

SENATE BILL NO. 1004

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

2821S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 1, RSMo, by adding thereto one new section relating to the seizure of firearms, 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 any
10 state statute, state rule, state executive order, state
11 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, ammunition from a Missouri
20 citizen unless the individual has been convicted of a
21 violent felony crime, is otherwise disqualified under
22 section 455.050 or 571.070, or is ordered to surrender any
23 firearm as part of a criminal investigation by a law
24 enforcement officer or agency.

25 3. Any federal order of protection, other judicial
26 order issued by a federal court, or federal executive order
27 that is a red flag law or otherwise directs the confiscation
28 of any firearm, firearm accessory, or ammunition from any
29 law-abiding citizen within the borders of this state shall
30 be considered an infringement on the people's right to keep
31 and bear arms, as guaranteed by Amendment II of the
32 Constitution of the United States and Article I, Section 23
33 of the Constitution of Missouri, and an infringement upon a
34 citizen's right to due process, as guaranteed by Amendments
35 V and XIV of the Constitution of the United States and
36 Article I, Section 10 of the Constitution of Missouri. Any
37 such order shall not be enforced in this state.

38 4. No state agency, political subdivision, or state or
39 local law enforcement agency shall receive any federal
40 moneys for the purpose of enforcing any federal statute,
41 federal rule, federal executive order, or federal judicial
42 order or findings or for the purpose of enforcing any state
43 statute, state rule, state executive order, or state
44 judicial order or findings that would have the effect of
45 enforcing a red flag law against a Missouri citizen.

46 5. No state entity or employee thereof, political
47 subdivision or employee thereof, or other entity or person
48 shall have the authority to enforce or attempt to enforce a
49 red flag law regardless of the red flag law's origin or the

50 authority of the issuing entity. This subsection shall not
51 apply to any agent of the federal government enforcing a
52 federal law or federal order.

53 6. (1) A political subdivision or state or local law
54 enforcement agency that employs a law enforcement officer
55 who knowingly acts to violate this section and enforce a red
56 flag law under the color of any state statute, state rule,
57 state executive order, or state judicial order or finding
58 shall be liable to the party against whom the red flag law
59 was enforced in an action at law, suit in equity, or other
60 proper proceeding for redress and shall be subject to a
61 civil penalty of fifty thousand dollars per occurrence.

62 (2) Any person injured under this section shall have
63 standing to pursue an action for injunctive relief in the
64 circuit court of the county in which the action allegedly
65 occurred or in the circuit court of Cole County. The
66 attorney general shall also have standing to bring an action
67 to enforce the provisions of this section.

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

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

81 **(5) Sovereign immunity shall not be an affirmative**
82 **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, section A of this act
4 is deemed necessary for the immediate preservation of the
5 public health, welfare, peace, and safety, and is hereby
6 declared to be an emergency act within the meaning of the
7 constitution, and section A of this act shall be in full
8 force and effect upon its passage and approval.

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