

2011 OMNIBUS BILL
Effective Date 28 August, 2011
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House Bill 294 was the omnibus bill containing all the firearms changes. This appears to be a pattern for recent legislation. Placing a provision in a bill with something for everyone makes it more likely that it will pass. We badly need another one of these next year.

Under RSMo 50.535 the sheriff's ability to use his "revolving fund" has expanded to include information and data exchange. The LTC fees are paid into the revolving fund and some information exchange is presumed under the law. Yes, this could be used to create a statewide list of our people. However, the state already has such a list. The Department of Revenue controls the list but it can be accessed by patrol officers for official purposes. This access gave us a couple of votes when we passed concealed carry in 2003 we would not have received otherwise. The sheriff already has the ability to use this fund for activities and services relating to the License To Carry program. The sheriff could use this fund to monitor the training programs. He could send someone undercover into a class. So could the media, and I think that would be worse. If an instructor does not play by the rules he will ruin all of us.

Under RSMo 144.064 sales tax on firearms and ammunition cannot be higher than any other sporting goods, equipment or hunting equipment. Proposals to tax guns and ammunition beyond the reach of the average shooter have been made in other states. This law heads off any such move in Missouri.

A “nondriver’s license” (a state ID card) containing a concealed carry endorsement will expire three years from the date of issue. These cards have carried two expiration dates, one in six years for the card, one in three years for the LTC. This has caused some small level of confusion. The card will now cost three dollars. This is cheaper and easier than renewing the endorsement on a driver’s license.

Under RSMo 571.020 it is no longer necessary to have a Curio and Relics License from the ATF in order to possess machine guns, short-barreled shotguns or rifles or firearm silencers. It is only necessary to have the federal license.

I am reliably informed that some collectors have law enforcement samples which they can keep under a Curio and Relic license. These few collectors must keep their C & R license. It would not hurt to keep this license under any circumstances, government agents of all stripes and

degrees are more comfortable if a person has a license; it makes them think that God approves.

This section makes it easier to collect machine guns, and harder to collect switchblades and brass knuckles. It doesn't have to make sense, its just the law. The old law allowed collectors to possess switchblades and brass knuckles. The term "collector" was not defined. After 28 August, 2011 the only legal way to possess switchblades and brass knuckles is to display them in a public museum or exhibition or use the weapon in a "lawful dramatic performance." Where these lawful dramatic players might get these props is not explained. Under this law it is a class A misdemeanor to possess switchblades or brass knuckles. Persons who have collected these items are deprived of their property without just cause or excuse. It is not legal to keep switchblades or brass knuckles now in a collector's possession. The only way to keep these weapons is to open a public museum or to display them in an exhibit. These terms are not defined. Police, military, and penal institutions are exempt, as are businesses doing business with any of these organizations.

I have used my switchblade and brass knuckle collection in exhibitions for Missouri Bar Association Continuing Legal Education seminars and for the legal section of the License To Carry class. These

exhibitions are useful because brass knuckles are sometimes not obviously weapons. Some are made to look like key chains or belt buckles. These seminars teach lawyers to look beyond the obvious for weapons at crime scenes. I also use photos of these exhibitions to illustrate articles on weapons law.

An addition to RSMo 571.030.2 clarifies that certain official persons can carry concealed weapons even into churches and schools. It does not matter if they are on or off duty. These official persons include

1. POST certified peace officers who possess the duty and power of arrest regardless of whether they are in or outside of their jurisdiction
2. All qualified retired peace officers who are qualified under RSMo 571.030.11 (of the amended statute)
3. Wardens, superintendents, and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime
4. Members of the armed forces or national guard while performing their official duty
5. Judges of Missouri trial courts but not administrative judges
6. Judges of federal Article III courts and members of the federal judiciary; this does not include administrative judges.

7. Persons in the process of serving civil or criminal process
8. Federal probation officers, regardless of whether they are on duty or within their jurisdiction
9. Federal flight deck officers defined by 49 U.S.C. §44921 regardless of whether they are on duty or within their jurisdiction
10. “Any state probation or parole officer including supervisors and members of the board of probation and parole.” I directly quote this provision from RSMo 571.030.2(7) because it does not specifically mention *Missouri* probation and parole officers. The right of judges to carry is specifically limited to federal and Missouri judges. There may be a loophole here for probation officers from other states but I would not want to count on it.
11. “Corporate security advisors” under RSMo 84.340. This covers persons licensed by St. Louis only.
12. Any coroner, deputy coroner, medical examiner, or assistant medical examiner. These have historically been considered law enforcement positions.
13. Any prosecuting attorney or assistant prosecuting attorney, circuit attorney or assistant circuit attorney who has completed the firearms safety training required for a Missouri License To Carry. This does

14. Any member of a fire department or fire protection district who is employed full time as a fire investigator. However, he must also have completed the Missouri License to Carry course. The tail end of the section says “when such uses are reasonably associated with or are necessary to the fulfillment of such person’s official duties.” This makes the section more vague than it should. The section is to allow arson investigators to carry weapons. These are fire fighters who conduct police investigations. These investigations uncover insurance fraud, hate and murder and send people to jail. They should carry weapons. The tail end of the section seems to require someone in the investigator’s chain of command to find that he has a need to carry a concealed weapon. This is unnecessary paperwork.

It must be noted that some of these sections state that the right to carry exists even if the official is not on duty or within his jurisdiction. This would appear to mean that the officials listed in other sections do not have the right off duty or in other jurisdictions.

