

FIRST REGULAR SESSION

SENATE BILL NO. 74

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUDSON.

1256S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 21.750, RSMo, and to enact in lieu thereof one new section relating to firearms.

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

Section A. Section 21.750, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 21.750,
3 to read as follows:

21.750. 1. The general assembly hereby occupies and
2 preempts the entire field of legislation touching in any way
3 firearms, components, ammunition and supplies to the
4 complete exclusion of any order, ordinance or regulation by
5 any political subdivision of this state. Any existing or
6 future orders, ordinances or regulations in this field are
7 hereby and shall be null and void except as provided in
8 subsection 3 of this section.

9 2. No county, city, town, village, municipality, or
10 other political subdivision of this state shall adopt any
11 order, ordinance or regulation concerning in any way the
12 sale, purchase, purchase delay, transfer, ownership, use,
13 keeping, possession, bearing, transportation, licensing,
14 permit, registration, taxation other than sales and
15 compensating use taxes or other controls on firearms,
16 components, ammunition, and supplies except as provided in
17 subsection 3 of this section.

18 3. [(1) Except as provided in subdivision (2) of this
19 subsection,] Nothing contained in this section shall

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

20 prohibit any ordinance of any political subdivision which
21 conforms exactly with any of the provisions of sections
22 571.010 to 571.070, with appropriate penalty provisions, [or
23 which regulates the open carrying of firearms readily
24 capable of lethal use] or the discharge of firearms within a
25 jurisdiction, provided such ordinance complies with the
26 provisions of section 252.243. No ordinance shall be
27 construed to preclude the use of a firearm in the defense of
28 person or property, subject to the provisions of chapter 563.

29 [(2) In any jurisdiction in which the open carrying of
30 firearms is prohibited by ordinance, the open carrying of
31 firearms shall not be prohibited in accordance with the
32 following:

33 (a) Any person with a valid concealed carry
34 endorsement or permit who is open carrying a firearm shall
35 be required to have a valid concealed carry endorsement or
36 permit from this state, or a permit from another state that
37 is recognized by this state, in his or her possession at all
38 times;

39 (b) Any person open carrying a firearm in such
40 jurisdiction shall display his or her concealed carry
41 endorsement or permit upon demand of a law enforcement
42 officer;

43 (c) In the absence of any reasonable and articulable
44 suspicion of criminal activity, no person carrying a
45 concealed or unconcealed firearm shall be disarmed or
46 physically restrained by a law enforcement officer unless
47 under arrest; and

48 (d) Any person who violates this subdivision shall be
49 subject to the penalty provided in section 571.121.]

50 4. The lawful design, marketing, manufacture,
51 distribution, or sale of firearms or ammunition to the

52 public is not an abnormally dangerous activity and does not
53 constitute a public or private nuisance.

54 5. No county, city, town, village or any other
55 political subdivision nor the state shall bring suit or have
56 any right to recover against any firearms or ammunition
57 manufacturer, trade association or dealer for damages,
58 abatement or injunctive relief resulting from or relating to
59 the lawful design, manufacture, marketing, distribution, or
60 sale of firearms or ammunition to the public. This
61 subsection shall apply to any suit pending as of October 12,
62 2003, as well as any suit which may be brought in the
63 future. Provided, however, that nothing in this section
64 shall restrict the rights of individual citizens to recover
65 for injury or death caused by the negligent or defective
66 design or manufacture of firearms or ammunition.

67 6. Nothing in this section shall prevent the state, a
68 county, city, town, village or any other political
69 subdivision from bringing an action against a firearms or
70 ammunition manufacturer or dealer for breach of contract or
71 warranty as to firearms or ammunition purchased by the state
72 or such political subdivision.

73 **7. Any political subdivision who knowingly violates**
74 **the provisions of section 21.750 or otherwise knowingly**
75 **deprives a citizen of Missouri of the rights or privileges**
76 **ensured by Amendment II of the Constitution of the United**
77 **States or Article I, Section 23 of the Constitution of**
78 **Missouri shall be liable to the injured party in an action**
79 **at law, suit in equity, or other proper proceeding for**
80 **redress, and subject to a civil penalty of fifty thousand**
81 **dollars per occurrence. Any person injured under this**
82 **section shall have standing to pursue an action for**
83 **injunctive relief in the circuit court of the county in**

84 which the action allegedly occurred or in the circuit court
85 of Cole County with respect to the actions of such
86 individual. The court shall hold a hearing on the motion
87 for temporary restraining order and preliminary injunction
88 within thirty days of service of the petition.

89 8. In such actions, the court may award the prevailing
90 party, other than the state of Missouri or any political
91 subdivision of the state, reasonable attorney's fees and
92 costs.

93 9. Sovereign immunity shall not be an affirmative
94 defense in any action pursuant to this section.

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