

HOUSE BILL 2752

By Richey

AN ACT to amend Tennessee Code Annotated, Title 8; Title 10; Title 33; Title 36; Title 38; Title 39; Title 40; Title 49; Title 50 and Title 70, relative to firearms.

WHEREAS, the General Assembly of this State finds and declares that:

(1) The General Assembly is firmly resolved to support and defend the Constitution of the United States against every aggression, whether foreign or domestic, and is duty-bound to oppose every infraction of those principles that constitute the basis of the union of the states because only a faithful observance of those principles can secure the union's existence and the public happiness;

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

(3) 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 powers as being those which have been delegated by the people of the several states to the federal government, and all powers not delegated to the federal government in the United States Constitution are reserved to the states respectively or the people themselves;

(4) If the federal government assumes powers that the people did not grant it in the United States Constitution, then the federal government's acts are unauthoritative and of no force;

(5) The several states of the United States respect the proper role of the federal government but reject the proposition that such respect requires unlimited submission. If the federal government, created by a compact among the states, were the exclusive or final judge of the extent of the powers granted to it by the states through the United States Constitution, then the federal government's discretion, and not the United States 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 whether infractions of the compact have occurred, as well as to determine the mode and measure of redress. Although the several states have granted supremacy to laws and treaties made under the powers granted in the United States Constitution, such supremacy does not extend to the various federal statutes, executive orders, administrative orders, court orders, rules, regulations, or other actions that collect data or restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of this State; such statutes, executive orders, administrative orders, court orders, rules, regulations, and other actions exceed the powers granted to the federal government except to the extent they are necessary and proper for governing and regulating the United States armed forces or for organizing, arming, and disciplining militia forces actively employed in the service of the United States armed forces;

(6) The people of the several states have given Congress the power "to regulate commerce with foreign nations, and among the several states," but regulating commerce does not include the power to limit citizens' right to keep and bear arms in defense of their families, neighbors, persons, or property or to dictate what sort of arms and accessories law-abiding citizens may buy, sell, exchange, or otherwise possess within the borders of this State;

(7) The people of the several states have also granted Congress the power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defense and general welfare of the United States" and "to make all laws which shall be necessary and proper for carrying into execution the powers vested by the United States Constitution in the government of the United States, or in any department or office thereof." These constitutional provisions merely identify the means by which the federal government may execute its limited powers and must not be construed to grant unlimited power because to do so would be to destroy the carefully constructed equilibrium between the federal and state governments. Consequently, the General Assembly rejects any claim that the taxing and spending powers of Congress may be used to diminish in any way the right of the people to keep and bear arms;

(8) The people of this State have vested the General Assembly with the authority to regulate the manufacture, possession, exchange, and use of firearms within the borders of this State, subject only to the limits imposed by the Second Amendment to the United States Constitution and by the Constitution of Tennessee; and

(9) The General Assembly strongly promotes responsible gun ownership, including parental supervision of minors in the proper use, storage, and ownership of all firearms, the prompt reporting of stolen firearms, and the proper enforcement of all state firearm laws. The General Assembly hereby condemns any unlawful transfer of firearms and the use of any firearm in any criminal or unlawful activity; now, therefore,

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

SECTION 1. This act is known and may be cited as "The Second Amendment Protection Act of 2024."

SECTION 2. Tennessee Code Annotated, Section 38-3-115, is amended by deleting the section and substituting:

(a)

(1) On or after July 1, 2024, public funds of this state, or any political subdivision of this state, shall not be allocated to the implementation, regulation, or enforcement of any international law or treaty, or any federal law, executive order, administrative order, rule, statute, ordinance, or regulation regarding firearms, ammunition, or firearm accessories.

(2) On or after July 1, 2024, a public office, public officer, or employee of this state or a political subdivision of this state shall not enforce, attempt to enforce, or participate in any way in the enforcement of a federal law, executive order, administrative order, rule, statute, ordinance, or regulation regarding firearms, ammunition, or firearm accessories.

(3) On or after July 1, 2024, a public office, public officer, or employee of this state or a political subdivision of this state shall not accede to a request from another to give material aid or support to the efforts of the other in the enforcement of or implementation of a federal law, executive order, administrative order, rule, statute, ordinance, or regulation regarding firearms, ammunition, or firearm accessories.

