

# SENATE BILL NO. 1459

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNELTING.

6247S.031

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.

*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".

3 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, except  
7 persons lawfully in custody or persons who have been  
8 released after the execution of a bail bond after having  
9 been charged with a dangerous felony, as defined in section  
10 556.061;

11 (2) Any federal statute, federal rule, federal  
12 executive order, or federal judicial order or finding, or  
13 any state statute, state rule, state executive order, or  
14 state judicial order or finding, that:

15 (a) Prohibits a Missouri citizen from owning,  
16 possessing, transporting, transferring, or receiving any  
17 firearm, firearm accessory, or ammunition, except persons

18 lawfully in custody or persons who have been released after  
19 the execution of a bail bond after having been charged with  
20 a dangerous felony, as defined in section 556.061; or

21 (b) Orders the removal or requires the surrender of  
22 any firearm, firearm accessory, or ammunition, except  
23 persons lawfully in custody or persons who have been  
24 released after the execution of a bail bond after having  
25 been charged with a dangerous felony, as defined in section  
26 556.061.

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

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

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

49           6. Nothing in this section shall be construed to  
50 prevent a firearm, firearm accessory, or ammunition from  
51 being seized as evidence by law enforcement in the course of  
52 an investigation.

53           7. (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 or federal statute,  
57 rule, executive order, or judicial order or finding shall be  
58 liable to the party against whom the red flag law was  
59 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.

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

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

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

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