

SECOND REGULAR SESSION

# HOUSE BILL NO. 1937

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE TAYLOR.

5381H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 21.750 and 571.030, RSMo, and to enact in lieu thereof two new sections relating to the open carry of 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Section A. Sections 21.750 and 571.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 21.750 and 571.030, to read as follows:

21.750. 1. The general assembly hereby occupies and preempts the entire field of legislation touching in any way firearms, components, ammunition and supplies to the complete exclusion of any order, ordinance or regulation by any political subdivision of this state. Any existing or future orders, ordinances or regulations in this field are hereby and shall be null and void except as provided in subsection 3 of this section.

2. No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance or regulation concerning in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes or other controls on firearms, components, ammunition, and supplies except as provided in subsection 3 of this section.

3. ~~[(1) Except as provided in subdivision (2) of this subsection,]~~ Nothing contained in this section shall prohibit any ordinance of any political subdivision which conforms exactly with any of the provisions of sections 571.010 to 571.070, with appropriate penalty provisions, or which regulates the ~~[open carrying of firearms readily capable of lethal use or the]~~ discharge of firearms within a jurisdiction, provided such ordinance complies with the provisions of section 252.243. No ordinance shall be construed to preclude the use of a firearm in the defense of person or property, subject to the provisions of chapter 563.

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 ~~[(2) In any jurisdiction in which the open carrying of firearms is prohibited by ordinance,~~  
19 ~~the open carrying of firearms shall not be prohibited in accordance with the following:~~

20 ~~—— (a) Any person with a valid concealed carry endorsement or permit who is open carrying~~  
21 ~~a firearm shall be required to have a valid concealed carry endorsement or permit from this state,~~  
22 ~~or a permit from another state that is recognized by this state, in his or her possession at all times;~~

23 ~~—— (b) Any person open carrying a firearm in such jurisdiction shall display his or her~~  
24 ~~concealed carry endorsement or permit upon demand of a law enforcement officer;~~

25 ~~—— (c) In the absence of any reasonable and articulable suspicion of criminal activity, no~~  
26 ~~person carrying a concealed or unconcealed firearm shall be disarmed or physically restrained~~  
27 ~~by a law enforcement officer unless under arrest; and~~

28 ~~—— (d) Any person who violates this subdivision shall be subject to the penalty provided in~~  
29 ~~section 571.121.]~~

30 4. The lawful design, marketing, manufacture, distribution, or sale of firearms or  
31 ammunition to the public is not an abnormally dangerous activity and does not constitute a public  
32 or private nuisance.

33 5. No county, city, town, village or any other political subdivision nor the state shall  
34 bring suit or have any right to recover against any firearms or ammunition manufacturer, trade  
35 association or dealer for damages, abatement or injunctive relief resulting from or relating to the  
36 lawful design, manufacture, marketing, distribution, or sale of firearms or ammunition to the  
37 public. This subsection shall apply to any suit pending as of October 12, 2003, as well as any  
38 suit which may be brought in the future. Provided, however, that nothing in this section shall  
39 restrict the rights of individual citizens to recover for injury or death caused by the negligent or  
40 defective design or manufacture of firearms or ammunition.

41 6. Nothing in this section shall prevent the state, a county, city, town, village or any other  
42 political subdivision from bringing an action against a firearms or ammunition manufacturer or  
43 dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or  
44 such political subdivision.

571.030. 1. A person commits the offense of unlawful use of weapons, except as  
2 otherwise provided by sections 571.101 to 571.121, if he or she knowingly:

3 (1) Carries ~~[concealed]~~ upon or about his or her person a knife, a firearm, a blackjack  
4 or any other weapon readily capable of lethal use into any area where firearms are restricted  
5 under section 571.107; or

6 (2) Sets a spring gun; or

7 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,  
8 or motor vehicle as defined in section 302.010, or any building or structure used for the  
9 assembling of people; or

10 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of  
11 lethal use in an angry or threatening manner; or

12 (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person,  
13 while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon  
14 in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless  
15 acting in self-defense; or

16 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,  
17 courthouse, or church building; or

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

20 (8) Carries a firearm or any other weapon readily capable of lethal use into any church  
21 or place where people have assembled for worship, or into any election precinct on any election  
22 day, or into any building owned or occupied by any agency of the federal government, state  
23 government, or political subdivision thereof; or

24 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section  
25 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any  
26 building or habitable structure, unless the person was lawfully acting in self-defense; or

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

30 (11) Possesses a firearm while also knowingly in possession of a controlled substance  
31 that is sufficient for a felony violation of section 579.015.

