

HOUSE BILL 1668

By Matheny

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40; Title 49, Chapter 6 and Title 70, to enact
the "Tennessee Gun Owners Improvement Act."

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1307, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) A person commits an offense who carries with the intent to go armed a firearm, a knife with a blade length exceeding four inches (4"), or a club.

(2)

(A) The first violation of subdivision (a)(1) is a Class C misdemeanor, and, in addition to possible imprisonment as provided by law, may be punished by a fine not to exceed five hundred dollars (\$500).

(B) A second or subsequent violation of subdivision (a)(1) is a Class B misdemeanor.

(C) A violation of subdivision (a)(1) is a Class A misdemeanor if the person's unlawful carrying of a handgun occurred at a place open to the public where one (1) or more other persons were present.

(b)

(1) A person commits an offense who possesses a deadly weapon with the intent to employ it during the commission of, attempt to commit, or escape from a dangerous felony as defined in § 39-17-1324.

(2) A violation of subdivision (b)(1) is a Class E felony

(c) Subsection (a)(1) shall not apply to any of the following:

(1) A person who goes armed on property that the person owns or legally occupies or on the property of another with such other's permission;

(2) A person who possesses a permit issued or recognized pursuant to § 39-17-1351 who is transporting a rifle or shotgun in or on a privately-owned motor vehicle and the rifle or shotgun does not have ammunition in the chamber;

(3) A person who is transporting a rifle or shotgun in or on a privately-owned motor vehicle and the rifle or shotgun does not have ammunition in the chamber or cylinder, and no clip or magazine containing ammunition is either inserted in the rifle or shotgun or in close proximity to both the weapon and any person;

(4) The possession or carrying on or about one's person of an unloaded rifle, shotgun, or handgun that is not concealed and the ammunition for which is not in the immediate vicinity of the person or weapon;

(5) A person who is carrying a rifle, shotgun, or handgun in accordance with subdivision (2), (3), or (4) of this subsection who inserts a magazine into the rifle, shotgun, or handgun, or ammunition into its chamber or cylinder, for the immediate purpose of justifiable self-defense or defense of another pursuant to § 39-11-611 or § 39-11-612;

(6) A person who possesses a permit issued or recognized pursuant to § 39-17-1315 or § 39-17-1351;

(7) Possession or carrying incident to lawful hunting, trapping, fishing, camping, sport shooting or other lawful sporting activity;

(8) Possession or carrying of a rifle or shotgun while engaged in the lawful protection of livestock from predatory animals;

(9) A Tennessee valley authority officer who holds a valid commission from the commissioner of safety pursuant to this part while the officer is in the performance of the officer's official duties;

(10) A state, county or municipal judge or any federal judge or any federal or county magistrate;

(11) A person possessing a club or baton who holds a valid state security guard/officer registration card as a private security guard/officer, issued by the commissioner, and who also has certification that the officer has had training in the use of club or baton that is valid and issued by a person certified to give training in the use of clubs or batons;

(12) Any person possessing a club or baton who holds a certificate that the person has had training in the use of a club or baton for self-defense that is valid and issued by a certified person authorized to give training in the use of clubs or batons, and who is not prohibited from purchasing a firearm under state or federal law; or

(13) Any out-of-state, full-time, commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification; provided, that if no valid commission card and photo identification are retained, then it shall be unlawful for that officer to carry firearms in this state and the provisions of this section shall not apply. The defense provided by this subdivision (c)(13) shall only be applicable if the state where the out-of-state officer is employed has entered into a reciprocity agreement with this state that allows a full-time, commissioned law enforcement officer in Tennessee to lawfully carry or possess a weapon in the other state.

(d) The defenses described in this section are not available to persons described in § 39-17-1307(b)(1).

SECTION 2. Tennessee Code Annotated, Section 39-17-1308, is amended by deleting the section in its entirety

SECTION 3. Tennessee Code Annotated, Section 39-17-1309, is amended by deleting the section in its entirety and substituting instead the following:

(a) As used in this section, “weapon of like kind” includes razors and razor blades, except those used solely for personal shaving, and any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance.

(b)

(1) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any of the following places, whether public or private, that has been posted pursuant to subsection

(d):

(A) A school building;

(B) A school bus;

(C) A school campus, or grounds;

(D) A school recreation area or athletic field; or

(E) Any other property owned or operated by any board of education, school, college or university board of trustees, regents or

directors for the administration of any public or private educational institution.

(2) A violation of this subsection (b) is a Class E felony.

(c)

(1) It is an offense for any person to possess or carry, whether openly or concealed, any firearm, not used solely for instructional or school-sanctioned ceremonial purposes, in any of the following places, whether public or private, that has been posted pursuant to subsection (d):

(A) A school building;

(B) A school bus;

(C) A school campus or grounds;

(D) A school recreation area or athletic field; or

(E) Any other property owned or operated by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(2) It is not an offense under this subsection (c) for a nonstudent adult to possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult, while the vehicle is on school property.

(3) A violation of this subsection (c) is a Class B misdemeanor.

