

STATE OF TENNESSEE

OFFICE OF THE
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Opinion No. 00-161

Ability of Local Governments to Prohibit Possession of Weapons in County Buildings.

QUESTIONS

Can a county prohibit everyone, except certified law enforcement officers, from carrying a gun into any county building, including those who have a permit to carry a handgun?

OPINIONS

Yes. A county can prohibit everyone, except a certified law enforcement officer, from carrying a gun into a county building, including those who have a permit to carry a handgun, if the appropriate notices are provided.

ANALYSIS

Tenn. Code Ann. § 39-17-1359 as amended by 2000 Tenn. Public Acts, Chapter 929, provides:

An individual, corporation, business entity or local, state or federal government entity or agent thereof is authorized to prohibit the possession of weapons by any person otherwise authorized by §§ 39-17-1351 to 39-17-1369, at meetings conducted by, or on property owned, operated, or managed or under the control of such individual, corporation, business entity or government entity. Notice of such prohibition shall be posted. Posted notices shall be displayed in prominent locations, including all entrances primarily used by persons entering the building, portion of the building or buildings where weapon possession is prohibited. If the possession of weapons is also prohibited on the premises of any such property as well as within the confines of a building located on such property, the notice shall be posted at all entrances to the premises that are primarily used by persons entering the property. The notice shall be in English but a notice may also be posted in any language used by patrons, customers or persons who frequent the place where weapon possession is prohibited. In addition to the sign, notice may also include the international circle and slash symbolizing the prohibition of the item within the circle. The sign shall be of a size that is plainly visible to the average person entering the building, premises or property and shall contain language substantially similar to the following:

PURSUANT TO T.C.A. § 39-17-1359, THE OWNER/OPERATOR OF THIS PROPERTY HAS BANNED WEAPONS ON THIS PROPERTY, OR WITHIN THIS BUILDING OR THIS PORTION OF THIS BUILDING. FAILURE TO COMPLY WITH THIS PROHIBITION IS PUNISHABLE AS A CRIMINAL ACT UNDER STATE LAW AND MAY SUBJECT THE VIOLATOR TO A FINE OF NOT MORE THAN \$500.

2000 Tenn. Pub. Acts 929. This section only applies to individuals who are carrying a weapon pursuant to hand gun carrying permit and not pursuant to their status as a law enforcement officer.¹

When a court construes a statute it must ascertain and give effect to its legislative intent. *See Cronin v. Howe*, 906 S.W.2d 910, 912 (Tenn. 1995). If the language of a statute is unambiguous, the legislative intent must be ascertained by the plain and ordinary meaning of the statutory language used. *See Carson Creek Vacation Resorts, Inc. v. State, Dep't of Revenue*, 865 S.W.2d 1, 2 (Tenn. 1993). Also, statutes dealing with the same subject or sharing a common purpose should be read and construed together. *Carver v. Citizen Utils. Co.*, 954 S.W.2d 34, 35 (Tenn. 1997).

From a plain reading of the language of Tenn. Code Ann. § 39-17-1359, a court would most likely interpret its provisions to allow local, state, federal or private entities to limit the ability of persons other than law enforcement personnel to carry weapons on certain property. This interpretation is also clear from construing these provisions with Tenn. Code Ann. Sec. 39-17-1351, which provides for handgun carrying permits.

Any such ban would have to be accompanied by the appropriate notices being posted as mandated by Tenn. Code Ann. § 39-17-1359. For such a prohibition upon carrying weapons into or onto an owner's property to be enforceable, Tenn. Code Ann. § 39-17-1359 requires that clear and noticeable warning signs advise patrons of such a prohibition. The signs must be displayed in prominent locations, including all entrances primarily used by persons entering onto the property. Tenn. Code Ann. § 39-17-1359. Furthermore for a notice to be enforceable, it must contain language which is substantially similar to the prescribed notice language contained in Tenn. Code Ann. § 39-17-1359. *Id.*

¹Tenn Code Ann. § 39-17-1315(b)(2) authorizes government and private entities to prohibit possession of weapons by law enforcement personnel who are not currently on duty. However, 2000 Tenn. Public Acts, Chapter 988 provides that a "law enforcement officer" as defined therein can carry a weapon at any time except pursuant to certain restrictions. The owner's prohibition of handguns upon the premises is not one of these restrictions. Furthermore, section (a)(2) specifies that prior restrictions upon the possession of firearms by law enforcement personnel are superseded by this statute. Therefore, since 2000 Tenn. Public Acts, Chapter 988 supersedes all prior restrictions, the restriction contained in Tenn. Code Ann. § 39-17-1315(b)(2) is superseded.

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