

SENATE BILL NO. 142

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

1257S.01H

KRISTINA MARTIN, Secretary

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
2 one new section, to be known as section 1.486, to read as
3 follows:

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

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

4 (1) Any gun control law, order, or measure that
5 directs the temporary or permanent seizure of any firearm,
6 firearm accessory, or ammunition of an individual without
7 the adjudication of a contested court case; or

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

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

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

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

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

38 5. No state entity or employee thereof, political
39 subdivision or employee thereof, or other entity or person
40 shall have the authority to enforce or attempt to enforce a
41 red flag law regardless of the red flag law's origin or the
42 authority of the issuing entity. This subsection shall not
43 apply to any agent of the federal government enforcing a
44 federal law or federal order.

45 6. Nothing in this section shall be construed to
46 prevent a firearm, firearm accessory, or ammunition from
47 being seized as evidence by law enforcement in the course of
48 an investigation.

49 7. (1) A political subdivision or state or local law
50 enforcement agency that employs a law enforcement officer
51 who knowingly acts to violate this section and enforce a red
52 flag law under the color of any state or federal statute,
53 rule, executive order, or judicial order or finding shall be
54 liable to the party against whom the red flag law was
55 enforced in an action at law, suit in equity, or other
56 proper proceeding for redress and shall be subject to a
57 civil penalty of fifty thousand dollars per occurrence.

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

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

65 (4) In an action brought under this section by a party
66 against whom the red flag law was enforced, a court may
67 order injunctive or other equitable relief, recovery of
68 damages, other legal remedies, and payment of reasonable
69 attorney's fees, costs, and expenses of the party. The
70 relief and remedies set forth in this section shall not be
71 deemed exclusive and shall be in addition to any other
72 relief or remedies permitted by law. The court may award
73 the prevailing party, if not the state of Missouri or a
74 political subdivision thereof, reasonable attorney's fees
75 and costs.

76 (5) Sovereign immunity shall not be an affirmative
77 defense to any action brought under this section.

Section B. Because immediate action is necessary to
2 limit any overreach of the federal government's power and to
3 protect citizens' rights to bear arms, the enactment of

4 section 1.486 of section A of this act is deemed necessary
5 for the immediate preservation of the public health,
6 welfare, peace, and safety, and is hereby declared to be an
7 emergency act within the meaning of the constitution, and
8 the enactment of section 1.486 of section A of this act
9 shall be in full force and effect upon its passage and
10 approval.

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