(d)

(1) Each chief administrator of a public or private school shall display in prominent locations about the school or other prohibited area a sign, at least six inches (6") high and fourteen inches (14") wide, stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF SIX (6) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED THREE THOUSAND DOLLARS (\$3,000) FOR CARRYING WEAPONS ON SCHOOL PROPERTY.

(2) As used in this subsection (d), “prominent locations about a school” includes, but is not limited to, sports arenas, gymnasiums, stadiums and cafeterias.

(e) The provisions of subsections (b) and (c) do not apply to the following persons:

(1) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(2) Civil officers of the United States in the discharge of their official duties;

(3) Officers and soldiers of the militia and the national guard when called into actual service;

(4) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, when in the discharge of their official duties;

(5) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(6) Any private police employed by the administration or board of trustees of any public or private institution of higher education in the discharge of their duties; and

(7) Any registered security guard or officer who meets the requirements of title 62, chapter 35, and who is discharging the officer's official duties.

SECTION 4. Tennessee Code Annotated, Section 39-17-1311, is amended by deleting the section it in its entirety and substituting instead the following:

(a) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any weapon prohibited by § 39-17-1302(a), not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.

(b)

(1) The provisions of subsection (a) shall not apply to the following persons:

(A) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(B) Civil officers of the United States in the discharge of their official duties;

(C) Officers and soldiers of the militia and the national guard when called into actual service;

(D) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, in the discharge of their official duties;

(E) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(F) Any private police employed by the municipality, county, state or instrumentality thereof in the discharge of their duties;

(G) A registered security guard/officer, who meets the requirements of title 62, chapter 35, while in the performance of the officer's duties;

(H) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof;

(I) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on property designated by the federal government as a national park, forest, preserve, historic park, military park, trail or recreation area, to the extent permitted by federal law; and

(J) A person who strictly conforms the person's behavior to the requirements of one (1) of the following classifications:

(i) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof and designated as open to hunting by law or by the appropriate official;

(ii) A person possessing unloaded hunting weapons while transversing the grounds of any public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting entry;

(iii) A person possessing guns or knives when conducting or attending "gun and knife shows" when the program has been approved by the administrator of the recreational building or property;

(iv) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner; or

(v) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in the park or recreational area.

(2) At any time the person's behavior no longer strictly conforms to one (1) of the classifications in subdivision (b)(1), the person shall be subject to the provisions of subsection (a).

(c) A violation of subsection (a) is a Class A misdemeanor.

(d) For the purposes of this section, a “greenway” means an open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, conservation, and to link services and facilities. A greenway is a paved, gravel-covered, woodchip covered, or wood-covered path that connects one greenway entrance with another greenway entrance. In the event a greenway traverses a park that is owned or operated by a county, municipality or instrumentality thereof, the greenway shall be considered a portion of that park unless designated otherwise by the local legislative body. Except as provided in this part, the definition of a greenway in this section shall not be applicable to any other provision of law.

SECTION 5. Tennessee Code Annotated, Section 39-17-1314, is amended by deleting the section in its entirety and substituting instead the following:

(a) Except as provided in subsection (b) and in § 39-17-1311(d), which allows local government entities to prohibit the possession of weapons in buildings they own, manage, or control, no city, county, or metropolitan government shall occupy any part of the field of regulation, whether under its police powers or through any proprietary authority, of the transfer, ownership, possession, storage, carrying, or transportation of firearms, ammunition or components or combinations thereof. Any ordinance, regulation, or enactment of a city, county, or metropolitan government or any instrumentality, agent, or employee thereof acting in an official capacity, whether existing on or enacted after the effective date of this section, that pertains to or in any manner touches upon the subjects of this subsection is hereby declared null and void.

(b) Nothing in subsection (a) shall be construed to prevent:

(1) A duly organized unit of the state National Guard or a law enforcement agency from enacting and enforcing regulations pertaining to firearms,

ammunition, or firearm accessories issued to or used by its members or employees in the course of their official duties;

(2) An employer from regulating or prohibiting its employees' carrying of firearms and ammunition during and in the course of the employees' official duties; provided, that any such prohibition shall not apply to firearms that are otherwise lawfully-possessed and locked out of sight within a person's private vehicle;

(3) A court or administrative law judge from hearing and resolving any case or controversy or issuing any opinion or order on a matter within its jurisdiction; or

(4) The enactment or enforcement of generally applicable zoning or business ordinances which encompass firearms businesses along with other businesses; provided, that any ordinance which is written or enforced in such a way as effectively to restrict or prohibit the transfer, ownership, possession, storage, carrying, or transportation of firearms, ammunition, or components thereof that is otherwise lawful under the laws of this state is in conflict with this section and is void.

(c) The general assembly declares that the lawful design, marketing, manufacture and sale of firearms and ammunition to the public are not unreasonably dangerous activities and do not constitute a nuisance per se.

(d)

(1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association or dealer by or on behalf of any state entity, county, municipality or metropolitan government for damages, abatement or injunctive relief resulting from or relating to the lawful design,

manufacture, marketing or sale of firearms or ammunition to the public shall be reserved exclusively to the state.

(2) Nothing in this subsection (d) shall be construed to prohibit a county, municipality, or metropolitan government from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by such county, municipality, or metropolitan government.

