

Decide now how to react if HB 436 veto overridden

Names in paper could cause big trouble

I've struggled with how to write this column without sounding like I'm crying "wolf." We've told you this already, but I fear that some of you either haven't heard our message or haven't yet thought about how you will respond to the very real possibility of big trouble just ahead.

If I am doing my job as the attorney for our members, I need to warn you bluntly that there is some risk that you could be prosecuted for a crime in coming months for what you print in your paper. This is not a "political" statement. It just is a warning that members of the Press Association could be charged with a misdemeanor after September.

Many of you have been following Missouri Press Association's coverage of House Bill 436 and its implications for your paper. This bill was vetoed by Gov. Jay Nixon this summer. In his veto message the governor mentioned, among many other problems, that the bill contains unconstitutional language.

Beginning Sept. 11, the Missouri legislature will meet for its veto session. There is a good possibility that the veto of HB 436 will be overturned. If that happens, the bill will become law.

Please read this carefully, and call me if you want to talk about it. It is critical that you make some decisions now about how your newspaper will respond to what the legislature does with HB 436.

As Missouri Press has told you, the bill includes the following:

571.011.1. No person or entity shall publish the name, address, or other identifying information of any individual who owns a firearm or who is an

applicant for or holder of any license, certificate, permit, or endorsement which allows such individual to own, acquire, possess, or carry a firearm.

2. For purposes of this section, "publish" means to issue information or material in printed or electronic form for distribution or sale to the public.

3. Any person or entity who violates the provisions of this section by publishing identifying information protected under this section is guilty of a class A misdemeanor.

Let me be perfectly clear about this. This law says if you publish a person's name (or other identifying information) and he is a gun owner, you may be prosecuted for a misdemeanor. A Class A

misdemeanor is punishable by imposition of a fine of up to \$1,000.

Further, Section 560.016, the law that covers this, adds that a person who



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Ask legislators to sustain veto

Missouri Press Association urges you to call your state representative(s) and ask them to not vote to override Gov. Nixon's veto of House Bill 436 when they meet for the veto session, which begins on Sept. 11.

You can find your legislators' contact information at house.mo.gov/member.aspx.

has been convicted of a misdemeanor or infraction through which he or she derived "gain" may be sentenced to a fine up to double the amount of gain, but not more than \$20,000. I assume this would relate to the profit your newspaper made from the publication.

That should concern you. We don't know what is going to happen in terms of prosecuting offenders of this new law. If you are a gun owner, and you write a story that carries your byline, will you be prosecuted? If you publish a story about a member of your community who owns a gun, will you be prosecuted?

Nothing in this law says you are excused if the person gives you permission to use his name! The publication of the name alone means you have committed a crime.

If your legislator wants you to run his column, and if he is a gun owner, you could be prosecuted. If a local resident wants to run an ad, and he owns a gun, it will be a crime if you include in the ad his name, phone number, address or any other identifying information.

The Missouri Press board of directors, at its Sept. 5 meeting in Kansas City, will decide how the Association will respond if the veto is overridden. Meanwhile, you need to decide how you will handle this in your offices.

I think the law is unconstitutional, but you can't disregard it. If the veto is overridden, it will be state law.

Will Democrat prosecutors supporting Gov. Nixon, including Attorney General Chris Koster, prosecute folks in an effort to point out the problems caused by a Republican-dominated legislature passing this law? Or will they just disregard the law, recognizing that it is unconstitutional?

To what extent are you comfortable with taking one position or the other? What is the position you think is best for YOUR newspaper? Can you survive a prosecution?

This is not a decision your association can make for you. It's a decision you must each make on your own. But right now, you need to consider this carefully, including the effects your decision might have on your business.

Again, please call if you want to talk about this. And stay tuned. We'll keep you updated on developments.