

FIRST REGULAR SESSION

HOUSE BILL NO. 436

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FUNDERBURK (Sponsor), JONES (110), BURLISON, HICKS, RHOADS, ROSS, MILLER, PARKINSON, REMOLE, ANDERSON, HURST, BAHR, BROWN, SMITH (120), KOENIG, CURTMAN, DUGGER, MORRIS, SOMMER, LEARA, GATSCHENBERGER, BRATTIN, SCHIEFFER AND KORMAN (Co-sponsors).

1204L.01H

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the Second Amendment preservation act, with a penalty provision.

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

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.320, to read as follows:

1.320. 1. This section shall be known and may be cited as the "Second Amendment Preservation Act".

2. The general assembly finds and declares that:

(1) The general assembly of the state of Missouri is firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic, and the general assembly is duty-bound to watch over and oppose every infraction of those principles which constitute the basis of the Union of the States, because only a faithful observance of those principles can secure the nation's existence and the public happiness;

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

(3) The limitation of the federal government's power is affirmed under the Tenth Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the

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.

16 federal government, and all power not delegated to the federal government in the
17 Constitution of the United States is reserved to the states respectively, or to the people
18 themselves;

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

21 (5) The several states of the United States of America are not united on the
22 principle of unlimited submission to their federal government. The government created
23 by the compact among the states is not the exclusive or final judge of the extent of the
24 powers granted to it by the Constitution, because that would have made the federal
25 government's discretion, and not the Constitution, the measure of those powers. To the
26 contrary, as in all other cases of compacts among powers having no common judge, each
27 party has an equal right to judge itself, as well of infractions as of the mode and measure
28 of redress. Although the several states have granted supremacy to laws and treaties made
29 pursuant to the powers granted in the Constitution, such supremacy does not apply to
30 various federal statutes, orders, rules, regulations, or other actions which restrict or
31 prohibit the manufacture, ownership, and use of firearms, firearm accessories, or
32 ammunition exclusively within the borders of Missouri; such statutes, orders, rules,
33 regulations, and other actions exceed the powers granted to the federal government except
34 to the extent they are necessary and proper for the government and regulation of the land
35 and naval forces of the United States or for the organizing, arming, and disciplining militia
36 forces actively employed in the service of the United States Armed Forces;

37 (6) The people of the several states have given Congress the power "to regulate
38 commerce with foreign nations, and among the several states, and with the Indian tribes",
39 but "regulating commerce" does not include the power to limit citizens' right to keep and
40 bear arms in defense of their families, neighbors, persons, or property, or to dictate to what
41 sort of arms and accessories law-abiding mentally competent Missourians may buy, sell,
42 exchange, or otherwise possess within the borders of this state;

43 (7) The people of the several states have also given Congress the power "to lay and
44 collect taxes, duties, imports, and excises, to pay the debts, and provide for the common
45 defense and general welfare of the United States" and "to make all laws which shall be
46 necessary and proper for carrying into execution the powers vested by the Constitution in
47 the government of the United States, or in any department or officer thereof". These
48 constitutional provisions merely identify the means by which the federal government may
49 execute its limited powers and ought not to be so construed as themselves to give unlimited
50 powers because to do so would be to destroy the balance of power between the federal
51 government and the state governments. We deny any claim that the taxing and spending

52 powers of Congress can be used to diminish in any way the people's right to keep and bear
53 arms;

54 (8) The people of Missouri have vested the general assembly with the authority to
55 regulate the manufacture, possession, exchange, and use of firearms within this state's
56 borders, subject only to the limits imposed by the Second Amendment to the United States
57 Constitution and the Missouri Constitution.

58 3. (1) All federal acts, laws, orders, rules, and regulations, whether past, present,
59 or future, which infringe on the people's right to keep and bear arms as guaranteed by the
60 Second Amendment to the United States Constitution and Article I, Section 23 of the
61 Missouri Constitution shall be invalid in this state, shall not be recognized by this state, are
62 specifically rejected by this state, and shall be considered null and void and of no effect in
63 this state.

64 (2) Such federal acts, laws, orders, rules, and regulations include, but are not
65 limited to:

66 (a) The provisions of the federal Gun Control Act of 1934;

67 (b) The provisions of the federal Gun Control Act of 1968;

68 (c) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or
69 ammunition not common to all other goods and services which could have a chilling effect
70 on the purchase or ownership of those items by law-abiding citizens;

71 (d) Any registering or tracking of firearms, firearm accessories, or ammunition
72 which could have a chilling effect on the purchase or ownership of those items by law-
73 abiding citizens;

74 (e) Any registering or tracking of the owners of firearms, firearm accessories, or
75 ammunition which could have a chilling effect on the purchase or ownership of those items
76 by law-abiding citizens;

77 (f) Any act forbidding the possession, ownership, or use or transfer of any type of
78 firearm, firearm accessory, or ammunition by law-abiding citizens;

79 (g) Any act ordering the confiscation of firearms, firearm accessories, or
80 ammunition from law-abiding citizens.

81 4. It shall be the duty of the courts and law enforcement agencies of this state to
82 protect the rights of law-abiding citizens to keep and bear arms within the boarder of this
83 state from the infringements in subsection 3 of this section.

84 5. No public officer or employee of this state shall have any authority to enforce or
85 attempt to enforce any of the infringements on the right to keep and bear arms included
86 in subsection 3 of this section.

87 **6. Any official, agent, or employee of the United States government who enforces**
88 **or attempts to enforce any of the infringements on the right to keep and bear arms**
89 **included in subsection 3 of this section is guilty of a class A misdemeanor.**

90 **7. Any Missouri citizen who has been subject to an effort to enforce any of the**
91 **infringements on the right to keep and bear arms included in subsection 3 of this section**
92 **shall have a private cause of action for declaratory judgment and for damages against any**
93 **person or entity attempting such enforcement.**

✓