

HB 1439 -- FIREARMS

SPONSOR: Funderburk

This bill establishes the Second Amendment Preservation Act and changes the laws regarding open carry ordinances, school protection officers, warrants, patient ownership of firearms, and concealed carry permits.

SECOND AMENDMENT PRESERVATION ACT (Section 1.320, RSMo)

The bill establishes the Second Amendment Preservation Act that:

(1) Declares laws that restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within this state exceed the powers granted to the federal government, except to the extent they are necessary and proper for the governing and regulating of land and naval forces of the United States or for organizing, arming, and disciplining militia forces actively employed in the service of the United States Armed Forces;

(2) Declares Congress' power to regulate commerce with foreign nations and among the states does not include the power to limit citizens' right to keep and bear arms;

(3) Rejects any claim that Congress' taxing and spending powers can be used to diminish in any way the right of people to keep and bear arms;

(4) Declares as invalid all federal laws; executive, administrative, or court orders; rules; and regulations, whether past, present, or future, that infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution including certain taxes; certain registration and tracking laws; certain prohibitions on the possession, ownership, use, or transfer of a specific type of firearm; and confiscation orders and must not be recognized, must be specifically rejected, and must be considered null and void and of no effect in this state;

(5) Declares that it is the duty of the courts and law enforcement agencies to protect the rights of law-abiding citizens to keep and bear arms and that a public officer or state employee cannot have the authority to enforce or attempt to enforce firearms laws declared invalid by the act;

(6) Specifies that any entity or person who knowingly acts under

the color of any federal or state law to deprive a Missouri citizen of the rights or privileges ensured by the federal and state constitutions to keep and bear arms will be liable to the injured party for redress. Reasonable attorney fees and costs may be awarded to the prevailing party with specified exceptions. Neither sovereign nor official or qualified immunity can be an affirmative defense in these cases;

(7) Declares that a federal official, agent, or employee who enforces or attempts to enforce any of the specified infringements on the right to keep and bear arms will be guilty of a class A misdemeanor; and

(8) Authorizes state law enforcement officers to have the discretionary power to appropriately interpose on behalf of law-abiding citizens.

#### OPEN CARRY ORDINANCES (Section 21.750)

The bill prohibits any ordinance of a political subdivision from being construed to preclude the use of a firearm in the defense of person or property subject to the provisions regarding defense of justification. In any jurisdiction in which open carry of firearms is prohibited by ordinance, the open carry of a firearm cannot be prohibited in specified circumstances. In the absence of any reasonable and articulable suspicion of criminal activity, a person carrying a concealed or unconcealed firearm cannot be disarmed or physically restrained by a law enforcement officer unless he or she is under arrest. Any person who violates these provisions must be subject to citation for up to \$35.

#### SCHOOL PROTECTION OFFICERS (Sections 160.665, 590.200, and 590.207)

The bill:

(1) Authorizes any school district to designate one or more school teachers or administrators as a school protection officer, whose responsibilities and duties are voluntary and must be in addition to his or her normal responsibilities and duties. Any compensation for service as a protection officer must be funded by the local school district with no use of state funds;

(2) Requires a school protection officer to be authorized to carry concealed firearms in any school in the district and cannot be permitted to allow any firearm out of his or her personal control while the firearm is on school property. A violation of that requirement is a class B misdemeanor and may result in immediate removal from the classroom and subject to employment termination proceedings;

(3) Specifies that a school protection officer has the same authority to detain and use force against any person on school property as provided to any other person under the provisions regarding defense of justification;

(4) Requires the school protection officer to immediately notify a school administrator and a school resource officer when anyone is detained. If the person detained is a student, the school administrator must immediately notify the student's parents or guardians;

(5) Requires a teacher or administrator seeking to be designated as a school protection officer to request the designation in writing to the superintendent of the school district and submit proof that he or she has a valid concealed carry endorsement and a certificate of completion of a school protection officer training program approved by the Director of the Department of Public Safety;

(6) Requires, within 30 days, the school district to notify, in writing, the department director of the designation of any school protection officer;

(7) Requires the department director to maintain a list of all school protection officers and make the list available to all law enforcement agencies; and

(8) Requires the Peace Officer Standards and Training Commission to establish standards and curriculum for training of school protection officers.

#### WARRANTS (Sections 544.085 and 544.086)

The bill:

(1) Specifies that before serving a warrant issued by a United States Court, the federal agent or employee must be accompanied by the sheriff, or his or her designee, of the county where the warrant is to be served;

(2) Allows a federal agent to file a petition with the circuit judge in the county where the warrant is to be served for a waiver of the accompaniment requirement if the officer believes that the sheriff or a member of the sheriff's staff has a conflict of interest;

(3) Requires the sheriff to check the warrant and process to protect the rights of anyone directly affected by the warrant and

complete a report on the incident;

(4) Specifies that serving a warrant without the accompaniment of a sheriff under these provisions is a class A misdemeanor;

#### PATIENT OWNERSHIP OF FIREARMS (Section 571.012)

The bill:

(1) Specifies that no licensed health care professional may be required by law to ask a patient whether he or she owns a firearm, document or maintain firearm ownership in a patient's medical records, or notify any governmental entity of the identity of a patient based solely on the patient's status as a firearm owner; and

(2) Prohibits a licensed health care professional from documenting or disclosing information regarding a person's status as a firearm owner except under certain specified circumstances.

#### CONCEALED CARRY PERMITS (Sections 571.030, 571.070, 571.101, and 571.117)

(1) Lowers, from at least 21 years old to at least 19 years old, the age when a person may apply for a concealed carry endorsement;

(2) Waives any permit fees required for a concealed carry endorsement for an applicant who is a service-disabled veteran; and

(3) Specifies that a person commits the offense of unlawful possession of a firearm if he or she is illegally or unlawfully in the United States.

If any provision of the bill is held invalid, the remainder of the provisions must not be affected.

The provisions of the bill regarding the Second Amendment Preservation Act and the provisions regarding a county sheriff accompanying a federal agent or employee when serving a warrant issued by a United States court will become effective on January 1, 2017.