

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 250 - HB 248

February 17, 2013

SUMMARY OF BILL: Declares that it is public policy in Tennessee that firearms, firearm accessories, and ammunition made in Tennessee, which are not made available for interstate commerce, are not subject to federal action.

Repeals exemption from the above public policy as applied to automatic firearms. Tennesseans may manufacture and/or possess automatic firearms in Tennessee which are not subject to federal action if they are made in Tennessee and not put into interstate commerce.

Requires firearms manufactured or sold in Tennessee pursuant to Title 4, Chapter 54 to have "Made in Tennessee" engraved or otherwise permanently added to the receiver or frame.

Defines "federal action" as any action by congress, the federal executive branch, or the federal judicial branch that would have the force or effect of law over the citizens of this state including, but not limited to, acts of congress, federal rules or regulations, executive orders, and judicial opinions.

Prohibits any federal action that infringes on, bans, regulates, or restricts state government, local government, or civilian ownership, transfer, possession, or manufacture of a firearm, firearm accessory, or ammunition in Tennessee.

Prohibits any federal action that requires any state government, local government, or civilian-owned firearm, firearm accessory, or ammunition in this state to be registered or tracked in any manner.

Prohibits any federal action that imposes federal taxes, fees, or any other charges on any state government, local government, or civilian-owned firearm, firearm accessory, or ammunition that are payable to any government entity.

Declares any federal action prohibited by Title 4, Chapter 54 invalid, null, and void in Tennessee if such action infringes on, bans, regulates, or restricts state government, local government, or civilian ownership, transfer, possession, or manufacture of a firearm, firearm accessory, or ammunition whether or not such firearm, firearm accessory, or ammunition is made in Tennessee or not.

Prohibits public officials, employees, or agents of Tennessee from imposing, collecting, or effectuating any penalty in Tennessee that violates the public policy in Tennessee or to cooperate with or assist with the enforcement of any federal action prohibited by Title 4, Chapter 54.

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Creates a Class B felony for knowingly enforcing or attempting to enforce any federal action prohibited by Title 4, Chapter 54, relating to a state government, local government, or civilian-owned firearm, firearm accessory, or ammunition.

Authorizes the Attorney General to enforce Title 4, Chapter 54 by seeking judicial determinations to invalidate or nullify any federal action prohibited by Title 4, Chapter 54. If the Attorney General fails or refuses to defend Title 4, Chapter 54, then any Tennessee citizen may petition a circuit or chancery court to appoint special counsel upon a showing of good cause and necessity. If the petition is granted, costs associated with seeking the petition shall be charged against the state.

Authorizes the Attorney General to prosecute Title 4, Chapter 54 and defend the state of Tennessee against violations. Authorizes the District Attorneys General to prosecute violations within their jurisdictions.

Adds a severability clause to Title 4, Chapter 54, Part 1.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$62,000/Incarceration*

Other Fiscal Impact – The Attorney General will be fiscally impacted by the bill from prosecuting violations of Title 4, Chapter 54 and for challenging federal actions prohibited under Title 4, Chapter 54. However, it is not possible to determine a precise fiscal impact due to a number of unknown factors such as the number of proceedings, the length of the proceedings, etc.

Assumptions:

Assumptions Relative to Incarceration:

- According to the Department of Correction (DOC), there has been an average of 0.9 admissions for official misconduct per year for the past ten years. The bill creates a Class B felony similar to official misconduct. It is assumed that the bill will result in one admission every two years for knowingly enforcing or attempting to enforce any federal action prohibited by Title 4, Chapter 54, a Class B felony.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- The average time served for a Class B felony is 5.29 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every two years serving 5.29 years. The cost for one offender at 5.29

years (1,932.17 days) is \$61,994 [(\$64.17 x 1,932.17 days) / 2].

Assumptions Relative to the Attorney General:

- The bill will also result in the Attorney General and Reporter prosecuting violations and challenging prohibited federal actions under Title 4, Chapter 54.
- The impact to the Attorney General is dependent upon several factors that cannot reasonably be determined. For example, the number and duration of constitutional challenges initiated by the Attorney General ; the number of prosecutions for violations for Title 4, Chapter 54; and what costs will be associated with the proceedings, such as depositions, travel, etc.
- The impact of the bill on the Attorney General cannot reasonably be determined.

Assumptions Relative to the District Attorneys, Public Defenders, and Courts:

- Given the low number of admissions the bill will result in, it is assumed that any impact on the caseload of the District Attorneys General Conference and the District Public Defenders Conference can be accommodated within existing resources.
- Any impact on the state courts can be absorbed within existing resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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