

SECOND REGULAR SESSION

HOUSE BILL NO. 3002

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOLFIN.

5571H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, RSMo, and to enact in lieu thereof seven new sections relating to the sole, exclusive, and specific purpose of amending the truly agreed to and finally passed senate substitute for senate committee substitute for house committee substitute for house bills 85 & 310 as passed by the one hundred first general assembly, first regular session by completely repealing sections 1.410.2(4), 1.410.2(6), 1.410.2(7), 1.410.2(9), 1.430, 1.440, RSMo, repealing everything after the first sentence in 1.410.2(5), RSMo, and replacing the first sentence up to the colon in 1.420, RSMo, with, "The State of Missouri and any of its political subdivisions, as well as the public officials, employees, or agents of the State and any of its political subdivisions, shall have no authority to assist in the enforcement of the following types of federal acts, laws, executive orders, administrative orders, rules, and regulations within the borders of this state including, but not limited to:", repealing the first sentence of 1.450, updating a date, and making appropriate nonsubstantive technical changes for consistency and clarity.

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

Section A. Sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, 2 RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 3 1.410, 1.420, 1.450, 1.460, 1.470, 1.480, and 1.485, to read as follows:

1.410. 1. Sections 1.410 to 1.485 shall be known and may be cited as the "Second 2 Amendment Preservation Act".

3 2. The general assembly finds and declares that:

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.

4 (1) The general assembly of the state of Missouri is firmly resolved to support and
5 defend the Constitution of the United States against every aggression, whether foreign or
6 domestic, and is duty-bound to oppose every infraction of those principles that constitute the
7 basis of the union of the states because only a faithful observance of those principles can
8 secure the union's existence and the public happiness;

9 (2) Acting through the Constitution of the United States, the people of the several
10 states created the federal government to be their agent in the exercise of a few defined
11 powers, while reserving for the state governments the power to legislate on matters
12 concerning the lives, liberties, and properties of citizens in the ordinary course of affairs;

13 (3) The limitation of the federal government's power is affirmed under Amendment X
14 of the Constitution of the United States, which defines the total scope of federal powers as
15 being those that have been delegated by the people of the several states to the federal
16 government and all powers not delegated to the federal government in the Constitution of the
17 United States are reserved to the states respectively or the people themselves;

18 (4) ~~If the federal government assumes powers that the people did not grant it in the
19 Constitution of the United States, its acts are unauthoritative, void, and of no force;~~

20 (5) The several states of the United States respect the proper role of the federal
21 government but reject the proposition that such respect requires unlimited submission~~. If the
22 federal government, created by a compact among the states, were the exclusive or final judge
23 of the extent of the powers granted to it by the states through the Constitution of the United
24 States, the federal government's discretion, and not the Constitution of the United States,
25 would necessarily become the measure of those powers. To the contrary, as in all other cases
26 of compacts among powers having no common judge, each party has an equal right to judge
27 for itself as to whether infractions of the compact have occurred, as well as to determine the
28 mode and measure of redress. Although the several states have granted supremacy to laws
29 and treaties made under the powers granted in the Constitution of the United States, such
30 supremacy does not extend to various federal statutes, executive orders, administrative orders,
31 court orders, rules, regulations, or other actions that collect data or restrict or prohibit the
32 manufacture, ownership, or use of firearms, firearm accessories, or ammunition exclusively
33 within the borders of Missouri; such statutes, executive orders, administrative orders, court
34 orders, rules, regulations, and other actions exceed the powers granted to the federal
35 government except to the extent they are necessary and proper for governing and regulating
36 the United States Armed Forces or for organizing, arming, and disciplining militia forces
37 actively employed in the service of the United States Armed Forces;~~

38 (6) ~~The people of the several states have given Congress the power "to regulate
39 commerce with foreign nations, and among the several states", but "regulating commerce"
40 does not include the power to limit citizens' right to keep and bear arms in defense of their~~

41 ~~families, neighbors, persons, or property nor to dictate what sorts of arms and accessories~~
42 ~~law abiding Missourians may buy, sell, exchange, or otherwise possess within the borders of~~
43 ~~this state;~~