32 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the  
33 persons described in this subsection, regardless of whether such uses are reasonably associated  
34 with or are necessary to the fulfillment of such person's official duties except as otherwise  
35 provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section  
36 shall not apply to or affect any of the following persons, when such uses are reasonably  
37 associated with or are necessary to the fulfillment of such person's official duties, except as  
38 otherwise provided in this subsection:

39 (1) All state, county and municipal peace officers who have completed the training  
40 required by the police officer standards and training commission pursuant to sections 590.030  
41 to 590.050 and who possess the duty and power of arrest for violation of the general criminal  
42 laws of the state or for violation of ordinances of counties or municipalities of the state, whether  
43 such officers are on or off duty, and whether such officers are within or outside of the law  
44 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection  
45 12 of this section, and who carry the identification defined in subsection 13 of this section, or

46 any person summoned by such officers to assist in making arrests or preserving the peace while  
47 actually engaged in assisting such officer;

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

50 (3) Members of the Armed Forces or National Guard while performing their official  
51 duty;

52 (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with  
53 the judicial power of the state and those persons vested by Article III of the Constitution of the  
54 United States with the judicial power of the United States, the members of the federal judiciary;

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

56 (6) Any federal probation officer or federal flight deck officer as defined under the  
57 federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers  
58 are on duty, or within the law enforcement agency's jurisdiction;

59 (7) Any state probation or parole officer, including supervisors and members of the  
60 board of probation and parole;

61 (8) Any corporate security advisor meeting the definition and fulfilling the requirements  
62 of the regulations established by the department of public safety under section 590.750;

63 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

64 (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney;  
65 circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person  
66 appointed by a court to be a special prosecutor who has completed the firearms safety training  
67 course required under subsection 2 of section 571.111;

68 (11) Any member of a fire department or fire protection district who is employed on a  
69 full-time basis as a fire investigator and who has a valid concealed carry endorsement issued  
70 prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such  
71 uses are reasonably associated with or are necessary to the fulfillment of such person's official  
72 duties; and

73 (12) Upon the written approval of the governing body of a fire department or fire  
74 protection district, any paid fire department or fire protection district member who is employed  
75 on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28,  
76 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are  
77 necessary to the fulfillment of such person's official duties.

78 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when  
79 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when  
80 ammunition is not readily accessible or when such weapons are not readily accessible.  
81 Subdivision (1) of subsection 1 of this section does not apply to any person nineteen years of age

82 or older or eighteen years of age or older and a member of the United States Armed Forces, or  
83 honorably discharged from the United States Armed Forces, transporting a concealable firearm  
84 in the passenger compartment of a motor vehicle, so long as such concealable firearm is  
85 otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or  
86 projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon  
87 premises over which the actor has possession, authority or control, or is traveling in a continuous  
88 journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not  
89 apply if the firearm is otherwise lawfully possessed by a person while traversing school premises  
90 for the purposes of transporting a student to or from school, or possessed by an adult for the  
91 purposes of facilitation of a school-sanctioned firearm-related event or club event.

92 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any  
93 person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121,  
94 a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or  
95 endorsement to carry concealed firearms issued by another state or political subdivision of  
96 another state.