(3) Nothing in this subsection (d) shall preclude an individual from bringing a cause of action for breach of a written contract, breach of an express warranty, or for injuries resulting from defects in the materials or workmanship in the manufacture of the firearm.

(e) The provisions of subsections (c) and (d) shall not apply in any litigation brought by an individual against a firearms or ammunition manufacturer, trade association or dealer.

SECTION 6. Tennessee Code Annotated, Section 39-17-1316, is amended by deleting the section in its entirety and substituting instead the following

(a)

(1) Any person appropriately licensed by the federal government may stock and sell firearms to persons desiring firearms; however, sales to persons who are ineligible to receive firearms under 18 U.S.C. § 922(g) or (n), or who may not possess firearms under § 39-17-1364, § 39-13-111, or § 39-13-113(h) are prohibited.

(2) The provisions of this subsection (a) as they apply to a person convicted of a disqualifying offense shall not apply if, in the jurisdiction where there offense occurred:

- (A) The person was pardoned for the offense;
- (B) The conviction has been expunged or set aside; or
- (C) The person's civil rights have been restored.

(3) Subdivision (2) applies to all such pardons, expunctions, set-asides, or restorations, whether entered before or after the effective date of this provision.

(b)

(1) As used in this section, "firearm" has the meaning as defined in § 39-11-106, including handguns, long guns, and all other weapons that meet the definition except "antique firearms" as defined in 18 U.S.C. § 921.

(2) As used in this section, "gun dealer" means a person engaged in the business, as defined in 18 U.S.C. § 921, of selling, leasing, or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker, or otherwise.

(c) Except with respect to transactions between persons licensed as dealers under 18 U.S.C. § 923, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(1) The purchaser shall present to the dealer current identification meeting the requirements of subsection (f);

(2) The gun dealer shall complete a firearms transaction record as required by 18 U.S.C. §§ 921-929, and obtain the signature of the purchaser on the record;

(3) The gun dealer shall request by means designated by the bureau that the Tennessee bureau of investigation conduct a criminal history record check on the purchaser and shall provide the following information to the bureau:

- (A) The federal firearms license number of the gun dealer;
- (B) The business name of the gun dealer;
- (C) The place of transfer;
- (D) The name of the person making the transfer;
- (E) The make, model, caliber and manufacturer's number of the firearm being transferred;
- (F) The name, gender, race, and date of birth of the purchaser;
- (G) The type, issuer and identification number of the identification presented by the purchaser; and

(4) The gun dealer shall receive a unique approval number for the transfer from the bureau and record the approval number on the firearms transaction record.

(d) Upon receipt of a request of the gun dealer for a criminal history record check, the Tennessee bureau of investigation shall immediately, during the gun dealer's telephone call or by return call:

(1) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under the provisions of subdivision (a)(1) from completing the purchase; and

(2) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(e)

(1) The Tennessee bureau of investigation may charge a reasonable fee, not to exceed ten dollars (\$10.00), for conducting background checks and other

costs incurred under the provisions of this section, and shall be empowered to bill gun dealers for checks run.

(2) Funds collected by the Tennessee bureau of investigation pursuant to this section shall be deposited in a continuing deferred interest-bearing revenue fund that is created in the state treasury. This fund will not revert to the general fund on June 30 of any year. This fund shall be used to offset the costs associated with conducting background checks. By February 1 of each year the Tennessee bureau of investigation shall report to the judiciary committees of the senate and the house of representatives the amount of money collected pursuant to this section in excess of the costs associated with conducting background checks as required by this section. If the amounts collected under this subsection exceed the costs of administering the background checks in any two consecutive reporting periods, the fees shall be adjusted downward to reflect the actual administrative costs of the background checks.

(f)

(1) Identification required of the purchaser under subsection (c) shall include one (1) piece of current, valid identification bearing a photograph and the date of birth of the purchaser that:

(A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(2) If the identification presented by the purchaser under subdivision (f)(1)(A) does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser.

(g) The Tennessee bureau of investigation may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the bureau.

(h) The Tennessee bureau of investigation shall establish a telephone number that shall be operational seven (7) days a week between the hours of eight o'clock a.m. and ten o'clock p.m. Central Standard Time (8:00 a.m.-10:00 p.m. (CST)), except Christmas Day, Thanksgiving Day, and Independence Day, for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(i) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section; provided the employee, official or agency acts in good faith and without malice.

(j) Upon the determination that receipt of a firearm by a particular individual would not violate this section, and after the issuance of a unique identifying number for the transaction, the Tennessee bureau of investigation shall by the end of the same business day destroy all records (except the unique identifying number and the date that it was assigned) associating a particular individual with a particular purchase of firearms. No record which is required to be destroyed under this section shall be duplicated, transferred, or otherwise reproduced or preserved in any form.

(k) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms in the course of a reasonable inquiry during and related to a

criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(l)

(1) The background check does not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, or licensed collectors who meet the requirements of subsection (b) and certify prior to the transaction the legal and licensed status of both parties. The burden shall fall upon the transferor to determine the legality of the transaction in progress

(2) The background check does not apply to transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or such agency's personnel. However, all other provisions and requirements of subsection (b) must be observed. The burden of proof of the legality of the transactions or transfers shall rest upon the transferor.

