

SECOND REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 1344 & 1944**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Sportsmanship, Safety, and Firearms, February 21, 2002, with recommendation that the House Committee Substitute for House Bill Nos. 1344 & 1944 Do Pass.

Taken up for Perfection March 13, 2002. House Committee Substitute for House Bill Nos. 1344 & 1944 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

2838L.06P

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**AN ACT**

To repeal sections 571.030 and 571.070, RSMo, and to enact in lieu thereof four new sections relating to firearms, with penalty provisions.

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

Section A. Sections 571.030 and 571.070, RSMo, are repealed and four new sections  
2 enacted in lieu thereof, to be known as sections 571.030, 571.070, 571.096 and 571.099, to read  
3 as follows:

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, RSMo, 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) Possesses or discharges a firearm or projectile weapon while intoxicated; or

12 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,

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

13 courthouse, or church building; or

14 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or  
15 across a public highway or discharges or shoots a firearm into any outbuilding; or

16 (8) Carries a firearm or any other weapon readily capable of lethal use into any church  
17 or place where people have assembled for worship, or into any election precinct on any election  
18 day, or into any building owned or occupied by any agency of the federal government, state  
19 government, or political subdivision thereof, or into any public assemblage of persons met for  
20 any lawful purpose; or

21 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section  
22 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any  
23 person, or at any other motor vehicle, or at any building or habitable structure, unless the person  
24 was lawfully acting in self-defense; or

25 (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable  
26 of lethal use into any school, onto any school bus, or onto the premises of any function or activity  
27 sponsored or sanctioned by school officials or the district school board.

28 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall  
29 not apply to or affect any of the following:

30 (1) All state, county and municipal [law enforcement] **peace** officers [possessing]  
31 **whether on duty or off duty, anywhere in the state who possess** the duty and power of arrest  
32 for violation of the general criminal laws of the state or for violation of ordinances of counties  
33 or municipalities of the state, or any person summoned by such officers to assist in making  
34 arrests or preserving the peace while actually engaged in assisting such officer;

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

37 (3) Members of the armed forces or national guard while performing their official duty;

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

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

42 (6) Any federal probation officer;

43 (7) Any state probation or parole officer, including supervisors and members of the  
44 board of probation and parole; [and]

45 (8) Any corporate security advisor meeting the definition and fulfilling the requirements  
46 of the regulations established by the board of police commissioners under section 84.340, RSMo  
47 [.] **and**

48 (9) **Any retired peace officer holding a valid permit to carry a concealed firearm**

49 **pursuant to section 571.096..**

50           3. Subdivisions (1), (5), (8) and (10) of subsection 1 of this section do not apply when  
51 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when  
52 ammunition is not readily accessible or when such weapons are not readily accessible.  
53 Subdivision (1) of subsection 1 of this section does not apply **to any person twenty-one years**  
54 **of age or older transporting a concealable firearm anywhere in the passenger compartment**  
55 **of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor**  
56 when the actor is also in possession of an exposed firearm or projectile weapon for the lawful  
57 pursuit of game, or is in his **or her** dwelling unit or upon business premises over which the actor  
58 has possession, authority or control, or is traveling in a continuous journey peaceably through  
59 this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is  
60 otherwise lawfully possessed by a person while traversing school premises for the purposes of  
61 transporting a student to or from school, or possessed by an adult for the purposes of facilitation  
62 of a school-sanctioned firearm-related event.

63           4. Nothing in this section shall make it unlawful for a student to actually participate in  
64 school-sanctioned gun safety courses, student military or ROTC courses, or other  
65 school-sponsored firearm-related events, provided the student does not carry a firearm or other  
66 weapon readily capable of lethal use into any school, onto any school bus, or onto the premises  
67 of any function or activity sponsored or sanctioned by school officials or the district school  
68 board.

69           5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision  
70 (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or  
71 subdivision (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the  
72 firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection  
73 1 of this section, in which case it is a class B felony, except that if the violation of subdivision  
74 (9) of subsection 1 of this section results in injury or death to another person, it is a class A  
75 felony.

76           6. Violations of subdivision (9) of subsection 1 of this section shall be punished as  
77 follows:

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

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

83           (3) For any violation by a persistent offender as defined in section 558.016, RSMo, a  
84 person shall be sentenced to the maximum authorized term of imprisonment for a class B felony

85 without the possibility of parole, probation, or conditional release;

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

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

571.070 1. A person commits the crime of unlawful possession of a [concealable]  
2 firearm if he has any [concealable] firearm in his possession and:

3 (1) He has pled guilty to or has been convicted of a dangerous felony, as defined in  
4 section 556.061, RSMo, or of an attempt to commit a dangerous felony, or of a crime under the  
5 laws of any state or of the United States which, if committed within this state, would be a  
6 dangerous felony, or confined therefor in this state or elsewhere during the five-year period  
7 immediately preceding the date of such possession; or

8 (2) He is a fugitive from justice, is habitually in an intoxicated or drugged condition, or  
9 is currently adjudged mentally incompetent.

