

TENNESSEE FIREARMS ASSOCIATION
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JOHN I. HARRIS III
Executive Director

March 2, 2021

Chairman Mike Bell
Senate Judiciary Members

Re: Senate Bill 765 "The Governor's Bill"

Dear Chairman Bell and Members:

When Tennessee first adopted its permit law in May 1994, there was one state in the nation that did not require its citizens to have permits in order to carry a firearm. That one state was Vermont. Twenty-seven years ago that was called "Vermont carry". In the last quarter century, the terminology has changed. Today it is commonly known as simply as Constitutional Carry. Under either name it still means that citizens who can legally possess a firearm can carry such firearm without the need of any state issued permit.

Today, at least 18 states and as many as 21 states, depending on the variances in those 3 additional states, allow citizens who can legally possess firearms to carry firearms without the need for any state issued permit. Two states have passed this type of law already this year. Two more are moving toward passage. Four states that touch Tennessee's borders have this type of law now. In addition, approximately 30 states have permitless open carry including every state that touches Tennessee's border with the exception of Georgia.

When he campaigned for governor in 2010, Bill Haslam stated that he would sign Constitutional Carry into law. Bills to do that have been offered in Tennessee for at least the last decade. The Senate passed such a law in 2014 on a bill by Senator Mae Beavers. But each year, for one reason or another, Tennessee has not joined the ranks of other states who have thrown off the infringements on the citizens caused by a mandatory state permitting system as a condition to the exercise of a constitutionally recognized and protected right.

The Tennessee Firearms Association defines real Constitutional Carry as a status where anyone who can legally possess a firearm is able to carry that firearm and do so with minimal restrictions on when and where that can be done. This year the Tennessee Legislature again has the opportunity to enact such legislation.

The Tennessee Firearms Association and its membership stand with those legislators who are saying Tennessee must remove the criminal statutes that make it a crime for citizens to exercise the right which the United States Supreme Court declared in 2008 was an individual, fundamental right that exists independent of any constitution.

We urge the Tennessee Legislature to adopt real Constitutional Carry.

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

We do not believe that SB765 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.

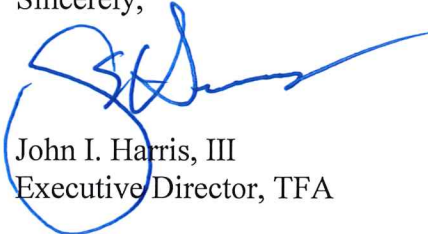
In light of these concerns, we urge the Committee to amend SB765 by deleting Section 1 of the original language and amend the entirety of SB318 into SB765. Alternatively, and perhaps better, move forward on SB318 or SB1391 either of which are real Constitutional Carry.

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. They frequently offer opinions of what might occur if it is enacted including claims that adopting this kind of law 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. 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.

The Tennessee Firearms Association supports real Constitutional Carry and asks that you favorably do so as well as you consider these bills.

Sincerely,



John I. Harris, III
Executive Director, TFA