(b)

(1) Notwithstanding another law to the contrary, if a public office or political subdivision of this state employs a law enforcement officer who knowingly violates this section, then the public office or political subdivision employing the law enforcement officer is liable to the injured party in an action at law and is subject to a civil penalty of fifty thousand dollars (\$50,000) per occurrence.

(2) A person injured by a violation of this section has standing to pursue an action for injunctive relief in the chancery court of Davidson County with respect to the actions of the law enforcement officer. The court must hold a hearing on the motion for a temporary restraining order and preliminary injunction within thirty (30) days of service of the petition. The court may award the prevailing party, other than this state or a political subdivision of this state, reasonable attorney fees and court costs.

(c)

(1) A public office or a political subdivision of this state that knowingly employs an individual who is acting as, or who has previously acted as, an official, agent, employee, or deputy of the federal government, or who is otherwise acting in this state under the color of federal law, is subject to a civil penalty of fifty thousand dollars (\$50,000) per occurrence if the individual knowingly:

(A) Enforces, attempts to enforce, or participates in any way in the enforcement or implementation of a federal law, executive order, administrative order, rule, statute, ordinance, or regulation regarding firearms, ammunition, or firearm accessories; or

(B) Gives material aid or support to the efforts of another in the enforcement or implementation of a federal law, executive order, administrative order, rule, statute, ordinance, or regulation regarding firearms, ammunition, or firearm accessories.

(2) A person residing or conducting business in this state who believes that a law enforcement officer has acted in a manner described in subdivision (c)(1) has standing to pursue an action for injunctive relief in the chancery court

of Davidson County. The court shall hold a hearing on the motion for a temporary restraining order and preliminary injunction within thirty (30) days of service of the petition. In an action pursuant to this subsection (c), the court may award the prevailing party, other than an agency or political subdivision of this state, reasonable attorney fees and court costs.

(d) This section does not prohibit public officers or employees of an agency or political subdivision of this state from:

(1) Requesting or accepting aid from federal officials for the purpose of:

(A) Referring firearm cases to the federal government for potential federal prosecution if the case involves a crime of violence and the prosecution would involve prosecution of violations substantially similar to those found in title 39, chapter 17, part 13 and the weapons violations are merely ancillary to the federal prosecution; or

(B) Participating with federal law enforcement officials to enforce the laws of this state in a nationally integrated ballistic information network investigation or lead, or distributing leads, whether or not through a crime gun intelligence center; or

(2) Participating in an inter-jurisdictional task force for the purpose of enforcing laws not related to firearms, firearm accessories, or ammunition.

(e) It is not a violation of this section to provide material aid to:

(1) Federal officials who are in pursuit of a suspect if there is a demonstrable criminal nexus with another state or country and the suspect is not a citizen of this state or is not present in this state; or

(2) Federal prosecutions involving:

(A) Felony crimes against a person when the prosecution includes federal weapons violations substantially similar to those found in title 39, chapter 17, part 13 and the weapons violations are merely ancillary to the prosecution; or

(B) Class A or Class B federal felony violations that are substantially similar to Class A and Class B felony violations in this state if the prosecution includes federal weapons violations substantially similar to those found in title 39, chapter 17, part 13 and the weapons violations are merely ancillary to the prosecution.

(f) A violation of this section by a public office or political subdivision of this state must be reviewed and investigated by the office of the attorney general and reporter and the general assembly within ten (10) business days after receiving notice of the reported violation and, if a violation is found, must result in the entity's loss of funding from the state for the fiscal year following the violation.

(g) This section must be strictly construed against this state and must be liberally construed in favor of the rights of law-abiding citizens.

(h) An official who violates this section is subject to ouster under title 8, chapter 47, if applicable.

(i) Sovereign immunity is not an affirmative defense to an action pursuant to this section.

(j) The remedies provided in subsection (b) and in subdivision (c)(2) do not apply to persons who are not legally present in the United States or this state.

