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BOARD BILL NUMBER INTRODUCED BY

1 An ordinance creating the municipal offense of “Unlawful Possession, Manufacture,
2 Transport, Repair, or Sale of Certain Weapons,” with penalty provisions.

3 **WHEREAS**, Section 21.750.3, RSMo., provides that the City of St. Louis may enact
4 Section 571.020, RSMo., into City ordinance, and enact “appropriate penalty provisions” for
5 violations; and

6 **WHEREAS**, Section 571.020, RSMo., provides that a person may commit the offense of
7 “Unlawful Possession, Manufacture, Transport, Repair, or Sale of a Firearm” in several
8 circumstances, with certain exceptions as required under state law; and

9 **WHEREAS**, the City of St. Louis may enact an ordinance creating the municipal offense
10 of “Unlawful Possession, Manufacture, Transport, Repair, or Sale of a Firearm” with penalty
11 provisions; and

12 **WHEREAS**, it is necessary for the City of St. Louis to create and enforce such a
13 municipal offense, as the knowing unlawful possession, manufacture, transport, repair, or sale of
14 machine guns, short barreled rifles or shotguns, silencers, and exploding ammunition contributes
15 to the proliferation of gun violence within the City, putting the safety of City residents at risk;
16 and

17 **WHEREAS**, the City of St. Louis is not prohibited from construing the state’s definition
18 of “firearm” to include the provisions of the federal definition for “firearm” found in 27 C.F.R.
19 478.11, which was recently upheld through a U.S. Supreme Court order; and

20 **WHEREAS**, the definition of “firearm” in 27 C.F.R. 478.11 includes unfinished parts of
21 firearms, which allows them to tracked more easily and be licensed; requires them to include
22 serial numbers; requires manufacturers to run background checks before selling them as they do

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1 with other commercially-made firearms; and applies regardless of how the firearm was made,
2 meaning it includes ghost guns made from individual parts, kits, or 3D printers; and

3 **WHEREAS**, the City of St. Louis is not prohibited from construing the state's definition
4 of "machine gun" to include the provisions of the federal definition for "machine gun" found in
5 27 C.F.R. 478.11; and

6 **WHEREAS**, the definition of "machine gun" in 27 C.F.R. 478.11 includes unfinished
7 parts of machine guns, which allows them to tracked more easily and be licensed; requires them
8 to include serial numbers; requires manufacturers to run background checks before selling them
9 as they do with other commercially-made machine guns; and applies regardless of how it was
10 made, meaning it includes ghost guns made from individual parts, kits, or 3D printers; and also
11 includes a bump-stock-type device; and

12 **WHEREAS**, the City of St. Louis is not prohibited from construing the state's definition
13 of "rifle" to include the provisions of the federal definition for "rifle" found in 27 C.F.R. 478.11;
14 and

15 **WHEREAS**, the definition of "rifle" in 27 C.F.R. 478.11 includes weapons which have
16 been modified or remade to serve as a rifle, as well as weapons equipped with accessories
17 components, or other rearward attachments like stabilizing braces; and

18 **WHEREAS**, juvenile offenders should be treated differently than adult offenders, in
19 recognition of their biological, psychological, and social differences from adult offenders; and

20 **WHEREAS**, it is the best public policy for any revenue accruing to the City of St. Louis
21 from fines from convictions from weapons-related infractions to be directed towards the Office

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1 of Violence Prevention to provide services pertaining to violence prevention, behavioral and
2 mental health support services for youth who encounter the criminal justice system and services
3 to support survivors and victims of violent crime in the City of St. Louis.

4 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

5 **SECTION ONE. Definitions.** As used in this Ordinance, the following definitions shall
6 apply:

7 1. "Firearm" shall mean any weapon that is designed or adapted to expel a projectile by the
8 action of an explosive.

9 a. This definition shall be construed to include the provisions of the federal
10 definition for "firearm" found in 27 CFR § 478.11, or its successor.

