

FIREARMS:

Firearms which do not have stamped upon them the name of the maker of the serial number may not be purchased by a Missouri resident and brought into Missouri.



December 29, 1955

Honorable J. W. Grossenheider  
Prosecuting Attorney  
Laclede County  
Lebanon, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"One of the residents of Laclede County is an antique firearm collector. In order to purchase some old firearms which have no serial numbers or identification on them from the State of California he needs some sort of permit from the State of Missouri. We have searched through the statutes including Section 564.620-630-640, but we do not believe that these statutes are applicable to this situation.

"Can you advise this office what sort of a permit an antique firearm collector must obtain in order to purchase antique firearms from other states and in order to keep a collection of antique firearms and will you advise us what statutes are applicable to such a situation."

All section references will be to RSMo 1949.

Section 564.610 through 564.660, referred to you, pertain to weapons which, by reason of their size, are capable of being concealed about the person. For that reason these sections would not have any application to weapons which were not thus capable of concealment.

Section 564.620 reads as follows:

"No wholesaler or dealer therein shall have in his possession for the purpose of sale, or shall sell, any pistol, revolver, or other firearm of a size which may be concealed upon the person, which does not have plainly and permanently stamped upon the metallic portion thereof, the trademark or name

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of the maker, the model and the serial factory number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker, and the maker, and no wholesale or retail dealer therein shall have in his possession for the purpose of sale, or shall sell, any such weapon unless he keep a full and complete record of such description of such weapon, the name and address of the person from whom purchased and to whom sold, the date of such purchase or sale, and in the case of retailers the date of the permit and the name of the circuit clerk granting the same, which record shall be open to inspection at all times by any police officer or other peace office of this state."

Section 564.630 reads:

"1. No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon, within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon.

"2. Such permit shall be issued by the circuit clerk of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety. The permit shall recite the date of the issuance thereof and that the same is invalid after thirty days after the said date, the name and address of the person to whom granted and of the person from whom such weapon is to be acquired, the nature of the transaction, and a full description of such weapon, and shall be countersigned by the person to whom granted in the presence of the circuit clerk. The circuit clerk shall receive therefor a fee of fifty cents."

"3. If the permit be used, the person receiving the same shall return it to the circuit clerk within thirty days after the expiration, with a notation thereon showing the date and manner of the disposition of such weapon. The circuit clerk shall keep

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a record of all applications for such permits and his action thereon, and shall preserve all returned permits.

"4. No person shall in any manner transfer, alter or change any such permit or make a false notation thereon or obtain the same upon any false representation to the circuit clerk granting the same, or use or attempt to use a permit granted to another."

Section 564.640 reads as follows:

"No person within this state shall lease, buy or in anywise procure the possession from any person, firm or corporation within or without the state, of any pistol, revolver or other firearm of a size which may be concealed upon the person, that is not stamped as required by Section 564.620; and no person shall buy or otherwise acquire the possession of any such article unless he shall have first procured a written permit so to do from the circuit clerk of the county in which such person resides, in the manner as provided in section 564.630."

From the above it clearly appears that in order to purchase these antique firearms, it is necessary that the purchaser acquire the permit which is the subject of Section 564.630, supra.

It is also clear that Sections 564.620 and 564.640, supra, require firearms purchased under the permit referred to in Section 564.630 to have, "permanently stamped upon the metallic portion thereof, the trademark or name of the maker, the model and the serial factory number thereof, which number shall not be the same as that of any other such weapon of the same model and made by the same maker \* \* \*."

All of the above is perfectly clear and plain so far as firearms are concerned, which carry the stampings referred to in Section 564.620, but you referred to firearms which were manufactured before any of the stampings referred to in Section 564.620 were required by law to be placed upon firearms. Since these firearms referred to by you do not have the required stampings, a literal construction of Sections 564.620, 564.630, and 564.640, would result in a situation in which there would be no possible legal way in which a person in Missouri could buy and bring into Missouri the unstamped firearms now in California. Can it be said that the Missouri Legislature which enacted the above sections of law intended such a result? We cannot believe that they did, but we do believe that such is the result of their legislation.

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The following portion of Section 564.640 is perfectly clear and perfectly plain, and so far as we can see, admits of no exceptions. "No person within this state shall \* \* \* buy or in anywise procure the possession from any person \* \* \* within or without the state of any pistol, revolver or other firearm of a size which may be concealed upon the person that is not stamped as required by Section 564.630\* \* \*." We believe that this conclusion is unfortunate but inescapable, and that the situation which results from it can only be changed by legislative enactment. We do not believe that any permanent good can result from giving to the words of a statute meanings which they clearly do not possess, although the immediate result of so doing might be desirable.

CONCLUSION

It is the opinion of this department that firearms which do not have stamped upon them the name of the maker or the serial number may not be purchased by a Missouri resident and brought into Missouri.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW/ld