(3) The background check does not apply to any person eligible to purchase a firearm as set out in this section who wishes to make an occasional sale of a used or second-hand firearm legally acquired by the seller.

(m) The director of the Tennessee bureau of investigation is authorized to make and issue all rules and regulations necessary to carry out the provisions of this section.

(n) In addition to the other grounds for denial, the bureau shall deny the transfer of a firearm if the background check reveals information indicating that the purchaser has been charged with a crime for which the purchaser, if convicted, would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm; and, either there has been no final disposition of the case, or the final disposition is not noted.

(o) Upon receipt of the criminal history challenge form indicating a purchaser's request for review of the denial, the bureau shall proceed with efforts to obtain the final disposition information. The purchaser may attempt to assist the bureau in obtaining the final disposition information. If neither the purchaser nor the bureau is able to obtain the final disposition information within fifteen (15) calendar days of the bureau's receipt of the criminal history challenge form, the bureau shall immediately notify the federal firearms licensee that the transaction that was initially denied is now a "conditional proceed." A "conditional proceed" means that the federal firearms licensee may lawfully transfer the firearm to the purchaser.

(p) In any case in which the transfer has been denied pursuant to subsection (n), the inability of the bureau to obtain the final disposition of a case shall not constitute the basis for the continued denial of the transfer as long as the bureau receives written notice, signed and verified by the clerk of the court or the clerk's designee, that indicates that no final disposition information is available. Upon receipt of the letter by the bureau, the bureau shall immediately reverse the denial.

(q)

(1) As used in this subsection, "licensed dealer" means a person who is licensed pursuant to 18 U.S.C. § 923 to engage in the business of dealing in firearms.

(2) As used in this subsection, "private seller" means a person who sells or offers for sale any firearm or ammunition.

(3) As used in this subsection, "ammunition" means any cartridge, shell, or projectile designed for use in a firearm.

(4) As used in this subsection, “materially false information” means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(5) It is an offense for a person to purchase or attempt to purchase a firearm knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(6) It is an offense to sell or offer to sell a firearm to a person knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(7) It is an offense for a person knowingly to solicit, persuade, encourage, or entice a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States.

(8) It is an offense for a person to provide to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition.

(9) Any person who willfully procures another to engage in conduct prohibited by subdivisions (7) and (8) shall be held accountable as a principal.

(10) Subsections (7), (8), and (9) shall not apply not apply to a law enforcement officer acting in an official capacity or to a person acting at the direction of such law enforcement officer.

(11) A violation of this subsection (r) is a Class A misdemeanor.

SECTION 7. Tennessee Code Annotated, Section 39-17-1351, is amended by deleting the section in its entirety and substituting instead the following

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or permanent lawful resident, as defined by § 55-50-102, and who has reached twenty-one (21) years of age, may apply to the department of safety for a handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm pursuant to § 39-17-1316, § 39-17-1364, § 39-17-111, § 39-13-113(h), or 18 U.S.C. § 922(g) or (n), and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining a handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

- (1) Full legal name and any aliases;
- (2) Addresses for the last five (5) years;
- (3) Date of birth;
- (4) Social security number;
- (5) Physical description (height, weight, race, sex, hair color and eye color);
- (6) That the applicant is not prohibited from purchasing or possessing a firearm under any of the provisions set forth in subsection (b).

(d)

(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars (\$5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the person whose picture appears on the photo identification, the department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's

social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and the provisions of § 39-17-1321. An applicant shall not be required to comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for a handgun carry permit is filed the applicant has:

(1) Been certified by the peace officer standards and training commission;

(2) Successfully completed training at the law enforcement training academy;

(3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b); or

(4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military.

(f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.

(g)

(1) Upon receipt of a permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.

(h) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall:

(1) Within fifteen (15) days from receipt of the fingerprints, conduct computer searches, including an inquiry of the National Instant Criminal Background Check System, to determine the applicant's eligibility for a permit under subsection (c), and send the results of the searches to the department;

(2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and

(3) Send one (1) set of the fingerprints received from the department to the federal bureau of investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.

(i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to

confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged; or

(2) An applicant's otherwise disqualifying conviction has been set aside by a court of competent jurisdiction; or

(3) The applicant, after sustaining a disqualifying conviction, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however, that the provisions of this subdivision (j)(3) shall not apply to any person who has been convicted of burglary, any felony offense involving violence or use of a firearm or any felony drug offense involving a Schedule I, II, III, IV or V controlled substance. If the applicant has been convicted of a felony drug offense involving a Schedule VI controlled substance, the provisions of this subdivision (j)(3) shall not apply if the offense occurred within ten (10) years of the date of application or renewal.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any reports, records or inquiries reviewed or relied upon by the department.

(l) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than forty-five (45) days after the date the

department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to the provisions of this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew a handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining a handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of a handgun carry permit within six (6) months from the date of expiration.

