



Written by [Joe Wolverton, II, J.D.](#) on May 11, 2014

Missouri Gun Rights Amendment Goes to Voters in November

While they work on passing bills providing  substantial protections for the right to keep and bear arms, Missouri state legislators are offering voters a way to directly stand up for that right themselves.

On May 7, the state senate voted 23-8 to approve a bill that would allow voters to consider a proposed amendment to the November general election ballot that would shore up the Second Amendment in the Show Me State. By a vote of 122-31, the state House of Representatives passed the proposal the day before.

The bill, Senate Joint Resolution 36, declares:

That the right of every citizen to keep and bear arms, ammunition, and accessories typical to the normal function of such arms, in defense of his home, person, family and property, or when lawfully summoned in aid of the civil power, shall not be questioned. The rights guaranteed by this section shall be unalienable. Any restriction on these rights shall be subject to strict scrutiny and the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement.

Ironically, the bill does permit the state legislature to infringe upon the right it declared “unalienable” just one paragraph earlier, preserving for itself the power to enact “general laws which limit the rights of convicted violent felons or those duly adjudged mentally infirm by a court of competent jurisdiction.”

Supporters of the proposal praised legislators for their effort to protect this fundamental right. “The right to keep and bear arms is a fundamental right and has been so since the founding of this country,” state Representative Jay Barnes said, as quoted by The Associated Press.

In another statement, Barnes referred to the heightened threshold the bill would set for any attempt to infringe on the right to keep and bear arms. “It ensures that Second Amendment rights, by subjecting government regulations impacting them to strict scrutiny,” Barnes explains, “is given the same protection afforded every other fundamental right in the United States’ and the Missouri Constitution.”

Opponents see the resolution as a solution to a problem that doesn’t exist. “You’re putting people’s lives in jeopardy with this resolution,” said state Representative Stacey Newman. “What problem are you trying to correct with this?”

The answer lies in the question Missourians will be called on to consider. The ballot will include the following question: “Shall the Missouri Constitution be amended to include a declaration that the right to keep and bear arms is a unalienable right and that the state government is obligated to uphold that right?”

As indicated above, the legislature is not relying solely on the success of the ballot measure to build barricades around the rights protected by the Second Amendment.

[Lawmakers are currently considering](#) a pair of bills that similarly take aim at the federal government’s assault on civilian ownership of firearms.



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House Bill 1439 is currently being reworked by a conference committee of representatives and senators tasked with hammering out a version that would be acceptable to both bodies.

The “Second Amendment Preservation Act” begins by making inspiring statements reminiscent of the Kentucky and Virginia Resolutions whose spirit informs the entire legislation. The language of the bill also accurately restates the Founders’ intended relationship between the state and federal governments:

The general assembly of the state of Missouri is firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic, and is duty bound to oppose every infraction of those principles which constitute the basis of the Union of the States because only a faithful observance of those principles can secure the nation’s existence and the public happiness;

Acting through the United States Constitution, the people of the several states created the federal government to be their agent in the exercise of a few defined powers, while reserving to the state governments the power to legislate on matters which concern the lives, liberties, and properties of citizens in the ordinary course of affairs;

The limitation of the federal government’s power is affirmed under the Tenth Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves;

Whenever the federal government assumes powers that the people did not grant it in the Constitution, its acts are unauthoritative, void, and of no force;

The several states of the United States of America respect the proper role of the federal government, but reject the proposition that such respect requires unlimited submission.

If the government, created by compact among the states, was the exclusive or final judge of the extent of the powers granted to it by the states through the Constitution, the federal government’s discretion, and not the Constitution, would necessarily become the measure of those powers. To the contrary, as in all other cases of compacts among powers having no common judge, each party has an equal right to judge for itself as to when infractions of the compact have occurred, as well as to determine the mode and measure of redress.

Specifically, the legislation declares:

Although the several states have granted supremacy to laws and treaties made pursuant to the powers granted in the Constitution, such supremacy does not extend to various federal statutes, executive orders, administrative orders, court orders, rules, regulations, or other actions which restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of Missouri; such statutes, executive orders, administrative orders, court orders, rules, regulations, and other actions exceed the powers granted to the federal government.

The Senate version, on the other hand, is scheduled to be voted on Monday by the members of the state House of Representatives.

Senate Bill 613, the Second Amendment Preservation Act, explicitly nullifies all federal actions



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infringing on the right to keep and bear arms as protected by the Second Amendment, declaring:

All federal acts, laws, executive orders, administrative orders, court orders, rules, and regulations, whether past, present, or future, which infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution shall be invalid in this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall be considered null and void and of no effect in this state.

Approval of these companion bills is coming down to the wire as Missouri's legislative session comes to a close on May 30.

While the ballot measure is a step in the right direction, the legislation currently being considered by state lawmakers would go further along the road toward repairing the right to keep and bear arms and preventing the federal government from pursuing its policy of enacting regulations that directly infringe on that right in open and hostile violation of the Second Amendment.

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