Amendments to RSMo 571.030.3 and .6 allow firearms on school premises or for a school-sanctioned firearm-related event or club event.

Under RSMo 571.030.10 no one who has “pled guilty or been found guilty” of a felony under RSMo 571.030.1 shall receive a suspended imposition of sentence (SIS) if he had previously received an SIS for a firearms or weapons related felony. Previously this was legally possible, but unlikely.

Under RSMo 571.063 it is illegal to knowingly solicit, persuade, encourage or entice a licensed dealer or private seller to sell firearms or ammunition under circumstances which violate federal or state law. It is also illegal to provide false information for the purpose of deceiving the dealer or private seller about the legality of a transaction. It is also illegal to procure another to violate this section. The term procure would seem to include hire, persuade or otherwise obtain. This section does not apply to law enforcement investigations. This further criminalizes criminals attempting to use false identification or straw purchasers but it appears directed at New York City Mayor Michael Bloomberg. The Mayor has sent teams of private investigators to entrap dealers into questionable sales. He then files suit to force the shop to conform to certain rules he has dreamed

up. Given that the Mayor is using the City treasury to finance the litigation he has the upper hand.

Under RSMo 571.085 Missouriians may purchase firearms in any state as long as they conform to federal law, Missouri law, and the law of the state of purchase.

Under RSMo 571.087 Residents of any state may purchase firearms in Missouri as long as they conform to federal law, Missouri law, and the law of their state of residence.

The two sections above say “firearms,” not just long guns. Purchasers of handguns will still have to ship them to Missouri through a licensed dealer. These sections should make the ATF publication “State Laws and Published Ordinances – Firearms” much more popular.

There have been some changes to the License To Carry law. The age has been reduced to twenty-one (21). State ID cards with concealed carry endorsements will expire in three years on the same day as the concealed carry endorsement. That may remove a minor confusion. It is another reason to place the endorsement on a state ID card.

Certain elected officials and state employees are now allowed to carry in the state capitol building. Members of the general assembly, full-time employees of the general assembly, legislative employees or statewide

elected officials and their employee can now carry in the building to include a meeting of the full house or senate or a committee meeting of these bodies if it is held in the capitol building. Persons exercising this right must have a License To Carry endorsement.

Instructors are free to craft their own syllabus as long as it covers the statutory requirements. It must also take into account that some students will be neophyte shooters. In a recent tragedy an instructor put his students through an advanced drill involving drawing a loaded gun with the weak hand from the strong side. A student accidentally discharged an unfamiliar gun and was killed. Training must be geared towards the lowest level of ability. Elaborate drills should be moved to a separate advanced course.

The live fire exercise for qualification has become more complicated. Under the new RSMo 571.111.2(9) and (10) the number of rounds required to familiarize and to qualify has doubled. Students must fire 50 rounds from a revolver; another 50 rounds from a semi-automatic pistol then 20 more rounds to qualify from a revolver and another 20 to qualify from a semi-automatic pistol. It is not necessary to qualify with the handgun used to familiarize. It is not necessary to familiarize or qualify with the gun one intends to carry. It is not required that either type of these handguns be

single or double action. I do not see this as a deficiency but students may ask.

Some have speculated that the 20 rounds for qualification can be part of the 50 for familiarization. This does not appear to be the case. The 50 familiarization rounds for each type of handgun are required in subsection (9). The 20 qualification rounds for each type of handgun are in the next subsection, (10). Because they are in separate subsections I believe that they are separate requirements. This totals 140 rounds to qualify each student.

The new shooting requirements will be a problem for instructors who do not control their own range. Some instructors will be able to rent guns and sell ammunition. However, the new requirements double the range time, time which must be taken from some other subject. The cost of range time and ammunition must be passed on to the students. Some weak or elderly students will have trouble qualifying with a revolver's trigger pull. This is precisely the demographic most in need of a License To Carry. The worst part of the new provision is that it will encourage the opposition to add more senseless requirements to the training in subsequent years. There have been no significant problems with license holders, and certainly nothing that could be remedied by the new shooting requirements. This section was a

mistake. All things considered, it is an evil measure and must be repealed as soon as possible.

Questions have been raised as to the validity of training certificates issued before the new shooting provision went into effect. The new provisions are not specifically retroactive. They do not specifically prevent a sheriff from issuing a license based on a certificate issued before the change. It appears that the sheriff has the discretion to honor old certificates. However, the Missouri Attorney General's office has issued an informal comment stating that it believes that all certificates issued by sheriffs after 28 August, 2011 MUST be based on the more restrictive shooting requirements. The Attorney General's office stresses that the sheriff's are not the Attorney General's clients and they cannot require the sheriffs to take their advice. A new qualification form is available specifying the more restrictive shooting requirements. This certificate is posted on the St. Charles County Sheriff's website at Sheriff.sccmo.org.

Persons already in possession of a License To Carry are not required to re-qualify. However, if they allow their license to expire, they will have to qualify with the more restrictive shooting requirements before getting a new license.

If a firearms instructor knowingly gives any false information to the sheriff regarding the student's training or performance it is a class C misdemeanor under 571.111.6

Cities may now regulate the shooting of BB or pellet guns within their boundaries. The legislature is very specific on what such ordinances can say and specifically prohibits cities from preventing the use of BB or pellet guns at approved shooting ranges. The legislature did not specifically preempt the regulation of such guns but this section has that effect.