

HOUSE BILL 1255

By Sargent

AN ACT to amend Tennessee Code Annotated, Section 39-17-1361, relative to execution of documents by a chief law enforcement officer.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1361, is amended by deleting the section in its entirety and substituting instead the following:

(a) As used in this section:

(1) "Chief law enforcement officer" or "officer" means any official, or the official's designee, that the federal bureau of alcohol, tobacco, firearms and explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for the making or transfer of a firearm;

(2) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm; and

(3) "Firearm" has the same meaning as provided in the National Firearms Act, 26 U.S.C. § 5845(a).

(b) When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the officer shall, within fifteen (15) days of receipt of a request for certification, provide such certification if the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the officer is unable to make a certification as required by this

section, the officer shall provide the applicant a written notification of the denial and the reason for this determination.

(c) An officer shall not be required by this section to make any certification the officer knows to be untrue, but the officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.

(d) An officer and the officer's employees who act in good faith are immune from civil liability arising from any act or omission in making a certification as required by this section.

(e) An applicant whose request for certification is denied may appeal the officer's decision to the circuit court that is located in the jurisdiction in which the applicant resides or maintains its address of record. The court shall review the officer's decision to deny the certification de novo. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in such prohibition and that no substantial evidence supports the officer's determination that the officer cannot truthfully make the certification, the court shall order the officer to issue the certification.

(f) In making the determination required by subsection (b), an officer may conduct a criminal background check, including an inquiry of the national instant criminal background check system, and may require of the applicant only the information that is necessary to identify the applicant for that purpose or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. An officer may not require access to or inspection of any private residential premises as a condition of granting an application under this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.