44 ~~(7) The people of the several states have also granted Congress the powers "to lay and~~
45 ~~collect taxes, duties, imports, and excises, to pay the debts, and provide for the common~~
46 ~~defense and general welfare of the United States" and "to make all laws which shall be~~
47 ~~necessary and proper for carrying into execution the powers vested by the Constitution of the~~
48 ~~United States in the government of the United States, or in any department or office thereof".~~
49 These constitutional provisions merely identify the means by which the federal government
50 ~~may execute its limited powers and shall not be construed to grant unlimited power because to~~
51 ~~do so would be to destroy the carefully constructed equilibrium between the federal and state~~
52 ~~governments. Consequently, the general assembly rejects any claim that the taxing and~~
53 ~~spending powers of Congress may be used to diminish in any way the right of the people to~~
54 ~~keep and bear arms];~~

55 [(8)] (5) The general assembly finds that the federal excise tax rate on arms and
56 ammunition in effect prior to January 1, 2021, which funds programs under the Wildlife
57 Restoration Act, does not have a chilling effect on the purchase or ownership of such arms
58 and ammunition; and

59 [(9) ~~The people of Missouri have vested the general assembly with the authority to~~
60 ~~regulate the manufacture, possession, exchange, and use of firearms within the borders of this~~
61 ~~state, subject only to the limits imposed by Amendment II of the Constitution of the United~~
62 ~~States and the Constitution of Missouri; and~~

63 [(10)] (6) The general assembly of the state of Missouri strongly promotes responsible
64 gun ownership, including parental supervision of minors in the proper use, storage, and
65 ownership of all firearms; the prompt reporting of stolen firearms; and the proper
66 enforcement of all state gun laws. The general assembly of the state of Missouri hereby
67 condemns any unlawful transfer of firearms and the use of any firearm in any criminal or
68 unlawful activity.

1.420. [The following federal acts, laws, executive orders, administrative orders,
2 rules, and regulations shall be considered infringements on the people's right to keep and bear
3 arms, as guaranteed by Amendment II of the Constitution of the United States and Article I,
4 Section 23 of the Constitution of Missouri, within the borders of this state including, but not
5 limited to] The state of Missouri and any of its political subdivisions, as well as the public
6 officials, employees, or agents of the state and any of its political subdivisions, shall have
7 no authority to assist in the enforcement of the following types of federal acts, laws,
8 executive orders, administrative orders, rules, and regulations within the borders of this
9 state including, but not limited to:

10 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or
11 ammunition not common to all other goods and services and that might reasonably be
12 expected to create a chilling effect on the purchase or ownership of those items by law-
13 abiding citizens;

14 (2) Any registration or tracking of firearms, firearm accessories, or ammunition;

15 (3) Any registration or tracking of the ownership of firearms, firearm accessories, or
16 ammunition;

17 (4) Any act forbidding the possession, ownership, use, or transfer of a firearm,
18 firearm accessory, or ammunition by law-abiding citizens; and

19 (5) Any act ordering the confiscation of firearms, firearm accessories, or ammunition
20 from law-abiding citizens.

1.450. ~~[No entity or person, including any public officer or employee of this state or
2 any political subdivision of this state, shall have the authority to enforce or attempt to enforce
3 any federal acts, laws, executive orders, administrative orders, rules, regulations, statutes, or
4 ordinances infringing on the right to keep and bear arms as described under section 1.420.]~~
5 Nothing in sections 1.410 to 1.480 shall be construed to prohibit Missouri officials from
6 accepting aid from federal officials in an effort to enforce Missouri laws.

1.460. 1. Any political subdivision or law enforcement agency that employs a law
2 enforcement officer who acts knowingly, as **the word "knowingly" is** defined under section
3 562.016, to violate the provisions of section 1.450 or otherwise knowingly deprives a citizen
4 of Missouri of the rights or privileges ensured by Amendment II of the Constitution of the
5 United States or Article I, Section 23 of the Constitution of Missouri while acting under the
6 color of any state or federal law shall be liable to the injured party in an action at law, suit in
7 equity, or other proper proceeding for redress, and subject to a civil penalty of fifty thousand
8 dollars per occurrence. Any person injured under this section shall have standing to pursue an
9 action for injunctive relief in the circuit court of the county in which the action allegedly
10 occurred or in the circuit court of Cole County with respect to the actions of such individual.
11 The court shall hold a hearing on the motion for temporary restraining order and preliminary
12 injunction within thirty days of service of the petition.

