

**STATE OF TENNESSEE**  
**OFFICE OF THE**  
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March 30, 2010

Opinion No. 10-40

Constitutionality of Proposed Amendment to H.B. 2726 Under Article II, Section 17

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**QUESTION**

The caption to House Bill 2726 is “AN ACT to amend Tennessee Code Annotated, Section 39-17-1309, relative to carrying weapons on school property.” A proposed amendment to this act would amend Section 39-17-1309 by adding a new subsection (f), which would prohibit public colleges and universities from prohibiting or penalizing students or athletes enrolled in such schools for the transportation, possession, use or legal ownership of firearms when that person is not in any public or private school building or bus, or on any public or private school campus, grounds, recreation area, athletic field or any other property owned, used or operated by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution. Does the proposed amendment fall within the caption of the bill as required by Article II, Section 17 of the Tennessee Constitution?

**OPINION**

The proposed amendment falls outside the restrictive caption of the bill and, therefore, violates Article II, Section 17, of the Tennessee Constitution.

**ANALYSIS**

Article II, Section 17, of the Tennessee Constitution states:

No bill shall become a law which embraces more than one subject,  
that subject to be expressed in the title.

Courts have used various tests for proper construction of this constitutional provision, but “the true rule of construction, as fully established by the authorities, is that any provision of the act, *directly or indirectly relating to the subject expressed in the title*, and having a natural connection thereto, and not foreign thereto, should be held to be embraced in it.” *Chattanooga County Hospital Authority v. City of Chattanooga*, 580 S.W.2d 322, 326 (Tenn. 1979) (emphasis in original, quoting *Cannon v. Mathes*, 55 Tenn. 504, 523 (1872)). If the title to the act is general or broad and comprehensive, all matters which are germane to the subject may be embraced in the act. If the matters are naturally and reasonably connected with the subject expressed in the title, then they are properly included in the act. *Tennessee Municipal League v.*

*Thompson*, 958 S.W.2d 333, 336-37 (Tenn. 1997). If, on the other hand, the act has adopted a restrictive title where a particular part of a subject is carved out and selected, then the body of the act must be confined to the particular portion expressed in the limited title. *Id.*

The caption of House Bill 2726 provides:

“AN ACT to amend Tennessee Code Annotated, Section 39-17-1309, relative to carrying weapons on school property.”

The proposed amendment to the bill adds a new subdivision (f) to Section 39-17-1309 which states:

By deleting Section 1 in its entirety and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-1309, is amended by adding a new subsection thereto, as follows:

(f) No public college or university shall prohibit or penalize any student or athlete who is enrolled as a student or athlete in such college or university for the transportation, possession, use or legal ownership of such firearm when such person is **not** in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, used or operated by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.<sup>1</sup> (bold emphasis added).

The subject of House Bill 2726 as expressed in the caption is an amendment of Section 39-17-1309 “relative to carrying weapons on school property.” The subject matter of the proposed amendment relates to the off campus ownership, possession and use of firearms and therefore is not embraced within the caption of the act and is in violation of Article II, Section 17 of the Tennessee Constitution. Op. Tenn. Att’y Gen. No. 04-063 (April 14, 2004)(In which this office opined that, where there is no apparent connection between the amendment and the caption of the bill, the amendment falls outside the caption of the bill in violation of Article II, Section 17, of the Tennessee Constitution).

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<sup>1</sup> Draft number 01545961 offered by Representative Campfield.

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Requested by:

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