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March 2, 2021

Chairman Clay Doggett
House Criminal Justice Subcommittee Members

Re: House Bill 786 "The Governor's Bill"
House Bill 18

Dear Chairman Doggett and Members:

Thank you for allowing me to testify in your committee on February 24, 2021. I was not able to answer any question you might have due to the length of the calendar that day. In addition, I was not able to address what we understand are likely amendments to HB786. The purpose of this letter is to supplement my prior testimony and to address anticipated amendments.

The Tennessee Firearms Association, its members and several individual state sheriffs who have provided written statements to TFA urge the Tennessee Legislature to adopt real Constitutional Carry. Real Constitutional Carry is legislation

- which allows any citizen of this nation who can legally possess a firearm in Tennessee to carry that firearm;
- which retains the enhanced permit as a voluntary option for purposes such as reciprocity with other states; and
- which fully implements Constitutional Carry by also eliminating gun free zones on all public properties and buildings.

We do not believe that HB786 as filed or with the two proposed amendments, which we believe may exist, achieves real Constitutional Carry. These are the shortcomings:

- it requires that the individual be at least 21 years of age unless the person is at least 18 years of age and has related military service. This likely creates an equal protection problem for Tennessee relative to 18-20 year olds and it arbitrarily creates a class of citizens who are allowed to exercise a constitutionally protected right whereas others are completely denied that right. There is no data from other states to establish the existence of any increased criminal or negligent use in the 18-20 year old class.
- it is a handgun only bill. Numerous other states allow "any weapon" or "any firearm" as the standard. Indeed, the Second Amendment speaks of "arms" not handguns. A restriction on the classes of weapons or firearms is an infringement on the choice of the individual under their own circumstances as to what type of weapon to carry or

transport. Further, there is no data from any other state that a “weapon” or “firearm” standard creates any undesirable results compared to Tennessee’s proposed handgun only standard.

- it has a suspicious provision about whether the person is in a place where they have a right to be. It is not clear what is intended with this clause but it is clear that it is ambiguous enough that courts may construe it differently than intended. In the context of the 2nd Amendment and the right of self-defense, however, the concept of “right to be” is an irrelevant infringement.
- one of the proposed amendments apparently seeks to disqualify classes of individuals who have certain enumerated prior criminal histories or mental health events. However, unlike federal law and other parts of state law, this enumeration lacks any reference to the effects of circumstances which remove as a matter of law such disabilities. The proposed amendment makes no reference to pardons, expungements, restoration of rights proceedings, court injunctions against state enforcement, or state and federal laws related to removal of disabilities on individuals who have had prior mental health treatments.

In light of these concerns, we urge the Committee to amend HB786 by deleting Section 1 of the original language and amend the entirety of HB18 into it. Alternatively, move forward on HB18 and/or HB1388 either of which offer real Constitutional Carry.


Adopting real Constitutional Carry is not a major change for Tennessee. In 2014, Tennessee adopted permitless vehicle transport (TCA 39-17-1307(e)). Under that statute, any person who can legally possess a firearm can transport any firearm in a personal vehicle. Adopting real Constitutional Carry now is simply an expansion of a law Tennessee has had for 7 years so that an individual could get out of the vehicle with the firearm to carry it on their person.

We realize that there are some who oppose adopting real Constitutional Carry. That opposition uniformly asks the committee to impose or preserve infringements that the 2nd Amendment simply prohibits. Yet, the justifications offered to encourage the Legislature to impose these infringements are merely opinions of what might occur if infringements are removed and real Constitutional Carry is adopted. They argue that allowing the exercise of a constitutionally protected right is dangerous, that it will increase crime, or even increase accidental shootings. Those same fears were offered in 1994 when Tennessee first adopted a permit system. They were offered when the Legislature removed restrictions on restaurant carry, on carry in public parks, on employee safe commute, and every other time that a restriction on civilian carry of a firearm was removed. But the fears never materialize. Indeed, there is no material data to conclusively show that any of the fears are based in fact. To the contrary, the fact is that since 1994, at least 17 states have adopted Constitutional Carry and not one has seen any reason at all to repeal it.

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The Tennessee Firearms Association supports real Constitutional Carry and asks that you favorably do so as well as you consider these bills. We will be glad to answer any questions that you might have.

Sincerely,



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Executive Director, TFA