

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 39  
AN ACT

To repeal section 1.320, RSMo, and to enact in lieu thereof nine new sections relating to the sole purpose of adding additional protections to the right to bear arms, with penalty provisions and an emergency clause.

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

Section A. Section 1.320, RSMo, is repealed and nine new sections enacted in lieu thereof, to be known as sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485, to read as follows: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 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 Constitution of the United States against every aggression, whether foreign or domestic, and is duty-bound to oppose every infraction of those principles that constitute the basis of the union of the states because only a faithful observance of those principles can secure the union's existence and the public happiness;

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

19           (3) The limitation of the federal government's power  
20 is affirmed under Amendment X of the Constitution of the  
21 United States, which defines the total scope of federal  
22 powers as being those that have been delegated by the people  
23 of the several states to the federal government and all  
24 powers not delegated to the federal government in the  
25 Constitution of the United States are reserved to the states  
26 respectively or the people themselves;

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

30           (5) The several states of the United States respect  
31 the proper role of the federal government but reject the  
32 proposition that such respect requires unlimited  
33 submission. If the federal government, created by a compact  
34 among the states, were the exclusive or final judge of the  
35 extent of the powers granted to it by the states through the  
36 Constitution of the United States, the federal government's  
37 discretion, and not the Constitution of the United States,  
38 would necessarily become the measure of those powers. To  
39 the contrary, as in all other cases of compacts among powers  
40 having no common judge, each party has an equal right to  
41 judge for itself as to whether infractions of the compact  
42 have occurred, as well as to determine the mode and measure  
43 of redress. Although the several states have granted  
44 supremacy to laws and treaties made under the powers granted  
45 in the Constitution of the United States, such supremacy  
46 does not extend to various federal statutes, executive  
47 orders, administrative orders, court orders, rules,  
48 regulations, or other actions that collect data or restrict  
49 or prohibit the manufacture, ownership, or use of firearms,  
50 firearm accessories, or ammunition exclusively within the  
51 borders of Missouri; such statutes, executive orders,

52 administrative orders, court orders, rules, regulations, and  
53 other actions exceed the powers granted to the federal  
54 government except to the extent they are necessary and  
55 proper for governing and regulating the United States Armed  
56 Forces or for organizing, arming, and disciplining militia  
57 forces actively employed in the service of the United States  
58 Armed Forces;

59 (6) The people of the several states have given  
60 Congress the power "to regulate commerce with foreign  
61 nations, and among the several states", but "regulating  
62 commerce" does not include the power to limit citizens'  
63 right to keep and bear arms in defense of their families,  
64 neighbors, persons, or property nor to dictate what sorts of  
65 arms and accessories law-abiding Missourians may buy, sell,  
66 exchange, or otherwise possess within the borders of this  
67 state;

68 (7) The people of the several states have also granted  
69 Congress the powers "to lay and collect taxes, duties,  
70 imports, and excises, to pay the debts, and provide for the  
71 common defense and general welfare of the United States" and  
72 "to make all laws which shall be necessary and proper for  
73 carrying into execution the powers vested by the  
74 Constitution of the United States in the government of the  
75 United States, or in any department or office thereof".  
76 These constitutional provisions merely identify the means by  
77 which the federal government may execute its limited powers  
78 and shall not be construed to grant unlimited power because  
79 to do so would be to destroy the carefully constructed  
80 equilibrium between the federal and state governments.  
81 Consequently, the general assembly rejects any claim that  
82 the taxing and spending powers of Congress may be used to  
83 diminish in any way the right of the people to keep and bear  
84 arms;

85           (8) The general assembly finds that the federal excise  
86 tax rate on arms and ammunition in effect prior to January  
87 1, 2021, pursuant to the Wildlife and Sport Fishing  
88 Restoration Act, does not have a chilling effect on the  
89 purchase or ownership of such arms and ammunition;

90           (9) The people of Missouri have vested the general  
91 assembly with the authority to regulate the manufacture,  
92 possession, exchange, and use of firearms within the borders  
93 of this state, subject only to the limits imposed by  
94 Amendment II of the Constitution of the United States and  
95 the Constitution of Missouri; and

96           (10) The general assembly of the state of Missouri  
97 strongly promotes responsible gun ownership, including  
98 parental supervision of minors in the proper use, storage,  
99 and ownership of all firearms; the prompt reporting of  
100 stolen firearms; and the proper enforcement of all state gun  
101 laws. The general assembly of the state of Missouri hereby  
102 condemns any unlawful transfer of firearms and the use of  
103 any firearm in any criminal or unlawful activity.

1.420. The following federal acts, laws, executive  
2 orders, administrative orders, rules, and regulations shall  
3 be considered infringements on the people's right to keep  
4 and bear arms, as guaranteed by Amendment II of the  
5 Constitution of the United States and Article I, Section 23  
6 of the Constitution of Missouri, within the borders of this  
7 state including, but not limited to:

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

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

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

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

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

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

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

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

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

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

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

1.470. 1. Any political subdivision or law enforcement agency that knowingly employs an individual acting or who previously acted as an official, agent, employee, or deputy of the government of the United States, or otherwise acted under the color of federal law within the borders of this state, who has knowingly, as defined under section 562.016, after the adoption of this section:

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

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

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

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

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

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

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

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

16           3. It shall not be considered a violation of sections  
17 1.410 to 1.480 to provide material aid to federal officials  
18 who are in pursuit of a suspect when there is a demonstrable  
19 criminal nexus with another state or country and such  
20 suspect is either not a citizen of this state or is not  
21 present in this state.

22           4. It shall not be considered a violation of sections  
23 1.410 to 1.480 to provide material aid to federal  
24 prosecution for:

25           (1) Felony crimes against a person when such  
26 prosecution includes weapons violations substantially  
27 similar to those found in chapter 570 or chapter 571 so long  
28 as such weapons violations are merely ancillary to such  
29 prosecution; or

30           (2) Class A or class B felony violations substantially  
31 similar to those found in chapter 579 when such prosecution  
32 includes weapons violations substantially similar to those  
33 found in chapter 570 or chapter 571 so long as such weapons  
34 violations are merely ancillary to such prosecution.

35           5. The provisions of sections 1.410 to 1.485 shall be  
36 applicable to offenses occurring on or after August 28, 2021.

1.485. If any provision of sections 1.410 to 1.485 or  
2 the application thereof to any person or circumstance is



3 held invalid, such determination shall not affect the  
4 provisions or applications of sections 1.410 to 1.485 that  
5 may be given effect without the invalid provision or  
6 application, and the provisions of sections 1.410 to 1.485  
7 are severable.

2 [1.320. The general assembly of the state  
3 of Missouri strongly promotes responsible gun  
4 ownership, including parental supervision of  
5 minors in the proper use, storage, and ownership  
6 of all firearms, the prompt reporting of stolen  
7 firearms, and the proper enforcement of all  
8 state gun laws. The general assembly of the  
9 state of Missouri hereby condemns any unlawful  
10 transfer of firearms and the use of any firearm  
in any criminal or unlawful activity.]

Section B. Because immediate action is necessary to  
2 ensure the limitation of the federal government's power and  
3 to protect the citizens' right to bear arms, section A of  
4 this act is deemed necessary for the immediate preservation  
5 of the public health, welfare, peace, and safety, and is  
6 hereby declared to be an emergency act within the meaning of  
7 the constitution, and section A of this act shall be in full  
8 force and effect upon its passage and approval.