealed carry endorsement.

FIREARM OWNERSHIP INFORMATION

The substitute specifies that a person or entity cannot publish the name, address, or other identifying information of any individual who owns a firearm or is an applicant for or holder of any license, certificate, permit, or endorsement that allows the person to own, acquire, possess, or carry a firearm. Any person or entity violating these provisions is guilty of a class A misdemeanor.

The substitute specifies that a licensed health care professional cannot be required by law to inquire if a patient owns a firearm, document or maintain in a patient's medical records if the patient owns a firearm, or notify any governmental entity of the identity of a patient based solely on his or her status as a firearm owner.

UNLAWFUL POSSESSION OF A FIREARM DURING A FELONY

The substitute specifies that a person who is found guilty or pleads guilty or nolo contendere to a prior felony offense and who

commits a subsequent felony offense in which the person possesses, displays, brandishes, threatens to use, attempts to use, or discharges any firearm will be guilty of the offense of unlawful possession or use of a firearm during the commission of a felony. The offense will be in addition to and not in lieu of any underlying felony offense or other offense for which the person may be charged.

The substitute specifies that a person who commits the offense by possessing a firearm during the commission of a felony will be subject to 10 years imprisonment; by displaying, brandishing, threatening to use, or attempting to use a firearm during the commission of a felony will be subject to 20 years imprisonment; and by discharging a firearm during the commission of a felony will be subject to a term of life imprisonment. The terms of imprisonment must be imposed consecutively to any other terms of imprisonment imposed for any other felony offense.

The substitute exempts law enforcement officers or United States military personnel who are performing their lawful duties or who are traveling to or from their places of employment or assignment from these provisions.

CONCEALED CARRY ENDORSEMENTS

The substitute changes the minimum age a person can be issued a concealed carry endorsement from 21 years of age to 19 years of age.