(n)

(1) Except as provided in subdivision (n)(2), a permit issued pursuant to this section shall be good for four (4) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this

state, unless the permit is sooner suspended, cancelled or revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(o) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by the state of Tennessee for driver licenses and shall contain only the following information concerning the permit holder:

- (1) The permit holder's name, address and date of birth;
- (2) A description of the permit holder by sex, height, weight and eye color;
- (3) A color photograph of the permit holder; and
- (4) The permit number and expiration date.

(p)

(1) The department shall charge an application and processing fee of one hundred fifteen dollars (\$115). The fee shall cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars (\$15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. On an annual basis, the comptroller of the treasury shall audit the bureau to ensure that the extra fifteen dollars (\$15.00) received from each handgun permit application fee is being used exclusively for the purpose set forth in this subsection (p). By February 1 of each year the bureau shall provide documentation to the judiciary committees of the senate and house of representatives that the extra fifteen dollars (\$15.00) is being used exclusively for the intended purposes. The documentation shall state

in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose of any equipment purchased.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars (\$15.00) for the purpose of fingerprint data base updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars (\$250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar (\$15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars (\$15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the applicant's answers as provided in subdivision (g)(1).

(q)

(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars (\$50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the

permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit.

(2) Any person whose handgun carry permit expires and who applies for a renewal of the handgun carry permit within six (6) months from the date of expiration shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed six (6) months or more from the date of expiration, the person shall, for all purposes, be considered a new applicant.

(3) If a person whose handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within six (6) months of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed six (6) months or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes, be considered a new applicant.

(r)

(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, the provisions of this subsection (r) shall not be construed to authorize

the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this state.

(3)

(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit from another state provided the other state has substantially

similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)

(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from the last day of the sixth month of regular employment in this state to obtain a Tennessee handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) The provisions of this subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(iii) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from

employment caused by the employee's use of sick leave, annual leave, administrative leave or compensatory time.

(s)

(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the provisions of the handgun carry permit law, and the average time for issuance of a handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding calendar year shall be provided to each member of the general assembly.

(2)

(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when

the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or individuals provided that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)

(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for a handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

SECTION 8. Tennessee Code Annotated, Section 39-17-1352, is amended by deleting the section in its entirety and substituting instead the following:

(a) The department shall suspend or revoke a handgun permit upon a showing by its records or other sufficient evidence that the permit holder:

(1) Is prohibited from purchasing a handgun under applicable state or federal law;

(2) Has not accurately disclosed any material information required by § 39-17-1351;

(3) Has been arrested for a felony involving the use or attempted use of force, violence or a deadly weapon or a felony drug offense;

(4) Has at any time committed an act or omission or engaged in a pattern of conduct that would render the permit holder ineligible to apply for or obtain a permit under the eligibility requirements of § 39-17-1351(b);

(b)

(1) It is an offense for a permit holder to knowingly fail or refuse to surrender to the department a suspended or revoked handgun permit within ten (10) days from the date appearing on the notice of suspension or revocation sent to such permit holder by the department.

(2) A violation of this subsection (b) is a Class A misdemeanor.

(c)

(1) Upon the suspension or revocation of a permit, the department shall send notice of the suspension or revocation to the permit holder and the appropriate local law enforcement officers. The notice shall state the following:

(A) That the permit has been immediately suspended or revoked;

(B) That the permit holder must surrender the permit to the department within ten (10) days of the date appearing on the notice;

(C) That it is a Class A misdemeanor punishable by up to one (1) year in jail for the permit holder to knowingly fail or refuse to surrender the permit to the department within the ten-day period;

(D) That if the permit holder does not surrender the suspended or revoked permit within the ten-day period, a law enforcement officer will be directed to take possession of the permit; and

(E) That the permit holder has thirty (30) days from the date appearing on the notice of suspension or revocation to request a hearing on the suspension or revocation.

(2) If the permit holder fails to surrender the suspended or revoked permit as required by this section, the department shall issue authorization to the appropriate local law enforcement officials to take possession of the suspended or revoked permit and send it to the department.

(d) The applicant shall have a right to petition the general sessions court of the applicant's county of residence for judicial review of departmental denial, suspension or revocation of a permit. At the review by the general sessions court, the department shall be represented by the district attorney general.

(e)

(1) If a permit holder is arrested and charged with burglary, a felony drug offense or a felony offense involving violence or the use of a firearm, then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send

the permit, to the department with a copy of the court's order that required the surrender of the permit. The department shall suspend the permit pending a final disposition on the felony charge against the permit holder.

(2) If a permit holder is arrested and charged with any felony offense other than an offense subject to subdivision (e)(1), then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send the permit to the department with a copy of the court's order that required the surrender of the permit, unless the permit holder petitions the court for a hearing on the surrender. If the permit holder does petition the court, the court shall determine whether the permit holder will present a material risk of physical harm to the public if released and allowed to retain the permit. If the court determines that the permit holder will present a material risk of physical harm to the public, it shall condition any release of the permit holder, whether on bond or otherwise, upon the permit holder's surrender of the permit to the court. Upon surrender of the permit, the court shall send the permit to the department with a copy of the court's order that required the surrender of the permit and the department shall suspend the permit pending a final disposition of the felony charges against the permit holder.

