

FIRST REGULAR SESSION

HOUSE BILL NO. 434

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARDWICK.

1549H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the anti-red flag gun seizure act, with penalty provisions and an emergency clause.

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 1.486, to read as follows:

1.486. 1. This section shall be known and may be cited as the "Anti-Red Flag Gun Seizure Act".

2. As used in this section, "red flag law" means:

(1) Any gun control law, order, or measure that directs the temporary or permanent seizure of any firearm, firearm accessory, or ammunition of an individual without both:

(a) The adjudication of a contested court case where the individual was present and had the opportunity to be heard; and

(b) A finding of probable cause that the individual is engaged or has engaged in criminal activity; or

(2) Any federal statute, federal rule, federal executive order, or federal judicial order or finding, or any state statute, state rule, state executive order, or state judicial order or finding, that:

(a) Prohibits a Missouri citizen from owning, possessing, transporting, transferring, or receiving any firearm, firearm accessory, or ammunition unless the individual has been convicted of a violent felony crime or is otherwise disqualified under section 455.050 or 571.070; or

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.

18 **(b) Orders the removal or requires the surrender of any firearm, firearm**
19 **accessory, or ammunition from a Missouri citizen unless the individual has been**
20 **convicted of a violent felony crime or is otherwise disqualified under section 455.050 or**
21 **571.070.**

22 **3. Any federal order of protection, other judicial order issued by a federal court,**
23 **or federal executive order that is a red flag law or otherwise directs the confiscation of**
24 **any firearm, firearm accessory, or ammunition from any law-abiding citizen within the**
25 **borders of this state shall not be enforced in this state by any state agency, political**
26 **subdivision, or state or local law enforcement agency.**

27 **4. No state agency, political subdivision, or state or local law enforcement agency**
28 **shall receive any federal moneys for the purpose of enforcing any federal statute, federal**
29 **rule, federal executive order, or federal judicial order or findings, or for the purpose of**
30 **enforcing any state statute, state rule, state executive order, or state judicial order or**
31 **findings, that would have the effect of enforcing a red flag law against a Missouri citizen.**

32 **5. No state entity or employee thereof, political subdivision or employee thereof,**
33 **or other entity or person shall have the authority to enforce or attempt to enforce a red**
34 **flag law regardless of the red flag law's origin or the authority of the issuing entity. This**
35 **subsection shall not apply to any agent of the federal government enforcing a federal**
36 **law or federal order.**

37 **6. Nothing in this section shall be construed to prevent a firearm, firearm**
38 **accessory, or ammunition from being seized as evidence by law enforcement in the**
39 **course of a criminal investigation.**

40 **7. (1) A political subdivision or state or local law enforcement agency that**
41 **employs a law enforcement officer who knowingly acts to violate this section and enforce**
42 **a red flag law under the color of any state or federal statute, rule, executive order, or**
43 **judicial order or finding shall be liable to the party against whom the red flag law was**
44 **enforced in an action at law, suit in equity, or other proper proceeding for redress and**
45 **shall be subject to a civil penalty of fifty thousand dollars per occurrence.**

46 **(2) Any person injured under this section shall have standing to pursue an action**
47 **for injunctive relief in the circuit court of the county in which the action allegedly**
48 **occurred or in the circuit court of Cole County.**

49 **(3) The court shall hold a hearing on any motion for a temporary restraining**
50 **order or preliminary injunction within thirty days of service of a petition for the same.**

51 **(4) In an action brought under this section by a party against whom the red flag**
52 **law was enforced, a court may order injunctive or other equitable relief, recovery of**
53 **damages, other legal remedies, and payment of reasonable attorney's fees, costs, and**
54 **expenses of the party. The relief and remedies set forth in this section shall not be**

55 **deemed exclusive and shall be in addition to any other relief or remedies permitted by**
56 **law. The court may award the prevailing party, if not the state of Missouri or a political**
57 **subdivision thereof, reasonable attorney's fees and costs.**

58 **(5) Sovereign immunity shall not be an affirmative defense to any action brought**
59 **under this section.**

Section B. Because immediate action is necessary to limit any overreach of the
2 federal government's power and to protect citizens' rights to bear arms, the enactment of
3 section 1.486 of section A of this act is deemed necessary for the immediate preservation of
4 the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
5 within the meaning of the constitution, and the enactment of section 1.486 of section A of this
6 act shall be in full force and effect upon its passage and approval.

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