(k) As used in this section:

(1) "Crime of violence" has the same meaning as defined in § 39-17-1301;

(2) "Firearm" has the same meaning as defined in § 39-11-106;

(3) "Law-abiding citizen" means a person who is not otherwise precluded under state law from possessing a firearm and does not include anyone who is not legally present in the United States or this state;

(4) "Law enforcement officer" has the same meaning as defined in § 39-17-1350;

(5) "Material aid or support":

(A) Includes voluntarily giving or allowing others to make use of lodging, communications equipment or services, including social media accounts, facilities, weapons, personnel, transportation, clothing, or other physical assets; and

(B) Does not include giving or allowing the use of medicine or other materials necessary to treat physical injuries or any assistance provided to help a person escape a serious and present risk of life-threatening injury;

(6) "Political subdivision" has the same meaning as defined in § 4-58-102; and

(7) "Public office" includes any state government agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of a government function.

SECTION 3. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting subsection (a).

SECTION 4. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting subsection (e).

SECTION 5. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting subdivisions (f)(1)(A) and (f)(1)(C).

SECTION 6. Tennessee Code Annotated, Section 39-17-1307(f)(3), is amended by deleting ", including, but not limited to, firearms registered under the National Firearms Act (26 U.S.C. § 5801 et. seq.),".

SECTION 7. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting subsection (g).

SECTION 8. Tennessee Code Annotated, Section 39-17-1319, is amended by deleting subsection (b) and substituting:

(b) Except as provided in this section, it is an offense for a juvenile to carry a firearm with the intent to go armed.

SECTION 9. Tennessee Code Annotated, Section 39-17-1319(c)(1), is amended by deleting "Illegal possession of a handgun" and substituting "A violation of this section".

SECTION 10. Tennessee Code Annotated, Section 39-17-1319, is amended by deleting subdivision (a)(1).

SECTION 11. Tennessee Code Annotated, Section 39-17-1319(c)(3), is amended by deleting "handgun illegally possessed" and substituting "firearm illegally carried".

SECTION 12. Tennessee Code Annotated, Section 39-17-1319(d), is amended by deleting "handgun" wherever it appears and substituting "firearm".

SECTION 13. Tennessee Code Annotated, Section 39-17-1319(e), is amended by deleting "possesses a handgun" and substituting "carries a firearm".

SECTION 14. Tennessee Code Annotated, Section 39-17-1320, is amended by deleting the section and substituting:

(a) It is an offense for a parent or guardian intentionally, knowingly, or recklessly to provide a firearm to a juvenile or permit a juvenile to carry a firearm with the intent to

go armed, if the parent or guardian knows of a substantial risk that the juvenile will use the firearm to commit a felony.

(b) A violation of subsection (a) is a Class D felony.

SECTION 15. Tennessee Code Annotated, Section 39-17-1307(h)(2), is amended by deleting "Class B" and substituting "Class C".

SECTION 16. Tennessee Code Annotated, Section 39-17-1350, is amended by deleting subdivision (c)(1).

SECTION 17. Tennessee Code Annotated, Section 39-17-1350, is amended by deleting subsection (e).

SECTION 18. Tennessee Code Annotated, Section 39-17-1350, is amended by adding the following as a new subsection:

() Notwithstanding another law to the contrary, a person with a valid firearm permit issued pursuant to § 39-17-1351 may carry a handgun in all places within this state in which an off-duty law enforcement officer is permitted to carry a firearm.

SECTION 19. Tennessee Code Annotated, Section 39-17-1351, is amended by deleting "handgun" wherever it appears and substituting "firearm" and by deleting "handguns" wherever it appears and substituting "firearms".

SECTION 20. Tennessee Code Annotated, Section 39-17-1351, is amended by deleting "twenty-one (21)" and substituting "eighteen (18)" in subdivisions (b)(1) and (x)(1).

SECTION 21. Tennessee Code Annotated, Section 39-17-1351, is amended by deleting subdivision (b)(2).

SECTION 22. Tennessee Code Annotated, Section 39-17-1351(c)(13), is amended by deleting "alien and is not" and substituting "alien who is".

SECTION 23 Tennessee Code Annotated, Section 39-17-1351, is amended by deleting subdivision (c)(16).