10 2. Unlawful possession of a [concealable] firearm is a class C felony.

**571.096. 1. A permit for a retired peace officer to carry a concealable firearm shall  
2 be issued by the sheriff of the county in which the applicant resides, if all of the statements  
3 in the application are true, and the applicant:**

4 **(1) Is a citizen of the United States and has resided in this state for at least six  
5 months;**

6 **(2) Has not pled guilty to or been convicted of a crime punishable by imprisonment  
7 for a term exceeding one year under the laws of any state or of the United States;**

8 **(3) Is not a fugitive from justice or currently charged in an information or  
9 indictment with the commission of a crime punishable by imprisonment for a term  
10 exceeding one year under the laws of any state or of the United States;**

11 **(4) Has not been discharged under dishonorable conditions from the United States  
12 armed forces;**

13 **(5) Is not publicly known to be habitually in an intoxicated or drugged condition;**

14 **(6) Is not currently adjudged mentally incompetent and has not been committed  
15 to a mental health facility, as defined in section 632.005, RSMo, or a similar institution  
16 located in another state;**

17 **(7) Is a retired peace officer having completed a minimum of fifteen years service  
18 and terminating service in good standing whether in this state or another state and who is  
19 currently licensed as a peace officer pursuant to chapter 590, RSMo;**

20 **(8) Has not pled guilty to or been convicted of domestic assault; and**

21           **(9) Does not have an active full order of protection pending against them wherein**  
22 **the applicant has been barred from possessing a firearm.**

23           **2. A permit for a retired peace officer to carry a concealable firearm shall initially**  
24 **be issued for a period of three years and renewed for a period of three years by the sheriff**  
25 **of the county in which the applicant resides if the applicant satisfies all the requirements**  
26 **of subsection 1 of this section. All costs associated with obtaining or renewing a permit for**  
27 **a retired peace officer to carry a concealable weapon, including but not limited to, the cost**  
28 **of background checks and certifications and continuing education shall be borne by the**  
29 **applicant.**

30           **3. Applications shall be made to the sheriff of the county in which the applicant**  
31 **resides. An application shall be filed in writing, signed and verified by the applicant, and**  
32 **shall state only the following: the name, Social Security number, occupation, age, height,**  
33 **color of eyes and hair, residence and business addresses, if any, of the applicant, the reason**  
34 **for desiring the permit, and whether the applicant complies with each of the requirements**  
35 **specified in subsection 1 of this section. The applicant shall also submit documentation**  
36 **signed by a licensed physician and no less than thirty days old that the applicant is in good**  
37 **physical and mental health.**

38           **4. Before a permit is issued or renewed, the sheriff shall make only such inquiries**  
39 **as he or she deems necessary into the accuracy of the statements made in the application,**  
40 **but must conduct a criminal background check. The sheriff shall require that the**  
41 **applicant display a valid Missouri operator's license or other suitable photo identification.**  
42 **The sheriff shall issue or renew the permit within a period not to exceed seven days after**  
43 **submission of the properly completed application excluding Saturdays, Sundays, or legal**  
44 **holidays. The sheriff may refuse to issue or renew the permit if he or she determines that**  
45 **any of the requirements specified in subsection 1 of this section have not been met, has**  
46 **reason to believe that the applicant has rendered a false statement regarding any of the**  
47 **provisions in subsection 1 of this section, or if the applicant fails to provide documentation**  
48 **of good physical and mental health pursuant to subsection 2 of this section. If the**  
49 **application is approved, the sheriff shall issue or renew a permit and give a copy thereof**  
50 **to the applicant. A permit shall be automatically and immediately revoked if the holder**  
51 **violates any of the requirements to obtain a permit, fails to maintain licensing as a peace**  
52 **officer, or if the holder's peace officer license is revoked or suspended pursuant to section**  
53 **590.135, RSMo, or if any of the causes for revocation or suspension itemized at subsection**  
54 **2 of section 590.135, RSMo, occur.**

55           **5. The permit shall recite the date of issuance, the name and address of the person**  
56 **to whom granted, and a physical description of the applicant. The applicant shall sign the**

57 permit in the presence of the sheriff.

58 6. The sheriff shall keep a record of all applications for permits, and his or her  
59 action thereon.

60 7. No person shall in any manner transfer, alter, or change a permit, or make a  
61 false notation thereon, or obtain a permit upon any false representation, or use, or attempt  
62 to use a permit issued to another.

