

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 726
103RD GENERAL ASSEMBLY

1410H.03C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 21.750, RSMo, and to enact in lieu thereof one new section relating to firearms, with penalty provisions.

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

Section A. Section 21.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.750, to read as follows: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.

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

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

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

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

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

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

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

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

48 **7. (1) Any county, city, town, village, or municipality that enacts an ordinance**
49 **that regulates firearms in violation of this section shall be liable to the injured party in**
50 **an action at law, suit in equity, or other proper proceeding for redress and subject to a**
51 **civil penalty of fifty thousand dollars. Any person who believes that a jurisdiction in**
52 **which he or she resides has taken action that would violate the provisions of this section**
53 **shall have standing to pursue an action under this subdivision.**

54 **(2) Any person who believes that a jurisdiction in which he or she resides or**
55 **conducts business has taken action that would violate the provisions of this section shall**

56 **have standing to pursue an action for injunctive relief in the circuit court of the county**
57 **in which the action allegedly occurred or in the circuit court of Cole County with respect**
58 **to the action of the jurisdiction. The court shall hold a hearing on the motion for a**
59 **temporary restraining order and preliminary injunction within thirty days of the**
60 **service of the petition.**

61 **(3) In any action under this subsection, the court may award the prevailing**
62 **party, other than the state of Missouri or any political subdivision of the state,**
63 **reasonable attorney's fees and costs.**

64 **(4) Sovereign immunity shall not be an affirmative defense in any action under**
65 **this subsection.**

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