

FIRST REGULAR SESSION

# HOUSE BILL NO. 712

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BOYD.

1240H.02I

DANA RADEMAN MILLER, Chief Clerk

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## 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.

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

Section A. Chapter 1, RSMo, is amended by adding thereto one new section, to be known as section 1.486, to read as follows:

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

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

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

**(2) Any federal statute, federal rule, federal executive order, or federal judicial order or finding or any state statute, state rule, state executive order, state judicial order or finding that:**

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

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

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.

17           **3. Any federal order of protection, other judicial order issued by a federal court,**  
18 **or federal executive order that is a red flag law or otherwise directs the confiscation of**  
19 **any firearm, firearm accessory, or ammunition from any law-abiding citizen within the**  
20 **borders of this state shall be considered an infringement on the people's right to keep**  
21 **and bear arms, as guaranteed by Amendment II of the Constitution of the United States**  
22 **and Article I, Section 23 of the Constitution of Missouri, and an infringement upon a**  
23 **citizen's right to due process, as guaranteed by Amendments V and XIV of the**  
24 **Constitution of the United States and Article I, Section 10 of the Constitution of**  
25 **Missouri. Any such order shall not be enforced in this state.**

26           **4. No state agency, political subdivision, or state or local law enforcement agency**  
27 **shall receive any federal moneys for the purpose of enforcing any federal statute, federal**  
28 **rule, federal executive order, or federal judicial order or findings or for the purpose of**  
29 **enforcing any state statute, state rule, state executive order, or state judicial order or**  
30 **findings that would have the effect of enforcing a red flag law against a Missouri citizen.**

31           **5. No state entity or employee thereof, political subdivision or employee thereof,**  
32 **or other entity or person shall have the authority to enforce or attempt to enforce a red**  
33 **flag law regardless of the red flag law's origin or the authority of the issuing entity. This**  
34 **subsection shall not apply to any agent of the federal government enforcing a federal**  
35 **law or federal order.**

36           **6. (1) A political subdivision or state or local law enforcement agency that**  
37 **employs a law enforcement officer who knowingly acts to violate this section and enforce**  
38 **a red flag law under the color of any state statute, state rule, state executive order, or**  
39 **state judicial order or finding shall be liable to the party against whom the red flag law**  
40 **was enforced in an action at law, suit in equity, or other proper proceeding for redress**  
41 **and shall be subject to a civil penalty of fifty thousand dollars per occurrence.**

42           **(2) Any person injured under this section shall have standing to pursue an action**  
43 **for injunctive relief in the circuit court of the county in which the action allegedly**  
44 **occurred or in the circuit court of Cole County. The attorney general shall also have**  
45 **standing to bring an action to enforce the provisions of this section.**

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

48           **(4) In an action brought under this section by a party against whom the red flag**  
49 **law was enforced, a court may order injunctive or other equitable relief, recovery of**  
50 **damages, other legal remedies, and payment of reasonable attorney's fees, costs, and**  
51 **expenses of the party. The relief and remedies set forth shall not be deemed exclusive**  
52 **and shall be in addition to any other relief or remedies permitted by law. The court may**

53 **award the prevailing party, if not the state of Missouri or a political subdivision thereof,**  
54 **reasonable attorney's fees and costs.**

55 **(5) Sovereign immunity shall not be an affirmative defense to any action brought**  
56 **under this section.**

Section B. Because immediate action is necessary to limit any overreach of the  
2 federal government's power and to protect citizens' rights to bear arms, the enactment of  
3 section 1.486 of section A of this act is deemed necessary for the immediate preservation of  
4 the public health, welfare, peace, and safety, and is hereby declared to be an emergency act  
5 within the meaning of the constitution, and the enactment of section 1.486 of section A of this  
6 act shall be in full force and effect upon its passage and approval.

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