(3) If the permit holder is acquitted on the charge or charges, the permit shall be restored to the holder and the temporary prohibition against the carrying of a handgun shall be lifted.

(4) If the permit holder is convicted of the charge or charges, the permit shall be revoked by the court and the revocation shall be noted in the judgment

and minutes of the court. The court shall send the surrendered permit to the department.

(5) If the permit holder is placed on pre-trial diversion or judicial diversion, the permit holder's right to lawfully carry a handgun may be suspended for the length of time the permit holder is subject to the jurisdiction of the court, if the court finds that the permit holder's carrying of a handgun will present a material risk of physical harm to the public. In the event of such a finding, the court shall order the surrender of the person's handgun carry permit, and shall send the surrendered permit to the department.

(f) In order to reinstate a permit suspended pursuant to subsection (e), the permit holder shall pay a reinstatement fee of twenty-five dollars (\$25.00) with one half (1/2) of the fee payable to the department of safety and one half (1/2) payable to the court that suspended the permit.

(1) Prior to the reinstatement of the permit, the permit holder shall have paid in full all fines, court costs and restitution, if any, required by the sentencing court.

(2) Failure to complete any terms of probation imposed by the court shall be a bar to reinstatement of the permit.

(3) Prior to reissuance of the permit, the department shall verify that the permit holder has complied with all reinstatement requirements of this subsection (f).

SECTION 9. Tennessee Code Annotated, Section 39-17-1353, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any person who has received a notice of suspension or revocation may make a written request for a review of the department's determination by the department at a

hearing. The request shall be made on a form available from the department. If the person's permit has not been previously surrendered, it must be surrendered at the time the request for a hearing is made. A request for a hearing does not stay the permit suspension or revocation.

(b) Within thirty (30) days from the date the request for a hearing is filed, the department shall establish a hearing date and set the case on a docket. Nothing in this section shall be construed as requiring the hearing to be conducted within such thirty-day period. The hearing shall be held at a place designated by the department. The department shall provide written notice of the time and place of the hearing to the party requesting the hearing at least ten (10) days prior to the scheduled hearing, unless the party agrees to waive this requirement.

(c) The presiding hearing officer shall be the commissioner or an authorized representative designated by the commissioner. The presiding hearing officer shall have the authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses and take testimony;
- (3) Receive relevant evidence;
- (4) Issue subpoenas, take depositions, or cause depositions to interrogatories to be taken;
- (5) Regulate the course and conduct of the hearing; and
- (6) Make a final ruling on the issue.

(d) The sole issue at the hearing shall be whether by a preponderance of the evidence the person has become disqualified for a permit under the provisions of §§ 39-17-1351, 39-17-1352 or is the subject of pending proceedings that could lead to such a disqualification. If the presiding hearing officer finds the affirmative of this issue, the

suspension or revocation order shall be sustained. If the presiding hearing officer finds the negative of this issue, the suspension or revocation order shall be rescinded.

(e) The hearing shall be recorded. The decision of the presiding hearing officer shall be rendered in writing, and a copy will be provided to the person who requested the hearing.

(f) If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the department's earlier determination shall be final.

(g) Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided for witnesses in civil actions in the circuit court and, unless otherwise provided by law or by action of the agency, the party requesting the subpoenas shall bear the cost of paying fees to the witnesses subpoenaed.

SECTION 10. Tennessee Code Annotated, Section 39-17-1359, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) An individual, corporation, business entity or agent thereof is authorized to prohibit the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, managed or under the control of the individual, corporation, or business entity. Any such prohibition shall not apply to firearms that are otherwise lawfully-possessed and locked out of sight within a person's private vehicle or to a business or residential lessee who otherwise lawfully possesses firearms on the leased premises.

(2) A state or local governmental entity or agent thereof is authorized to prohibit the possession of weapons in any building, or portion of a building, owned, operated, managed, or under the control of the entity, provided that no

such restriction or prohibition shall apply to a business or residential lessee who otherwise lawfully possesses firearms on the leased premises. For purposes of this section, the term “building” shall not include any structure used for the parking of motor vehicles.

(3) Any prohibition authorized in subdivision (1) or (2) shall apply to any person who is authorized to carry a firearm by authority of § 39-17-1351.

(b)

(1) Notice of the prohibition permitted by subsection (a) shall be accomplished by displaying one (1) or both of the notices described in subdivision (3) in prominent locations, including all entrances primarily used by persons entering the property, building, or portion of the property or building where weapon possession is prohibited. Either form of notice used shall be of a size that is plainly visible to the average person entering the building, property, or portion of the building or property, posted.

(2) The notice required by this section shall be in English, but a duplicate notice may also be posted in any language used by patrons, customers or persons who frequent the place where weapon possession is prohibited.

(3)

(A) If a sign is used as the method of posting, it shall contain language substantially similar to the following:

AS AUTHORIZED BY TCA § 39-17-1359, POSSESSION OF A WEAPON
ON POSTED PROPERTY OR IN A POSTED BUILDING IS PROHIBITED
AND IS A CRIMINAL OFFENSE.

