

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 535 – SB 780**

March 16, 2015

**SUMMARY OF BILL:** Authorizes any person not otherwise prohibited from possessing a firearm to possess a firearm either openly or concealed regardless of whether the person has a handgun carry permit.

Authorizes any person not otherwise prohibited from possessing a weapon, other than a firearm, to possess a weapon either openly or concealed.

Authorizes felons, except those convicted of a dangerous felony, to possess and carry a firearm. Authorizes felons, except those convicted of a dangerous felony, to purchase a firearm.

Repeals the offense of carrying with the intent to go armed. Repeals the offenses of unlawful possession by someone convicted of a drug felony, a Class D felony, and unlawful possession by someone convicted of a felony, a Class E felony.

Repeals the offenses of (1) possessing a deadly weapon other than a firearm with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony; and (2) possessing any deadly weapon with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony.

Reduces the offense of possession of a firearm by a dangerous felon from a Class C felony to a Class E felony.

Repeals Tenn. Code Ann. § 39-17-1308 which provides defenses to unlawful possession or carrying of a weapon offenses.

Repeals the Class E felonies of possessing or carrying with the intent to go armed any firearm, explosive, explosive weapon, bowie knife, switchblade knife, blackjack, or weapon of like kind (1) in private school buildings or buses; (2) on private school grounds; (3) on any other grounds owned, operate, or used by a private school; and (4) on any other grounds used by a public school.

Repeals the Class B misdemeanors of possessing or carrying any firearm not used solely for instructional or school-sanctioned ceremonial purposes, whether openly carried or concealed, (1) in private school buildings or buses; (2) on any grounds owned, operated, or used by a private school; and (3) on any other grounds used by a public school.

Provides that the offenses of possessing and carrying weapons on school grounds shall not apply to persons transporting or storing firearms or ammunition in a motor vehicle.

Defines “public school” as any institution operated by a governmental entity to provide education services in grades K-12 and does not include buildings, facilities, or structures used primarily for non-educational purposes.

Authorizes the board of directors or other managing body of a private school to elect to declare the campus of such facility off limits to firearms by posting signage in conformity with state law.

Creates three new affirmative defenses to carrying weapons on school property: (1) the person transported or stored firearms or ammunition in a motor vehicle in conformity with state law; (2) the person attended a function or activity at the school that was not conducted by the school administration or was not part of the educational or extracurricular activities of the school; and (3) the person demonstrates that the required signage was not in conformity with state law.

Repeals Tenn. Code Ann. § 39-17-1311 relative to carrying weapons in public parks, playgrounds, civic centers, and other public recreational buildings and grounds.

Authorizes any person who legally possesses a firearm, firearm ammunition, or firearm accessories to transport and store such items in a motor vehicle. Prohibits an employer from imposing any adverse employment action or for punishing any employee for lawfully possessing a firearm in his/her motor vehicle.

voids any local law, regulation, or ordinance, whether now existing or enacted after the effective date of the bill, that regulates any arms or weapons within the state. Authorizes local governments to regulate by ordinance the following: (1) use or possession of firearms by employees of government officials while acting in the course of their duties; and (2) ordinances relative to weapons but only to the extent expressly authorized by statute.

Declares all federal laws or regulations void that are relative to firearms or the authority of the State to exclusively regulate the entire field of arms within the boundaries of the State.

Authorizes any entity or organization whose membership may be adversely affected by any governmental enactment, action, or omission in violation of Tenn. Code Ann. § 39-17-1314 to sue a local government for actual damages, declaratory relief, injunctive relief, or civil rights violations. If the court issues any injunction or grants any declaratory relief, the court shall also award attorney's fees, costs, and expert witness fees.

Repeals requirement that handgun permit applicants show proof that they completed an approved handgun safety course. Repeals provision that could require a handgun safety course for someone renewing a handgun permit if the permit was more than six months expired.

Reduces the handgun permit application fee from \$115 to \$50. Repeals provisions requiring \$15 be paid to offset cost of the Automated Fingerprint Identification System (AFIS) and requiring \$15 be paid to local sheriffs to offset cost of background checks.