SECTION 24. Tennessee Code Annotated, Section 39-17-1351(r)(1), is amended by deleting the subdivision and substituting instead:

(1) A facially valid handgun permit, firearms permit, weapons permit, or license issued by another state is valid in this state according to its terms and must be treated as if it is a firearm carry permit issued by this state.

SECTION 25. Tennessee Code Annotated, Section 39-17-1359(a)(2), is amended by deleting "§ 39-17-1351 or".

SECTION 26. Tennessee Code Annotated, Section 39-17-1365, is amended by deleting "handgun" wherever it appears and substituting "firearm".

SECTION 27. Tennessee Code Annotated, Section 39-17-1366, is amended by deleting "handgun" wherever it appears and substituting "firearm" and by deleting "handguns" wherever it appears and substituting "firearms".

SECTION 28. Tennessee Code Annotated, Section 10-7-504(a)(2)(A), is amended by deleting "handgun carry permit" and substituting "firearm carry permit" and by deleting "handgun carry permits" and substituting "firearm carry permits".

SECTION 29. Tennessee Code Annotated, Section 10-7-504(o), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit" and by deleting "handgun permit holder" and substituting "firearm carry permit holder".

SECTION 30. Tennessee Code Annotated, Section 33-6-413(b), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 31. Tennessee Code Annotated, Section 36-3-626, is amended by deleting "handgun" wherever it appears and substituting "firearm" and by deleting "as defined in § 39-17-1319" and substituting "as defined in § 39-11-106".

SECTION 32. Tennessee Code Annotated, Section 38-3-122(c), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 33. Tennessee Code Annotated, Section 38-6-105, is amended by deleting "handgun permit" and substituting "firearm carry permit".

SECTION 34. Tennessee Code Annotated, Section 38-8-116, is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 35. Tennessee Code Annotated, Section 39-16-702(b), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 36. Tennessee Code Annotated, Section 39-17-1309(e)(8)(B), is amended by deleting "handgun carry permit" and substituting "firearm carry permit".

SECTION 37. Tennessee Code Annotated, Section 39-17-1313(a), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit" and by deleting "lawfully carries a handgun pursuant to § 39-17-1307(g)" and substituting "is not prohibited from possessing or carrying a firearm".

SECTION 38. Tennessee Code Annotated, Section 39-17-1321(c)(2), is amended by deleting "handgun permit" and substituting "firearm carry permit".

SECTION 39. Tennessee Code Annotated, Section 39-17-1350(g), is amended by deleting "handgun" wherever it appears and substituting "firearm".

SECTION 40. Tennessee Code Annotated, Section 39-17-1352(e), is amended by deleting "handgun" wherever it appears and substituting "firearm".

SECTION 41. Tennessee Code Annotated, Section 39-17-1359(g)(1), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 42. Tennessee Code Annotated, Section 40-32-101, is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 43. Tennessee Code Annotated, Section 40-32-105(i)(5), is amended by deleting "handgun carry permit" and substituting "firearm carry permit".

SECTION 44. Tennessee Code Annotated, Section 49-6-816, is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 45. Tennessee Code Annotated, Section 49-7-161(b)(2), is amended by deleting "handgun carry permit" and substituting "firearm carry permit".

SECTION 46. Tennessee Code Annotated, Section 49-50-803(b)(2), is amended by deleting "handgun carry permit" and substituting "firearm carry permit".

SECTION 47. Tennessee Code Annotated, Section 50-3-201(d), is amended by deleting "handgun permits to carry a handgun" and substituting "firearm carry permits to carry a firearm".

SECTION 48. Tennessee Code Annotated, Section 50-1-312(a)(1), is amended by deleting "handgun carry permit" and substituting "firearm carry permit".

SECTION 49. Tennessee Code Annotated, Section 70-2-104(g)(3)(B), is amended by deleting "handgun carry permit" wherever it appears and substituting "firearm carry permit".

SECTION 50. Tennessee Code Annotated, Section 70-5-101, is amended by deleting "handgun" wherever it appears and substituting "firearm" and by deleting "hand gun" wherever it appears and substituting "firearm".

SECTION 51. Tennessee Code Annotated, Section 8-21-401(f)(1), is amended by deleting "handgun permits" and substituting "firearm carry permits".

SECTION 52. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 53. This act takes effect July 1, 2024, the public welfare requiring it.