97 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall  
98 not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

99 6. Notwithstanding any provision of this section to the contrary, the state shall not  
100 prohibit any state employee from having a firearm in the employee's vehicle on the state's  
101 property provided that the vehicle is locked and the firearm is not visible. This subsection shall  
102 only apply to the state as an employer when the state employee's vehicle is on property owned  
103 or leased by the state and the state employee is conducting activities within the scope of his or  
104 her employment. For the purposes of this subsection, "state employee" means an employee of  
105 the executive, legislative, or judicial branch of the government of the state of Missouri.

106 7. Nothing in this section shall make it unlawful for a student to actually participate in  
107 school-sanctioned gun safety courses, student military or ROTC courses, or other  
108 school-sponsored or club-sponsored firearm-related events, provided the student does not carry  
109 a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or  
110 onto the premises of any other function or activity sponsored or sanctioned by school officials  
111 or the district school board.

112 8. A person who commits the crime of unlawful use of weapons under:

113 (1) Subdivision (2), (3), (4), or (11) of subsection 1 of this section shall be guilty of a  
114 class E felony;

115 (2) Subdivision (1), (6), (7), or (8) of subsection 1 of this section shall be guilty of a class  
116 B misdemeanor, except when a concealed weapon is carried onto any private property whose  
117 owner has posted the premises as being off-limits to concealed firearms by means of one or more

118 signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches  
119 with the writing thereon in letters of not less than one inch, in which case the penalties of  
120 subsection 2 of section 571.107 shall apply;

121 (3) Subdivision (5) or (10) of subsection 1 of this section shall be guilty of a class A  
122 misdemeanor if the firearm is unloaded and a class E felony if the firearm is loaded;

123 (4) Subdivision (9) of subsection 1 of this section shall be guilty of a class B felony,  
124 except that if the violation of subdivision (9) of subsection 1 of this section results in injury or  
125 death to another person, it is a class A felony.

126 9. Violations of subdivision (9) of subsection 1 of this section shall be punished as  
127 follows:

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

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

133 (3) For any violation by a persistent offender as defined in section 558.016, a person  
134 shall be sentenced to the maximum authorized term of imprisonment for a class B felony without  
135 the possibility of parole, probation, or conditional release;

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

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

141 11. Notwithstanding any other provision of law, no person who pleads guilty to or is  
142 found guilty of a felony violation of subsection 1 of this section shall receive a suspended  
143 imposition of sentence if such person has previously received a suspended imposition of sentence  
144 for any other firearms- or weapons-related felony offense.

145 12. As used in this section "qualified retired peace officer" means an individual who:

146 (1) Retired in good standing from service with a public agency as a peace officer, other  
147 than for reasons of mental instability;

148 (2) Before such retirement, was authorized by law to engage in or supervise the  
149 prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any  
150 violation of law, and had statutory powers of arrest;

151 (3) Before such retirement, was regularly employed as a peace officer for an aggregate  
152 of fifteen years or more, or retired from service with such agency, after completing any

153 applicable probationary period of such service, due to a service-connected disability, as  
154 determined by such agency;

155 (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such  
156 a plan is available;

157 (5) During the most recent twelve-month period, has met, at the expense of the  
158 individual, the standards for training and qualification for active peace officers to carry firearms;

159 (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or  
160 substance; and

161 (7) Is not prohibited by federal law from receiving a firearm.

162 13. The identification required by subdivision (1) of subsection 2 of this section is:

163 (1) A photographic identification issued by the agency from which the individual retired  
164 from service as a peace officer that indicates that the individual has, not less recently than one  
165 year before the date the individual is carrying the concealed firearm, been tested or otherwise  
166 found by the agency to meet the standards established by the agency for training and qualification  
167 for active peace officers to carry a firearm of the same type as the concealed firearm; or

168 (2) A photographic identification issued by the agency from which the individual retired  
169 from service as a peace officer; and

170 (3) A certification issued by the state in which the individual resides that indicates that  
171 the individual has, not less recently than one year before the date the individual is carrying the  
172 concealed firearm, been tested or otherwise found by the state to meet the standards established  
173 by the state for training and qualification for active peace officers to carry a firearm of the same  
174 type as the concealed firearm.

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