(B) As used in this section, “language substantially similar to” means the sign contains language plainly stating that:

(i) The property is posted under authority of Tennessee law;

(ii) Weapons or firearms are prohibited on the property, in the building, or on the portion of the property or building that is posted; and

(iii) Possessing a weapon in an area that has been posted is a criminal offense.

(C) A building, property or a portion of a building or property, shall be considered properly posted in accordance with this section if one (1) or both of the following is displayed in prominent locations, including all entrances primarily used by persons entering the property, building, or portion of the property or building where weapon possession is prohibited:

(i) The international circle and slash symbolizing the prohibition of the item within the circle; or

(ii) The posting sign described in this subdivision (3).

(c)

(1) It is an offense to possess a weapon in a building or on property that is properly posted in accordance with this section.

(2) Possession of a weapon on posted property in violation of this section is a Class B misdemeanor punishable by fine only of five hundred dollars (\$500).

(d) Nothing in this section shall be construed to alter, reduce or eliminate any civil or criminal liability that a property owner or manager may have for injuries arising on their property.

(e) The provisions of this section shall not apply to Title 70 regarding wildlife laws, rules and regulations.

SECTION 11. Tennessee Code Annotated, Section 39-17-1361, is amended by deleting the section and substituting instead the following:

(a) The sheriff or chief of police of the city of residence of a person purchasing or receiving any firearm, defined by the National Firearms Act, 26 U.S.C. § 5845 et seq., shall execute within fifteen (15) business days of any request all documents soliciting information from such official that are required to be submitted by the purchaser or transferee.

(b) For purposes of this section, “execute” means to provide all required information and to approve the purchase or transfer unless the sheriff has information that receipt or possession of the firearm would place the purchaser or transferee in violation of state or local law or that the purchaser or transferee will use the firearm for other than lawful purposes.

(c) A purchaser or transferee who is not prohibited from possessing firearms pursuant to § 39-17-1364 is presumed to be receiving firearms under this section for lawful purposes.

(d) In the event the sheriff or chief of police denies a request under this section to execute the documents of a purchaser or transferee who is not prohibited from possessing firearms under § 39-17-1364, the aggrieved party may file a writ of mandamus in district court to compel the execution of the documents. The court shall grant the writ unless the sheriff or chief of police demonstrates by substantial evidence that the purchaser or transferee will use the firearm for other than lawful purposes if the purchase or transfer is allowed to proceed. If the writ is granted, the court shall award costs, including reasonable attorney’s fees, to the prevailing petitioner.

SECTION 12. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following as a new section

39-17-1364.

(a)

(1) A person commits an offense who possesses a firearm, as defined in § 39-11-106, and:

(A) Has been convicted of a felony involving the use or attempted use of force, violence or a deadly weapon; or

(B) Has been convicted of a felony drug offense.

(2) An offense under subdivision (a)(1) is a Class E felony.

(b)

(1) A person commits an offense who possesses a handgun and has been convicted of a felony.

(2) An offense under subdivision (b)(1) is a Class E felony.

(c)

(1) A person commits an offense who possesses a firearm, as defined in § 39-11-106(a), and is:

(A) Prohibited from shipping, transporting, possessing, or receiving a firearm under 18 U.S.C. § 922(g); or

(B) Prohibited from possessing a firearm by order of any court of this state, another state, or the United States.

(2) If the person is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual possesses firearms that constitute the business inventory under the federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the bureau of alcohol, tobacco, firearms and explosives.

(3) For purposes of this section, a person does not possess a firearm, including, but not limited to, firearms registered under the National Firearms Act, compiled in 26 U.S.C. § 5801 et seq., if the firearm is in a safe or similar container that is securely locked and to which the respondent does not have the combination, keys or other means of normal access.

(4) A violation of subdivision (c)(1) is a Class A misdemeanor and each violation constitutes a separate offense.

(5) If a violation of subdivision (c)(1) also constitutes a violation of § 36-3-625(h) or § 39-13-113(h), the respondent may be charged and convicted under any or all such sections.

(d) A person shall not be considered to have been convicted of a disqualifying offense for purposes of this section, whether such offense is a felony or misdemeanor, if the conviction, in the jurisdiction in which it occurred, has been expunged or set aside or if the conviction is one for which the person has been pardoned or has had the person's civil rights restored. This paragraph applies to all such expunctions, set-asides, pardons, or restorations, whether entered before or after the effective date of this provision.

SECTION 13. Tennessee Code Annotated, Section 70-5-101, is amended by deleting the section in its entirety and substituting instead the following:

(a) The wildlife resources agency has the power and authority to establish, with the consent of the property owner, public hunting areas, refuges, or wildlife management areas, wherever it deems necessary or feasible for the protection, propagation and management of wildlife, or any of these.

(b)

(1) It is unlawful to hunt, kill, destroy, trap, ensnare, or molest in any manner any wildlife within such areas or to trespass on such areas, except as provided by proclamation or rule or regulation. Such areas shall be posted in conspicuous places. The executive director is authorized to issue permits for the destruction of predatory wildlife within such areas.