11 2. "Firearm silencer" shall mean any instrument, attachment, or appliance that is designed or
12 adapted to muffle the noise made by the firing of any firearm.

13 3. "Knowingly" shall mean:

14 a. Acting with respect to their conduct or to attendant circumstances when they are
15 aware of the nature of their conduct or that those circumstances exist; or

16 b. With respect to a result of their conduct when they are aware that their conduct is
17 practically certain to cause that result.

18 4. "Machine gun" shall mean any firearm that is capable of firing more than one shot
19 automatically, without manual reloading, by a single function of the trigger.

20 a. This definition shall be construed to include the provisions of the federal
21 definition for "machine gun" found in 27 CFR § 478.11, or its successor.

1 5. “Manufacture” shall mean the making, assembly, or similar production of a weapon or its
2 components for the purposes of a subsequent sale or distribution.

3 6. “Possess” or “possession” shall mean having actual or constructive possession of a
4 weapon with knowledge of its presence. A person has actual possession if such person
5 has the object on his or her person or within easy reach and convenient control. A person
6 has constructive possession if such person has the power and the intention at a given time
7 to exercise dominion or control over the object either directly or through another person
8 or persons. Possession may also be sole or joint. If one person alone has possession of
9 an object, possession is sole. If two or more persons share possession of an object,
10 possession is joint.

11 7. “Repair” shall mean:

12 a. To restore a damaged, broken, or failed weapon to return it to its original intent,
13 or
14 b. The action that needs to be performed so a weapon can fulfill its intentions and
15 purposes.

16 8. “Rifle” shall mean any firearm designed or adapted to be fired from the shoulder and to
17 use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a
18 rifled bore by a single function of the trigger.

19 a. This definition shall be construed to include the provisions of the federal
20 definition for “rifle” found in 27 CFR § 478.11, or its successor.

1 9. “Sale” or “sell” shall mean any transfer, exchange or barter, conditional or otherwise, in
2 any manner or by any means whatsoever, for valuable consideration, and shall also
3 include sales facilitated via installment payments or credit.

4 10. “Short-barrel” shall mean a barrel length of less than sixteen inches for a rifle and
5 eighteen inches for a shotgun, both measured from the face of the bolt or standing breech,
6 or an overall rifle or shotgun length of less than twenty-six inches.

7 11. “Shotgun” shall mean any firearm designed or adapted to be fired from the shoulder and
8 to use the energy of the explosive in a fixed shotgun shell to fire a number of shots or a
9 single projectile through a smooth bore barrel by a single function of the trigger.

10 12. “Transport” shall mean conveying or carriage by any means, including assisting another
11 in conveying or carriage, whether:

- 12 a. From a location outside of the geographic boundaries of the City of St. Louis into
13 the geographic boundaries of the City of St. Louis;
- 14 b. From a location inside of the geographic boundaries of the City of St. Louis
15 outside of the geographic boundaries of the City of St. Louis; or
- 16 c. Within the geographic boundaries of the City of St. Louis.

17 **SECTION TWO. Unlawful Possession, Manufacture, Transport, Repair, or Sale of**

18 **Certain Weapons.** A person commits the ordinance violation of “Unlawful Possession,
19 Manufacture, Transport, Repair, or Sale of Certain Weapons” when, in violation of this
20 Ordinance, they knowingly possess, manufacture, transport, repair or sell:

- 1 1. A bullet or projectile which explodes or detonates upon impact because of an
- 2 independent explosive charge after having been shot from a firearm;
- 3 2. Any of the following in violation of federal law:
 - 4 a. A machine gun;
 - 5 b. A short-barreled rifle or shotgun; or
 - 6 c. A firearm silencer.

