

HOUSE BILL 856

By Mumpower

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 13, relative to the carrying of handguns by certain public officials.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1350, is amended by deleting the section in its entirety and substituting instead the following:

(a) For purposes of this section:

(1) "Law enforcement officer" means a person who is a full-time employee of the state in a position authorized by the laws of this state to carry a firearm and to make arrests for violations of some or all of the laws of this state, or a full-time police officer who has been certified by the peace officer standards and training commission, or a vested correctional officer employed by the department of correction.

(2) "Judge" means a person who has been elected or appointed to hold the position of judge in any federal trial or appellate court, state trial or appellate court, general sessions court, juvenile court or municipal court. "Judge" shall include a person who, during the time of such designation, has been designated as a senior judge pursuant to title 17, chapter 2, part 3, but shall not include a person sitting as a substitute judge pursuant to § 16-15-209 or § 17-2-118, a pro tempore judge pursuant to § 17-2-118, or a special judge pursuant to § 17-2-116 or § 17-2-122.

(3) "Probation officer" shall include a probation officer compensated from state, county or municipal funds but shall not include a probation officer

compensated by a private corporation, enterprise or entity that is engaged in rendering general misdemeanor probation supervision, counseling or collection services to the courts.

(b)

(1) Notwithstanding any provision of law to the contrary, any law enforcement officer may carry firearms at all times and in all places within Tennessee, on-duty or off-duty, regardless of the officer's or judge's regular duty hours or assignments, except as provided by subsection (c), federal law, lawful orders of a court of competent jurisdiction or the written directives of the executive supervisor of the law enforcement officer's employing agency.

(2) Notwithstanding any provision of law to the contrary, any judge or probation officer holding a valid Tennessee handgun carry permit with the appropriate label or stamp affixed thereto may carry a handgun at all times and in all places within Tennessee, on-duty or off-duty, regardless of the judge's or officers' regular duty hours or assignments, except as provided by subsection (c), federal law, lawful orders of a court of competent jurisdiction or the written directives of the executive supervisor of the probation officer's employing agency.

(c) The authority conferred by this section is expressly intended to and shall supersede restrictions placed upon law enforcement officers', judges' and probation officers' authority to carry firearms by other sections within this part.

(d) The authority conferred by this section shall not extend to a law enforcement officer, judge or probation officer:

(1) Who carries a firearm onto school grounds or inside a school building during regular school hours unless the officer or judge immediately informs the principal that the officer or judge will be present on school grounds or inside the

school building and in possession of a firearm. If the principal is unavailable, the notice may be given to an appropriate administrative staff person in the principal's office;

(2) Who is consuming beer or an alcoholic beverage or who is under the influence of beer, an alcoholic beverage, or a controlled substance;

(3) Who is not engaged in the actual discharge of official duties as a law enforcement officer, judge or probation officer while within the confines of an establishment where beer or alcoholic beverages are sold for consumption on-the-premises; or

(4) Who is not engaged in the actual discharge of official duties as a law enforcement officer, judge or probation officer while attending a judicial proceeding.

(e) In counties having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475) or not less than one hundred eighteen thousand four hundred (118,400) nor more than one hundred eighteen thousand seven hundred (118,700), according to the 1990 federal census or any subsequent federal census, the authority conferred by this section shall only apply to law enforcement officers who are law enforcement officers for those counties or law enforcement officers for municipalities located therein.

(f)

(1) The secretary of state, in consultation with the commissioner of the department of correction, shall design and issue to each requesting correction officer who is vested and employed by the department of correction, a state identification card certifying that the officer is authorized to carry a firearm pursuant to this section.

(2) Any corrections officer desiring an identification card shall notify the secretary of state and shall provide the officer's full name and residential address. Upon receipt of the request, the secretary of state shall notify the commissioner of correction of the request. The commissioner of correction shall verify to the secretary of state whether the requesting officer is vested and employed by the department of correction and shall so certify in a letter to be maintained by the secretary.

(3) If the secretary of state receives certification that a requesting officer is vested and employed by the department, the secretary shall issue the officer an identification card so certifying. The card shall be valid for as long as the officer remains vested and in the employment of the department of correction.

(4) A corrections officer issued a card pursuant to this subsection (f) shall carry the card at all times the officer is carrying a firearm. The card shall be sufficient proof that the corrections officer is authorized to carry a firearm pursuant to this section.

(5) If a vested corrections officer employed by the department resigns, is terminated, or is otherwise no longer employed by the department, the commissioner shall, within ten (10) days, so notify the secretary of state. Upon receiving the notice, the secretary of state shall revoke the identification card and send a letter of revocation to the corrections officer at the officer's last known address.

(6) A person who is no longer a vested corrections officer employed by the department of correction but who still has an identification card issued by the secretary of state shall have ten (10) days from receipt of the letter of revocation from the secretary of state to return the card to the secretary.

(g)

(1) A judge or probation officer wishing to have the authority to carry a handgun pursuant to this section shall include with the person's application for a handgun carry permit or renewal of a handgun carry permit, documentation, sufficient to satisfy the department of safety, that the applicant is a judge or probation officer as defined by this section.

(2) Upon issuing a handgun carry permit or renewal permit to a judge or probation officer, the department of safety shall affix a label or stamp to such person's permit indicating that the permit holder is a judge or probation officer and authorized to carry a handgun at all times and in all places pursuant to this section.

(3)

(A) If a judge or probation officer has a valid permit on the effective date of this act and such permit is not in need of renewal within six (6) months of such effective date, the judge or probation officer may send the department of safety documentation showing that the person is a judge or probation officer. If the department finds the documentation satisfactory, it shall send the stamp or label back to the judge or probation officer with directions for properly affixing it to such person's handgun carry permit. Upon affixing the label or stamp as directed by the department of safety, the provisions of this act shall then apply to such judge or probation officer.

(B) The department may charge an additional fee, not to exceed five dollars (\$5.00) for processing and mailing a request for a label or stamp pursuant to this subdivision.

(4) The provisions of this section shall not apply to a judge or probation officer unless the handgun carry permit is in the person's possession and has on it the official stamp or label issued by the department of safety indicating the holder is a judge or probation officer. If the judge's or probation officer's permit does not have the official stamp or label affixed to it, the restrictions of this part relative to locations in which a handgun carry permit holder is prohibited from carrying a handgun shall also apply to the judge or probation officer.

(5)

(A) A person who is no longer a judge or probation officer, but who has a handgun carry permit with a judge or probation officer label or stamp on it, shall have ten (10) days from the date the person is no longer a judge or probation officer to remove the stamp or label from the permit and surrender it to the department of safety.

(B) A judge or probation officer who has a handgun carry permit with a judge or probation officer label or stamp who engages in conduct that renders the judge or probation officer ineligible to hold a handgun carry permit, shall surrender the permit and label or stamp as provided in § 39-17-1352.

(h)

(1) It is a Class C misdemeanor punishable by fine only of fifty dollars (\$50.00) for a person to knowingly fail to return an identification card as required by this section.

(2) It is a Class C misdemeanor punishable by fine only of fifty dollars (\$50.00) for a judge or probation officer to knowingly fail to

surrender a handgun carry permit or a judge or probation officer's stamp or label as required by this section.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.