

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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October 20, 2009

Opinion No. 09-169

Prohibiting Handguns in Jointly Operated Public Parks

QUESTION

What procedure is required to prohibit handgun carry permit holders from bringing firearms into public parks that are jointly operated by two or more municipalities and/or counties?

OPINION

To prohibit handgun carry permit holders from bringing firearms into public parks which are jointly operated by two or more municipalities or counties, the legislative body for each municipality or county must separately adopt by majority vote a resolution prohibiting such conduct in the jointly operated parks.

ANALYSIS

Pursuant an agreement dated July 1, 1987, entitled “The Agreement Among the City of Alcoa, the City of Maryville and Blount County,” the cities of Maryville and Alcoa and Blount County established a jointly operated recreation system known as the Maryville-Alcoa-Blount County Recreation and Parks Commission. The agreement provides for the joint operation of city and county parks and provides the commission with all of the authority conferred upon cities and counties under Tenn. Code Ann. § 11-24-101, *et seq.*, which includes the authority to operate Maryville and Alcoa city parks and Blount County parks and to promulgate park rules and regulations consistent with the laws of Tennessee. Tenn. Code Ann. § 11-24-101.

While Tenn. Code Ann. § 39-17-1311(a) prohibits persons from possessing a handgun in any public park owned or operated by any municipal or county government for recreational purposes, Tenn. Code Ann. § 39-17-1311(b)(1) identifies certain classes of persons who are not subject to the prohibitions set forth in subsection (a). Under Tenn. Code Ann. § 39-17-1311(b)(1)(I), enacted by the General Assembly as Section 1(I) of Chapter 428 of the Public Acts of 2009, the holders of handgun carry permits are not subject to such prohibitions.

Section 2 of Chapter 428 also amended Tenn. Code Ann. § 39-17-1311(d) to read, in relevant part:

(d) Notwithstanding the provisions of subdivision (b)(1)(I), any municipality or

county may prohibit, by resolution adopted by a majority vote of its legislative body, persons authorized to carry a handgun pursuant to §39-17-1351, from possessing such handgun while within or on a public park that is owned or operated by a county, a municipality or instrumentality thereof. If a legislative body elects to prohibit the possession of handguns within a park, the prohibition shall apply to the entire park, notwithstanding the provisions of §39-17-1311(b)(1)(I). **If such area is jointly owned or operated by municipalities or counties, then a resolution adopted by a majority vote of all affected legislative bodies, voting individually, is necessary for such municipalities or counties to prohibit persons authorized to carry a handgun pursuant to § 39-17-1351, from possessing such handgun while within such park.**

(Emphasis added). The primary objective of statutory construction is to ascertain and give effect to the intent of the legislature without broadening the statute beyond its intended scope. *State v. Sherman*, 266 S.W.3d 395, 401 (Tenn. 2008); *Auto Credit v. Wimmer*, 231 S.W.3d 896 (Tenn. 2007). If a statute is clear and unambiguous, courts will find the intent in the plain and ordinary meaning of its language. *Brown v. Erachem Comilog, Inc.*, 231 S.W.3d 918 (Tenn. 2007). Courts are to assume that the legislature used each word in the statute purposely, and that the use of these words conveys some intent and has meaning and purpose. *Locust v. State*, 912 S.W.2d 716, 718 (Tenn. 2002).

The text of Tenn. Code Ann. § 39-17-1311(d), as amended by Section 2 of Chapter 428, is plain and unambiguous. Under the statute, to prohibit handgun carry permit holders from carrying firearms in parks that are jointly operated by the Cities of Maryville and Alcoa and Blount County, the legislative bodies for each of those entities must separately adopt by majority vote a resolution to prohibit such conduct in the jointly operated parks.

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