

SENATE BILL 724

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 39  
and Title 50, relative to firearms.

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by  
adding the following as a new section thereto:

39-17-1365.

(a) As used in this section:

(1) "Business entity" means:

(A) A sole proprietor;

(B) The state and its political subdivisions;

(C) Any legal entity organized under the laws of this state or  
organized under the laws of the United States; or

(D) Any legal entity registered with the secretary of state;

(2) "Employee":

(A) Means an individual who works in the service of a business  
entity under an express or implied contract of hire, under which the  
business entity has the right to control the details of work performance;  
and

(B) Shall not include subcontractors, independent contractors, or  
others who may perform services for the employer on a per task contract  
basis;

(3) "Firearm" has the same meaning as defined in § 39-11-106;

(4) "Handgun" has the same meaning as defined in § 39-11-106;

(5) "Motor vehicle operator" means an employee, invitee, guest, customer, contractor, leased employee, supplier, or client;

(6) "Non-commercial motor vehicle" means any motor vehicle, motorcycle, or other motor driven vehicle as defined in § 55-1-103 that is not owned or leased by a business entity;

(7) "Parking lot" means an area provided or designated by a business entity for use by a motor vehicle operator to park their non-commercial motor vehicles; and

(8) "Valid search" means:

(A) A search by a certified law enforcement officer pursuant to a valid search warrant or a valid warrantless search based upon probable cause, exigent circumstances, or other lawful exception to the search warrant requirement; or

(B) A search by an employer or other persons responsible for the control or access to property where:

(i) There is credible evidence that the motor vehicle operator's motor vehicle contains stolen property or a prohibited or illegal item other than a handgun;

(ii) The motor vehicle operator has made a credible threat of serious bodily injury to another; or

(iii) The motor vehicle operator has communicated that a firearm is located in the motor vehicle; and

(C) The search resulting in the discovery of the firearm is not prohibited by subdivision (d)(1).

(b) Nothing in this section shall be construed to prohibit or limit the ability of a business entity or an individual to post property pursuant to common law or as provided in § 39-17-1359.

(c)

(1) Unless the possession or carrying of a firearm is a requirement of the position for which the individual is applying or is expressly prohibited by federal law or regulation, no business entity shall inquire, whether by inclusion on an employment application or during the interview process, if an applicant for employment lawfully owns or possesses a firearm.

(2) No business entity shall condition employment, or any rights, benefits, privileges, or opportunities offered by such employment upon an agreement by the applicant for employment or a current employee that the applicant or employee will forego the lawful ownership or lawful possession of a firearm outside the workplace.

(d)

(1) No business entity shall enforce any policy or rule, that allows or has the effect of allowing such person or its agents to search the non-commercial motor vehicle of an motor vehicle operator for the sole purpose of determining if the motor vehicle operator is in possession of a handgun if:

(A) The motor vehicle operator is not prohibited from possessing a firearm by state or federal law;

(B) The motor vehicle operator possesses a valid Tennessee handgun permit or is otherwise authorized by § 39-17-1351 to carry or possess a handgun; and

(C) The motor vehicle operator's vehicle is locked and the handgun and ammunition are not visible from outside the motor vehicle.

(2)

(A) If a valid search of a motor vehicle operator's non-commercial motor vehicle parked in a parking lot properly posted pursuant to § 39-17-1359 results in the discovery of a firearm, then a violation of § 39-17-1359 has occurred.

(B) If a valid search of a motor vehicle operator's non-commercial vehicle parked in a parking lot properly posted pursuant to § 39-17-1359 results in the discovery of a handgun, then the business entity conducting the search may require the motor vehicle operator to produce proof that he or she is authorized to carry a handgun pursuant to § 39-17-1351.

(e)

(1) A violation of § 39-17-1359 is grounds for appropriate disciplinary action against the employee, including, but not limited to, termination.

(2) No employee shall have a claim for wrongful discharge, termination, or any other cause of action based solely upon the employee's ownership or possession of a firearm if the employee's termination was based solely upon a violation of this section or § 39-17-1359.

(f)

(1) This section shall not apply:

(A) To any facility or entity that is subject to federal or state law or regulation related to national security; or

(B) If federal law or regulations or state law or regulations adopted for the enforcement of federal standards or the implementation of such laws or regulations by the business entity prohibits the possession of a firearm or requires reporting of a firearm in the parking lot.

(g)

(1) No motor vehicle operator shall have any cause of action based upon personal injury, death or damage to property against a business entity if the action arises out of or is in any manner connected to the business entity's failure to:

(A) Conduct a valid search, as defined in subdivision (a)(8), for a firearm in the motor vehicle of any motor vehicle operator; or

(B) Establish, maintain or enforce any policy or rule, that allows or has the effect of allowing such business entity to conduct a search for the purpose of determining if the motor vehicle operator is in possession of a handgun.

(2) The presence of a firearm or ammunition on a business entity's property under the authority of this section does not by itself constitute failure by the employer to provide a safe workplace.

(3) This section does not expand any existing duty, or create any additional duty, on the part of a business entity.

(4) In any action brought against a business entity relating to the use of firearms in the workplace, the plaintiff shall be liable for all costs and legal expenses reasonably incurred by the business entity in defending such action if concluded in the business entity's favor.

(5) A business entity's conduct does not constitute a violation of this act if the conduct is engaged in for the sole purpose of complying with a federal law, regulation, state law or regulation enacted in conformance with a federal law or regulation, or facially valid court order.

(h) Nothing in this section shall be construed to prohibit or prevent the prosecution and conviction of an individual under § 39-17-1359 for possessing a firearm in a parking lot that is properly posted pursuant to § 39-17-1359 if the individual:

(1) Does not meet the requirements of § 39-17-1365(d)(1); or

(2) Meets the requirements of § 39-17-1365(d)(1) but was in possession of a firearm other than a handgun.

SECTION 2. Tennessee Code Annotated, Section 39-17-1359, is amended by deleting subsection (c) in its entirety and by substituting instead the following language:

(c)

(1) Except for a violation of subdivision (c)(3), it is an offense to possess a weapon in a building or on property that is properly posted in accordance with this section.

(2) Except as provided in subdivision (c)(3), 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).

(3)

(A) A motor vehicle operator meeting all requirements of § 39-17-1365(d)(1) who possesses a handgun in a parking lot properly posted pursuant to this section does not commit a criminal act but is subject to:

(i) Suspension of such person's handgun carry permit for a period of thirty (30) days for a first violation;

(ii) Suspension of such person's handgun carry permit for a period one (1) year for a second violation; and

(iii) Revocation of such person's handgun carry permit for a third violation.

(B) The business entity in whose parking lot a motor vehicle operator commits a violation of this subdivision (c)(3) shall notify the department of safety, handgun permit division, of such violation within ten (10) days of the violation. The department shall suspend or revoke the permit as provided in § 39-17-1352.

SECTION 3. Tennessee Code Annotated, Section 39-17-1352(a), is amended by adding the following new subdivision:

( ) Has violated § 39-17-1365;

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, then all provisions and applications of this are declared to be invalid and void.

SECTION 5. This act shall take effect July 1, 2013, the public welfare requiring it.