(2) A violation of subdivision (b)(1) is a Class C misdemeanor.

(c) Notwithstanding subsection (b), a person with a handgun carry permit issued or recognized pursuant to § 39-17-1351 may possess a handgun the entire year while on the premises of any refuge, public hunting area or wildlife management area or, to the extent permitted by federal law, on national forest land maintained by the state. Nothing in this subsection (c) shall authorize a person to use any handgun to hunt unless the person is in full compliance with all wildlife laws, rules and regulations.

(d) Nothing in this section shall authorize a person to access any area unless the person is in full compliance with all current wildlife laws, rules, proclamations and regulations.

(e)

(1) Subject to existing rights, lands managed by the wildlife resources agency shall be open to access and use for recreational hunting and fishing, except as limited by the agency for reasons of public safety, homeland security, or as otherwise limited by law.

(2) For the purposes of this subsection (f), lands managed by the agency include lands owned by the agency, as well as lands owned by other public entities for which the agency regulates hunting and fishing.

(3) The agency shall exercise its authority to manage lands in a manner to support, promote and enhance recreational hunting and fishing opportunities to the extent authorized by law.

(4) The agency is not required to give preference to hunting and fishing over other uses or priorities established by state law.

(5) Agency decisions and actions shall not result in any net loss of any acreage available for hunting and fishing opportunities.

(6) Prior to January 1, 2008, and each January 1 thereafter, the agency shall submit to the chair of the conservation and environment committee of the house of representatives and the chair of the environment, conservation and tourism committee of the senate a written report containing:

(A) The estimated acreage managed by the agency that has been closed to recreational hunting and fishing during the previous fiscal year and the reasons for the closures;

(B) The estimated acreage managed by the agency that was opened to recreational hunting and fishing to compensate for the estimated acreage that was closed during the previous fiscal year; and

(C) The estimated acreage of new public hunting and fishing lands added to the existing hunting and fishing lands base since the previous report.

(7) When lands owned by the agency are closed to hunting or fishing, the agency shall mitigate the closure by opening new lands to be used for the same purpose, within twelve (12) months of closure. The managed lands to be opened shall be at least equal to the acreage of lands closed by the agency and shall be located in the same grand division of the state in which the closed lands are

located. The agency shall not be responsible for mitigation of land closures when lands not owned by the agency are removed from the agency's control or closed to hunting and fishing by the owning entity.

(8) The agency is exempt from the provisions of this subsection (c) when closing or utilizing acreages of public hunting and fishing lands for the following purposes:

(A) Firearm and archery shooting ranges;

(B) Road development and maintenance;

(C) Service buildings;

(D) Administrative buildings;

(E) Creation of agency lakes;

(F) Agency project-related parking;

(G) Establishment of wildlife refuges; and

(H) Development and maintenance of a proposed or existing greenway connecting Davidson, Wilson and Rutherford counties on land that is owned by the Nashville district of the United States army corps of engineers.

(9) This subsection (f) shall have no effect on the agency's authority or ability to regulate hunting and fishing, including its ability to set season times and lengths, and bag limits.

SECTION 14. Tennessee Code Annotated, Section 70-4-117, is amended by deleting the section in its entirety and substituting instead the following:

(a) It is unlawful for any person to be in possession of any, bow and arrow, shotgun, or rifle in, on, or while traversing any refuge, public hunting area or wildlife management area frequented or inhabited by big game, except during specified or lawful

open seasons on these areas. Any person violating this section is guilty of hunting big game and shall be punished as provided for in subsections (b) and (c).

(b)

(1) A violation of this section is a Class B misdemeanor.

(2) It is mandatory upon the court to impose the prison sentence, upon conviction for a second or subsequent offense, and the prison sentence is not subject to suspension.

(c) In the prosecution of a second or subsequent offense, the indictment or presentment must allege the prior conviction for violating any of the provisions of this section, setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either a first or subsequent offender, from hunting, fishing or trapping in this state for a period of one (1) year.

(d) Notwithstanding subsection (a), a person with a handgun carry permit issued or recognized pursuant to § 39-17-1351 may possess a handgun the entire year while on the premises of any refuge, public hunting area, wildlife management area or, to the extent permitted by federal law, on national forest land maintained by the state. Nothing in this subsection (d) shall authorize a person to use any handgun to hunt unless the person is in full compliance with all wildlife laws, rules and regulations.

(e) Nothing in this section shall authorize a person to access any area unless the person is in full compliance with all current wildlife laws, rules, proclamations and regulations.

SECTION 15. Tennessee Code Annotated, Section 70-4-123, is amended by deleting the section in its entirety and substituting instead the following:

(a) It is unlawful for any person hunting big game with a bow and arrow to be in possession of any firearm or be accompanied in hunting by any person possessing

firearms during the archery-only deer season; provided, that persons authorized to carry a handgun pursuant to § 39-17-1351 may carry, a handgun as defined in § 39-11-106(a) while hunting big game with a bow and arrow during the archery-only deer season.

(b) A person who violates the provisions of this section commits a Class C misdemeanor.

SECTION 16. This act shall take effect upon becoming a law, the public welfare requiring it.