Repeals provision that limits out-of-state permit holders to carrying only handguns.

Repeals provision that allows a handgun permit to be revoked for the purposes of enforcing child support obligations.

Repeals provision that allows an individual, corporation, business entity, or governmental entity to prohibit the possession of weapons at a meeting conducted by the individual, corporation, business entity, or governmental entity.

Requires political subdivisions of the State, before enacting an ordinance or regulation preventing the possession or carrying of firearms in or on public properties even if for self-defense, to conduct at least one public hearing, from which the political subdivision must find that there is clear and convincing evidence that infringing the rights of the citizens is necessary to prevent an existing problem with violent criminal activity in the specific public property or properties in question. Factual findings from the hearing must be based on existing criminal records by the Tennessee Bureau of Investigation. The political subdivisions of the State cannot take any such action to prohibit possession or carrying of a firearm in or on the grounds of public parks, nature areas, historic parks, etc.

Authorizes a person who legally possesses a handgun for self-defense to carry such handgun at any time on a refuge, public hunting area, or wildlife management area. Authorizes a person who legally possesses a handgun for self-defense to carry such handgun at any time on national forest land maintained by the state, regardless of whether such possession is allowed by federal law.

Authorizes a person legally in possession of a handgun for personal defense to carry such handgun while hunting during the archery-only deer season.

### **ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue – \$6,511,400/Handgun Permit Division  
\$2,117,500/TBI**

**Decrease State Expenditures – \$6,511,400/Handgun Permit Division  
\$1,238,000/TBI  
\$3,108,200/Incarceration\***

**Increase State Expenditures – \$720,000/Recurring/General Fund**

**Decrease Local Revenue – \$488,700/Sheriffs**

Assumptions:

*Assumptions Relative to Incarceration Costs*

- Under the bill, possession of a firearm by someone convicted of a dangerous felony will still be an offense, but it will be punished as a Class E felony rather than a Class C

felony. Statistics from the Department of Correction (DOC) show a 10-year average of 1.6 admissions per year for possession of a firearm by a felon with a deadly weapon conviction.

- The bill will result in two admissions per year being punished as a Class E felony rather than a Class C felony.
- The average time served for a Class C felony is 3.18 years. The average time served for a Class E felony is 1.41 years. The bill will result in two admissions serving 1.77 years (3.18 years – 1.41 years = 1.77 years or 646.49 days) less than current admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2015 is \$66.03.
- The decrease in state incarceration costs will be \$85,375 (2 admissions x 646.49 days x \$66.03).
- The bill repeals the offenses of unlawful possession by someone convicted of a drug felony, a Class D felony, and unlawful possession by someone convicted of a felony, a Class E felony. The bill also repeals the offenses of (1) possessing a deadly weapon other than a firearm with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony; and (2) possessing any deadly weapon with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony. These offenses are codified in Tenn. Code Ann. § 39-17-1307.
- Statistics from the DOC show a 10-year average of 86.1 admissions per year for the Class E felonies and 1.6 admissions per year for the Class D felony.
- It is assumed that the bill will result in a decrease of two Class D felony admissions each year. The average time served for a Class D felony is 2.04 years (745.11 days). The decrease in state incarceration costs is \$98,399 (2 admissions x 745.11 days x \$66.03).
- It is assumed that the bill will result in a decrease of 86 Class E felony admissions each year. The average time served for a Class E felony is 1.41 years (515 days). The decrease in state incarceration costs is \$2,924,469 (86 admissions x 515 days x \$66.03).
- The bill repeals other minor firearm-related felonies and misdemeanors. Statistics from the Administrative Office of the Courts show an average of 202.8 firearm-related misdemeanors under Tenn. Code. Ann. § 39-17-1307 each year. These represent trial court statistics. Fiscal Review assumes that one out of every 10 misdemeanor cases is taken to the trial court level. It is assumed that the bill will result in 2,028 (202.8 x 10) fewer misdemeanor cases each year.
- It is assumed that most of the offenders do not spend time in confinement. It is assumed that the bill will not significantly decrease any further state or local incarceration costs.
- The total decrease in state incarceration costs is \$3,108,243 (\$85,375 + \$98,399 + \$2,924,469)
- Though the bill would result in approximately 88 fewer felon cases and 2,028 fewer misdemeanor cases each year, this is less than three felony cases per judicial district and less than 68 misdemeanor cases per judicial district. Therefore, a reduction in the number of judges, assistant district attorneys, or assistant public defenders is not justified.