7 **SECTION THREE. Exemptions.** A person does not commit an offense under this

8 ordinance if their conduct involved any of the items possessed in Section Two in conformity
9 with any applicable federal law, and the conduct was incident to:

- 10 1. The performance of official duty by the Armed Forces, National Guard, a governmental
11 law enforcement agency, or a penal institution; or
- 12 2. Engaging in a lawful commercial or business transaction with an organization
13 enumerated in Section Two; or
- 14 3. Using an explosive weapon in a manner reasonably related to a lawful industrial or
15 commercial enterprise; or
- 16 4. Displaying the weapon in a public museum or exhibition; or
- 17 5. Using the weapon in a manner reasonably related to a lawful dramatic performance.

18 **SECTION FOUR. Penalty Provisions.** The penalty for a violation of this Ordinance

19 shall be as follows:

- 20 1. For individuals aged eighteen (18) years or older, a violation of this Ordinance shall be
21 punished accordingly:

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1 a. For a first offense, a fine of up to five-hundred dollars (\$500) and a period of
2 incarceration of up to thirty (30) days;
3 b. For a second offense, a fine of up to five-hundred dollars (\$500) and a period of
4 incarceration of up to sixty (60) days; and
5 c. For a third or subsequent offense, a fine of up to five-hundred dollars (\$500) and a
6 period of incarceration of up to ninety (90) days.

7 2. For individuals under eighteen (18) years of age, a violation of this Ordinance may be
8 punished by a fine of up to five hundred dollars (\$500) and a period of community
9 service determined by the court.

10 3. For organizations, companies, or other entities, a violation of this Ordinance may be
11 punished by:

12 a. A fine of up to five hundred dollars (\$500); and
13 b. A suspension or revocation of any City business license for any business through
14 which the unlawful activity of weapons has occurred or is occurring.

15 All fines issued by the courts pursuant to violations of this Ordinance shall be paid to and
16 through the courts, with monies distributed by the courts according to law. Any revenue received
17 by the City under this Ordinance from the Courts shall be disbursed by the Comptroller's office
18 for the following purposes:

19 A. To the Office of Violence Prevention, for services that:

20 a. Prevent violence;

- b. Provide youth in the City who encounter the criminal justice system with mental and behavioral health support; and
- c. Support survivors and victims of violent crime in the City; and

B. To the City and courts, for administrative costs associated with the enforcement of this Ordinance.

SECTION FIVE. Reporting. The St. Louis Metropolitan Police Department

7 ("SLMPD") shall establish a policy and procedures to track and record the number of violations
8 of this Ordinance, including the race and gender of individuals who are charged with violating
9 this Ordinance. To the extent allowable under law, the SLMPD shall make such records available
10 to the public upon request.

11 Beginning in 2024, the SLPMD shall produce an annual report of the number of
12 violations under this Ordinance that occurred during the prior calendar year, including the race
13 and gender of individuals who are charged with violating this Ordinance, and shall publish such
14 report on the SLMPD's website by January 31st of each year.

15 **SECTION SIX. Severability Clause.** It is hereby declared to be the intention of the
16 Board of Aldermen that each and every part, section, and subsection of this Ordinance shall be
17 separate and severable from each and every other part, section, and subsection hereof, and that
18 the Board of Aldermen intends to adopt each said part, section and subsection separately and
19 independently of any other part, section and subsection. In the event that any part, section or
20 subsection of this Ordinance shall be determined by a court of competent jurisdiction to be or to
21 have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be

1 and remain in full force and effect, unless the court making such finding shall determine that the
2 valid portions standing alone are incomplete and are incapable of being executed in accord with
3 the legislative intent.

4 **SECTION SEVEN. Emergency Clause.** This being an ordinance for the preservation of
5 public peace, health and safety and providing for public work or improvements and repairs
6 thereof, it is hereby declared to be an emergency measure within the meaning of Sections 19 and
7 20 of Article IV of the Charter, and, therefore, this Ordinance shall become effective
8 immediately upon its passage and approval of the Mayor of the City.