

HOUSE BILL 40

By VanHuss

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7; Title 33; Title 38; Title 39; Title 40 and Title 70, relative to the carrying of firearms.

WHEREAS, the right of the people to keep and bear arms is protected by the United States Constitution and the Constitution of Tennessee; and

WHEREAS, the Supreme Court of the United States has ruled in *Murdock v. Pennsylvania*, 319 U.S. 105 (1943), that "No state shall convert a liberty into a privilege, license it, and attach a fee to it."; and

WHEREAS, by requiring Tennesseans to pay for and obtain a permit to publicly carry a handgun in all forms, including openly, current Tennessee law converts the right to carry a handgun into a privilege; and

WHEREAS, the Constitution of Tennessee in Article I, Section 26, permits the legislature only to "regulate the wearing of arms with a view to prevent crime"; and

WHEREAS, the provisions of Article I, Section 26, of the Constitution of Tennessee imply that laws regulating firearms should be made only if these laws are intended to prevent crime and have the effect of preventing crime; and

WHEREAS, the laws of twenty-nine states (Alabama, Alaska, Arizona, Colorado, Delaware, Idaho, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming) generally allow a person to carry a handgun in an unconcealed or open manner without being required to have a handgun carry permit; and

WHEREAS, people without handgun carry permits within these states regularly and frequently carry handguns openly; and

WHEREAS, such activity has not caused increased danger to public safety or resulted in increased crime; and

WHEREAS, based on the experience of these other states, prohibiting the open carrying of handguns without a handgun carry permit does not "prevent crime"; and

WHEREAS, it is the intent of this act to remove restrictions that may prohibit persons who are not otherwise prohibited from possessing a handgun from openly carrying handguns in this State without the necessity of a handgun carry permit; and

WHEREAS, it is the intent of this act to remove statutory restrictions that exist in violation of the State constitutional limits imposed by the people of this State on the State of Tennessee, which require that any government regulation on the wearing of arms must be based on reasonable and objective determinations that such restrictions are necessary to reduce crime; and

WHEREAS, amending Tennessee's weapons laws to allow the open carrying of a handgun without a handgun carry permit would bring Tennessee's weapons laws into conformity with the weapons laws found in the majority of other states and truly protect the right of a person to keep and bear arms within the State of Tennessee; now, therefore,

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

SECTION 1. This act shall be known and may be cited as the "Open Carry Firearms Freedom Act."

SECTION 2. Tennessee Code Annotated, Section 39-17-1307(a), is amended by deleting the subsection and substituting instead the following:

(1) A person commits an offense who carries a club with the intent to go armed.

(2) A person commits an offense who carries on or about the person a handgun that is fully concealed from ordinary observation unless the person has a written

directive issued pursuant to § 39-17-1315 or handgun carry permit issued or recognized in this state pursuant to § 39-17-1351.

(3)

(A) The first violation of this subsection (a) is a Class C misdemeanor punishable by fine only.

(B) A second or subsequent violation of this subsection (a) is a Class B misdemeanor punishable by fine only.

SECTION 3. Tennessee Code Annotated, Section 39-17-1308, is amended by deleting subdivisions (a)(1) and (a)(5) in their entireties.

SECTION 4. Tennessee Code Annotated, Section 39-17-1309(e), is amended by adding the following as a new subdivision:

A person entering the property who does not remove any firearm from a vehicle; provided, however, that the person may remove a firearm from a vehicle for the limited purpose of storing it in or on another portion of the vehicle or another vehicle.

SECTION 5. Tennessee Code Annotated, Section 39-17-1310, is amended by deleting subdivision (4) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 39-17-1351(n)(1), is amended by adding the language ", either openly or concealed" at the end of the first sentence.

SECTION 7. The department of safety shall not change the language contained on any form of handgun carry permit as a result of this act, including, but not limited to, any language stating, indicating, or suggesting that handgun carry permits issued by this state require that the handgun or any other firearm be concealed, in whole or in part, it being the intent of the general assembly that the handgun carry permit be and remain silent as to how the individual wears, carries, or transports any handgun or firearm.

SECTION 8. This act shall take effect July 1, 2017, the public welfare requiring it.