*Assumptions Relative to Handgun Carry Permits*

- The bill authorizes any person not otherwise prohibited from possessing a firearm to possess and carry a firearm, handgun or long gun, either openly or concealed regardless of whether the person has a handgun carry permit.
- Under the bill, only a person wishing to possess and carry a firearm in another state would need to have a handgun carry permit.
- It is assumed that most Tennesseans do not travel out-of-state with a firearm. It is further assumed that most Tennesseans that do travel out-of-state with a firearm will not wish carry that firearm on their person when in another state.
- It is therefore assumed that, if this bill is enacted, 60 percent of new applicants each year will decide not to obtain a handgun carry permit.
- It is further assumed that many existing handgun carry permit holders will choose not to renew their permit. Those continuing to renew after the requirement is lifted will likely be Tennesseans who believe that maintaining a valid handgun carry permit will serve mitigate any liability exposure should they ever need to use their handgun in public for personal protection, or in the case of business owners, in the protection of their business assets.
- It is therefore assumed that 40 percent of existing handgun carry permit holders up for renewal each year will not renew.
- Statistics from the Department of Safety show that there has been an average of 54,296 new handgun permit applicants each year for the past five years and an average of 66,370 renewals each year for the past five years.
- The fee for a new applicant is \$115 and the fee for a renewal is \$50. From every new permit fee paid, \$15 is allocated to the applicable sheriff's department to cover the cost of a local background check; \$15 is allocated to the Tennessee Bureau of Investigation (TBI) for updating and maintaining the Automated Fingerprint Identification System (AFIS); \$38 is allocated to the TBI to cover the cost of fingerprint vendors, TBI background checks, and Federal Bureau of Investigation fingerprint background checks; the remaining \$47 is retained by the Handgun Permit Division of DOS to specifically fund the administrative expenses of the division. Each handgun permit issued costs \$2.23 to print.
- Currently, the Handgun Permit Division collects \$9,562,540 [(54,296 x \$115) + (66,370 x \$50)] in application and renewal fees. Under the bill, the Department of Safety will collect \$50 for new applications and for renewals.
- It is assumed that 40 percent of the average new applicants, or 21,718 (54,296 x 0.4 = 21,718), will still apply for a handgun permit each year and that 60 percent of renewals, or 39,822 (66,370 x 0.6 = 39,822), will still renew each year. Under the bill, the Handgun Permit Division will collect \$3,077,000 [(21,718 x \$50) + (39,822 x \$50)].
- The bill will result in a recurring decrease in revenue to the Handgun Permit Division of \$6,485,540 (\$9,562,540 - \$3,077,000).
- Under current law, the Tennessee Bureau of Investigation receives \$15 of every application fee and \$38 for a background check and fingerprint check. The \$15 is to maintain the AFIS, which the TBI must report to the Criminal Justice Committee of the House of Representatives and the Senate Judiciary Committee by February 1 of each year. The TBI collects \$814,440 (54,296 x \$15) each year for AFIS maintenance and \$2,063,248 (54,296 x \$38) for background checks.

- Under the bill, the TBI will no longer receive the \$15 for AFIS. It is assumed that \$35 of the new \$50 fee will be paid to TBI for background and fingerprint checks.
- The bill will result in a recurring decrease in revenue of \$814,400 for AFIS ( $54,296 \times \$15$ ) and a recurring decrease in revenue to TBI of \$1,303,118 [ $(54,296 \times \$38) - (21,718 \times \$35)$ ] for background and fingerprint checks.
- Under current law, the sheriffs receive \$15 for conducting background checks. Sheriffs collect \$814,440 ( $54,296 \times \$15$ ) each year. Under the bill, sheriffs are not entitled to the \$15, but it is assumed that the Department of Safety will continue to pay them \$15 for background checks. It is assumed that the Sheriffs will collect \$325,770 ( $21,718 \times \$15$ ) under the bill.
- The recurring decrease in revenue to local sheriffs is estimated to be \$488,670 ( $\$814,440 - \$325,770$ ).