13 2. In such actions, the court may award the prevailing party, other than the state of
14 Missouri or any political subdivision of the state, reasonable attorney's fees and costs.

15 3. Sovereign immunity shall not be an affirmative defense in any action pursuant to
16 this section.

1.470. 1. Any political subdivision or law enforcement agency that knowingly
2 employs an individual acting or who previously acted as an official, agent, employee, or
3 deputy of the government of the United States, or otherwise acted under the color of federal

4 law within the borders of this state, who has knowingly, as **the word "knowingly" is** defined
5 under section 562.016, after the adoption of this section:

6 (1) Enforced or attempted to enforce any of the infringements identified in section
7 1.420; or

8 (2) Given material aid and support to the efforts of another who enforces or attempts
9 to enforce any of the infringements identified in section 1.420;

10

11 shall be subject to a civil penalty of fifty thousand dollars per employee hired by the political
12 subdivision or law enforcement agency. Any person residing in a jurisdiction who believes
13 that an individual has taken action that would violate the provisions of this section shall have
14 standing to pursue an action.

15 2. Any person residing or conducting business in a jurisdiction who believes that an
16 individual has taken action that would violate the provisions of this section shall have
17 standing to pursue an action for injunctive relief in the circuit court of the county in which the
18 action allegedly occurred or in the circuit court of Cole County with respect to the actions of
19 such individual. The court shall hold a hearing on the motion for a temporary restraining
20 order and preliminary injunction within thirty days of service of the petition.

21 3. In such actions, the court may award the prevailing party, other than the state of
22 Missouri or any political subdivision of the state, reasonable attorney's fees and costs.

23 4. Sovereign immunity shall not be an affirmative defense in any action pursuant to
24 this section.

1.480. 1. For sections 1.410 to 1.485, the term "law-abiding citizen" shall mean a
2 person who is not otherwise precluded under state law from possessing a firearm and shall not
3 be construed to include anyone who is not legally present in the United States or the state of
4 Missouri.

5 2. For the purposes of sections 1.410 to 1.480, "material aid and support" shall
6 include voluntarily giving or allowing others to make use of lodging; communications
7 equipment or services, including social media accounts; facilities; weapons; personnel;
8 transportation; clothing; or other physical assets. Material aid and support shall not include
9 giving or allowing the use of medicine or other materials necessary to treat physical injuries,
10 nor shall the term include any assistance provided to help persons escape a serious, present
11 risk of life-threatening injury.

12 3. It shall not be considered a violation of sections 1.410 to 1.480 to provide material
13 aid to federal officials who are in pursuit of a suspect when there is a demonstrable criminal
14 nexus with another state or country and such suspect is either not a citizen of this state or is
15 not present in this state.

16 4. It shall not be considered a violation of sections 1.410 to 1.480 to provide material
17 aid to federal prosecution for:

18 (1) Felony crimes against a person when such prosecution includes weapons
19 violations substantially similar to those found in chapter 570 or 571 so long as such weapons
20 violations are merely ancillary to such prosecution; or

21 (2) Class A or class B felony violations substantially similar to those found in chapter
22 579 when such prosecution includes weapons violations substantially similar to those found
23 in chapter 570 or 571 so long as such weapons violations are merely ancillary to such
24 prosecution.

25 5. The provisions of sections 1.410 to 1.485 shall be applicable to offenses occurring
26 on or after August 28, **[2021]** **2026**.

1.485. If any provision of sections 1.410 to 1.485 or the application **[thereof]** of such
2 **provision** to any person or circumstance is held invalid, such determination shall not affect
3 the provisions or applications of sections 1.410 to 1.485 that may be given effect without the
4 invalid provision or application, and the provisions of sections 1.410 to 1.485 are severable.

1.430. ~~All federal acts, laws, executive orders, administrative orders, rules, and regulations, regardless of whether they were enacted before or after the provisions of sections 1.410 to 1.485, that infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the Constitution of the United States and Article I, Section 23 of the Constitution of Missouri shall be invalid to this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state.]~~

1.440. ~~It shall be the duty of the courts and law enforcement agencies of this state to protect the rights of law-abiding citizens to keep and bear arms within the borders of this state and to protect these rights from the infringements defined under section 1.420.]~~

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