

HOUSE BILL 1602

By Matheny

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 17, relative to firearms, arms,
ammunition, or firearms accessories.

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

SECTION 1. This act shall be known and may be cited as the "Second Amendment Civil Rights Act of 2018".

SECTION 2. Tennessee Code Annotated, Section 39-17-1314, is amended by adding the following new subsections (j), (k), and (l):

(j)

(1) As used in subsections (j)-(l), "government entity" means a city, county, town, municipality, metropolitan government, or department or agency of state government.

(2) The general assembly declares that the lawful commerce, ownership, use, transfer, possession, exhibition, and display of firearms, ammunition, or firearm accessories are fundamental rights of citizens and that these rights are protected by both the Constitution of Tennessee and the United States Constitution. Accordingly, a government entity is expressly prohibited from engaging in any act or omission, directly or indirectly, concerning an event specified in subdivision (j)(3).

(3) A government entity that owns or operates any property that is made available to third parties or entities for use as a venue, rental facility, or for other public or private purposes, shall not refuse to make the property available to or otherwise discriminate against any person or entity because the proposed use of

the property involves a gun show, an outdoor show, a hunting or fishing show, a Second Amendment show or event, or any other show or event that may involve the lawful commerce, ownership, use, transfer, possession, advocacy, exhibition, or display of firearms, arms, ammunition, or firearms accessories. However, an event described in this subdivision (j)(3) shall not involve the intentional discharge of firearms on the property unless such property is used by the government entity or intended to be used as a temporary or permanent sport shooting range.

(4) A party may challenge a denial, discrimination, ordinance, rule, regulation, or policy in violation of this subsection (j) by bringing an action in accordance with subsection (g) and, if the party prevails, may be awarded any of the damages available in subsection (i). The party may also seek enforcement, declaratory relief, or injunctive relief from any local ordinance or charter provision which may prohibit or restrict local government action relative to the use of public parks, venues, or facilities.

(k) A government entity shall not enact, have, or enforce ordinances, rules, regulations, or policies that prohibit the ownership, construction, or operation of privately owned or operated gun or sport shooting ranges. To the extent that a government has or enforces any ordinance, rule, or regulation regulating the placement, design, construction, or operational standards of a privately owned or operated gun or sport shooting range, the government entity shall have the burden to prove, by clear and convincing evidence, that the ordinance, rule, or regulation is narrowly tailored to address a compelling governmental interest related to the design, construction, or operational standards being imposed and that those standards are limited hours of operation and safe construction of these ranges. In no event shall any range standards impose greater requirements on private ranges than are applicable to any government entity-owned or -operated range within the same county or in any adjoining county. A

party may challenge any range prohibition, ordinance, rule, or regulation in the manner described in subsection (j).

(l) A government entity shall not enact, have, or enforce ordinances, rules, or regulations that have the effect of prohibiting, restricting, or infringing a party's rights under the Tennessee Constitution, the United States Constitution, or under any state law relative to firearms, ammunition, arms, or accessories thereof. A party may challenge such ordinance, rule, or regulation in the manner provided by subsection (j). In an action brought pursuant to this subsection, the government entity shall have the burden to prove, by clear and convincing evidence, that the ordinance, rule, or regulation is:

- (1) Constitutional;
- (2) In compliance with state law;
- (3) In compliance with any applicable and enforceable local government entity ordinance, regulation, or rule; and
- (4) Narrowly tailored to address a compelling governmental interest in the least restrictive means possible.

SECTION 3. Tennessee Code Annotated, Section 39-17-1311(b)(1)(J)(iii), is amended by deleting the phrase "when the program has been approved by the administrator of the recreational building or property".

SECTION 4. Tennessee Code Annotated, Section 39-17-1359(f), is amended by deleting the phrase "Except as provided in subsection (g), this" and substituting instead "This".

SECTION 5. Tennessee Code Annotated, Section 39-17-1359(g), is amended by deleting the existing language and substituting instead the following:

(g) Nothing in this section shall authorize an entity of local government or a permittee thereof to enact or enforce a prohibition or restriction on the possession of a

handgun by a handgun carry permit holder on property owned or administered by the entity unless the following conditions are met:

(1) Metal detection devices are provided at each public entrance to the property;

(2) One (1) or more law enforcement or armed private security officers, each of whom has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices, are stationed in sufficient quantities to handle timely the projected attendance at each public entrance to the property;

(3) Each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or armed private security officer described in subdivision (g)(2) with the authority to deny entry to the property;

(4) Secure storage facilities are provided at each public entrance where individuals can separately and temporarily store any banned items at no additional cost to the individual prior to entering the property; and

(5) The property is not subject to any other specific state or federal statute that regulates or prohibits the possession of firearms on the property.

SECTION 6. This act shall take effect July 1, 2018, the public welfare requiring it.