63 8. For the processing of the permit, the sheriff in each county and the city of St.  
64 Louis shall charge a fee not to exceed twenty-five dollars for an initial three-year permit,  
65 and a fee not to exceed twenty-five dollars to renew an existing permit for another three  
66 years, which shall be paid into the county crime reduction fund, if such is established by  
67 the county, otherwise into the general revenue fund.

68 9. In any case when the sheriff refuses to issue, or renew, or to act on an application  
69 for a permit, such refusal shall be in writing setting forth the reasons for such refusal.  
70 Such written refusal shall explain the denied applicant's right to appeal and, with a copy  
71 of the completed application, shall be given to the denied applicant within a period not to  
72 exceed seven days after submission of the properly completed application excluding  
73 Saturdays, Sundays or legal holidays. The denied applicant shall have the right to appeal  
74 the denial within ten days of receiving written notice of the denial. Such appeals shall be  
75 heard in small claims court as defined in section 482.300, RSMo, and the provisions of  
76 sections 482.300, 482.310, and 482.335, RSMo, shall apply to such appeals.

77 10. A denial of or refusal to act on an application for permit may be appealed by  
78 filing with the clerk of the small claims court a copy of the sheriff's written refusal and a  
79 form substantially similar to the appeal form provided in this section. Appeal forms shall  
80 be provided by the clerk of the small claims court free of charge to any person:

#### 81 SMALL CLAIMS COURT

82  
83 In the Circuit Court of ..... Missouri

84  
85 Case Number .....

86 ....., Denied Applicant )  
87 )  
88 vs. )  
89 )  
90 ....., Sheriff )

91  
92 Return Date .....

93 **DENIAL OF PERMIT APPEAL**

94 **The denied applicant states that his properly completed application for a permit to**  
95 **carry a firearm with a barrel of less than sixteen inches was denied by the sheriff of .....**  
96 **County, Missouri, without just cause. The denied applicant affirms that all of the**  
97 **statements in the application are true.**

98

99 .....

100 **Denied Applicant**

101 **11. The notice of appeal in a denial of permit appeal shall be made to the sheriff in**  
102 **a manner and form determined by the small claims court judge.**

103 **12. If at the hearing the person shows he is entitled to the requested permit, the**  
104 **court shall issue an appropriate order to cause the issuance of the permit. Costs shall not**  
105 **be assessed against the sheriff in any case.**

106 **13. Any person aggrieved by any final judgment rendered by a small claims court**  
107 **in a denial of permit appeal may have a trial de novo as provided in sections 512.180 to**  
108 **512.320, RSMo.**

109 **14. Violation of any provision of this section is a class A misdemeanor.**

**571.099. The law enforcement agencies of the state of Missouri shall review each**  
2 **person's case as described in this section for the possibility of prosecution pursuant to**  
3 **federal law. The prosecutor and law enforcement agency with jurisdiction in each**  
4 **particular case shall cooperate with federal authorities if the prosecution pursuant to**  
5 **federal law is reasonably likely to result in more restrictive bail, stricter enforcement, or**  
6 **greater penalties being assessed. This program shall be referred to as "Project Exile" and**  
7 **shall apply to any person being prosecuted for:**

8 **(1) Violating subdivisions (3) to (10) of subsection 1 of section 571.030;**

9 **(2) Violating any provision of this chapter who also has pled guilty to or been**  
10 **convicted of murder or any other dangerous felony as that term is defined in section**  
11 **556.061, RSMo;**

12 **(3) Violating any provision of this chapter who also is not legally in the United**  
13 **States;**

14 **(4) Possession of a firearm in violation of this chapter who also has been found not**  
15 **guilty of any crime by reason of mental disease or defect pursuant to chapter 552, RSMo;**

16 **(5) Possession of a firearm in violation of this chapter who also has an outstanding**  
17 **arrest warrant or indictment for murder or a dangerous felony as that term is defined in**  
18 **section 556.061, RSMo, has escaped from any correctional institution or jail, or is addicted**  
19 **to any controlled substance provided that cooperation shall only be mandatory pursuant**

20 to this section if the outstanding arrest warrant or indictment leads to a subsequent  
21 conviction;

22 (6) Possession of a firearm in violation of this chapter who also has pled guilty to  
23 or been convicted of any domestic assault offense pursuant to sections 565.072 to 565.074,  
24 RSMo;

25 (7) Violating section 571.020;

26 (8) Violating section 571.015;

27 (9) Committing any act of domestic assault, as that term is defined in sections  
28 565.072 to 565.074, RSMo, by, with, or through the use, assistance, or aid of a firearm.