#### *Assumptions Relative to New Applicants*

- It is assumed that the bill will result in 40 percent of current new applications ( $54,296 \times 0.4 = 21,718$  applicants) being filed with the Department of Safety each year.
- Under current law, each new applicant generates \$70.23 in expenses (\$15 to TBI/AFIS + \$15 to local sheriff for background check + \$38 to TBI for background check and fingerprint check + \$2.23 to print the permit). It is assumed that under the bill each applicant will generate \$52.23 in expenses (\$15 to local sheriff for background check + \$35 to TBI for background check and fingerprint check + \$2.23 to print the permit).
- The recurring decrease in state expenditures to the Department of Safety is estimated to be \$390,924 ( $21,718 \times \$18$  reduction).

#### *Assumptions Relative to Permit Renewals*

- It is assumed that the bill will result in 60 percent of current permit renewals ( $66,370 \times 0.6 = 39,822$  renewals) being filed with the Department of Safety each year.
- The bill will result in fewer renewal permits being permit and will reduce expenditures by \$88,803 ( $39,822 \times \$2.23$  to print the permit).

#### *Assumptions Relative to Handgun Safety Courses*

- The bill removes the requirement that new handgun permit applicants complete a handgun safety course. The Department of Safety reports that it receives approximately \$15,210 per year in safety school certification fees and approximately \$10,610 per year in safety instructor certification fees. The bill will result in a decrease in revenues of \$25,820 per year ( $\$15,210 + \$10,610$ ) for the Handgun Permit Division.
- The Department of Safety employs five handgun school inspectors and one handgun school inspector supervisor. Each inspector results in expenditures of \$41,290 [ $\$30,396$  salary + ( $\$30,396 \times .1503$ ) benefits + \$6,325.56 insurance]. The inspector supervisor results in expenditures of \$48,827 [ $\$36,948$  salary + ( $\$36,948 \times .1503$ ) benefits + \$6,325.56 insurance]. The bill will result in a decrease in expenditures of \$255,277 [ $(\$41,290 \times 5) + \$48,827$ ] for the Handgun Permit Division.

#### *Assumptions Relative to TBI and AFIS*

- Under current law, the TBI receives \$15 of the \$115 application fee for as a dedicated revenue source to maintain and update AFIS.

- The bill deletes the provision requiring \$15 be transmitted to the TBI to offset the cost of AFIS. The bill will result in a decrease of revenue for the TBI.
- TBI receives \$814,440 (54,296 x \$15) each year under current law. It is assumed that the TBI will not receive any further funds under the bill. The bill will decrease TBI's revenues by \$814,400.
- AFIS costs \$720,000 each year in maintenance.
- The bill will increase general fund expenditures by \$720,000.
- The TBI will conduct fewer background checks under the bill. The bill will result in a decrease in expenditures of \$1,237,964 [(54,296 current permits – 21,718 permits under bill) x \$38].

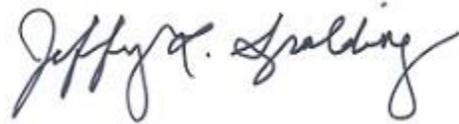
*Assumptions Relative to Administrative Costs of the Handgun Permit Program*

- The Handgun Permit Division is funded by dedicated revenue through the handgun permit fee.
- It is assumed that any reduction in revenue to the fund will be met with a corresponding reduction in expenditures.
- The bill will result in a total reduction in revenue to the Handgun Permit Division of \$6,511,360 (\$6,485,540 + \$25,820). The bill will result in a decrease in expenditures of \$735,004 (\$390,924 + \$88,803 + \$255,277). It is assumed that the Handgun Permit Division will reduce its administrative expenditures by \$5,776,356 (\$6,511,360 - \$735,004). The division will likely reduce the administrative expenditures through a reduction in the workforce.

*\*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.



Jeffrey L. Spalding, Executive Director

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