S T A T E O F T E N N E S S E E
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Opinion No. 08-26

Carrying of Firearms on Public Parks, Playgrounds, Civic Centers and Other Public Recreational Buildings and Grounds

QUESTION

Does Tenn. Code Ann. § 39-17-1311 prohibit the holder of a valid handgun carry permit, issued pursuant to Tenn. Code Ann. § 39-17-1351, from carrying a firearm in public parks, playgrounds, civic centers and other recreational facilities, unless the holder's conduct strictly conforms to one of the types of activity that is expressly permitted under Tenn. Code Ann. § 39-17-1311(b)(1)?

OPINION

Yes. Tenn. Code Ann. § 39-17-1311 prohibits the holder of a valid handgun carry permit, issued pursuant to Tenn. Code Ann. § 39-17-1351, from carrying a firearm in public parks, playgrounds, civic centers and other recreational facilities unless the holder's conduct strictly conforms to one of the types of activity that is expressly permitted under Tenn. Code § 39-17-1311(b)(1).

ANALYSIS

In Op. Tenn. Atty. Gen. 07-148, this office opined that holders of valid handgun carry permits may not lawfully carry their arms in public parks, playgrounds, civic centers and other public recreational facilities. After the issuance of that opinion, a question was raised concerning the validity of that conclusion in light of language in Tenn. Code Ann. § 39-17-1311(a) that might be read to narrow the scope of the prohibitions that are imposed by the statute. That subsection makes specific reference to Tenn. Code Ann. § 39-17-1302, which prohibits the possession, use transportation, manufacture, repair or sales of machine guns, short barrel rifles and shotguns, explosive devices, hoax devices, switchblade knives.[1] If subsection (a) is read in isolation, it might

[1]Tenn. Code Ann. § 39-17-1311(a) states:

> It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any weapon prohibited by Tenn. Code Ann. § 39-17-1302(a), not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.

be reasonable to construe Tenn. Code Ann. § 39-17-1311 as prohibiting the carrying of machine guns, short barrel rifles and shotguns and explosive devices, while permitting permit holders to carry handguns on public parks, playgrounds, civic centers and other public recreational facilities. Reading Tenn. Code Ann. § 39-17-1311(a) in pari materia with subsection (b), however, it becomes clear that the legislature intended to prohibit permit holders from carrying their handguns, or any other firearm, in public parks, playgrounds, civic centers and other recreational facilities, unless the holder's conduct strictly conforms to one of the types of activity that is expressly permitted under Tenn. Code § 39-17-1311(b)(1).

The objective of statutory interpretation is to give effect to the intent of the legislature. *Eastman Chemical Co. v. Johnson,* 151 S.W.3d 503 (Tenn. 2004). Statutes are to be read as a whole and construed in a way that gives meaning to each component part. *In re C.K.G.,* 173 S.W.3d 714 (Tenn. 2005). In the interpretation of a statute, it should not be construed in a manner that renders some part or parts inoperative or void. *State v. Morrow,* 75 S.W.3d 919 (Tenn. 2002).

Construing Tenn. Code Ann. § 39-17-1311 to prohibit only the possession of the weapons that are unlawful under Tenn. Code Ann. § 39-17-1302 would render some of the subparts of Tenn. Code Ann. § 39-17-1311(b) meaningless or superfluous. Subsection (b) removes certain specific activities from the scope of the prohibitions set forth in subsection (a). For example, subsection (b)(1)(G) would be rendered meaningless. It states:

> (b)(1) the provisions of subsection (a) shall not apply to the following persons:
>
> * * *
>
> (G) Also, only to the extent a person strictly conforms the person's behavior to the requirements of one (1) of the following classifications:
>
> (i) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof and designated as open to hunting by law or by the appropriate official;
>
> (ii) A person possessing unloaded hunting weapons while transversing the grounds of any public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting entry;
>
> (iii) A person possessing guns or knives when conducting or attending "gun and knife shows" when the program has been approved by the administrator of the recreational building or property;
>
> (iv) A person entering the property for the sole purpose of picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner;

(v) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in the park or recreation area.

None of the activities that are permitted under the foregoing subsection are conducted with machine guns, short barrel rifles or shotguns, explosive devices or any of the other weapons that are prohibited under Tenn. Code Ann. § 39-17-1302(a). Hunting and target shooting may be conducted only with rifles, shotguns and handguns that may be lawfully owned and possessed because section 39-17-1302 prohibits the ownership or possession of the weapons described therein. Likewise, allowing the possession of firearms and knives at approved gun and knife shows can involve only those items that are otherwise lawful to possess because Tenn. Code Ann. § 39-17-1302 prohibits the sale of the guns, knives and other weapons described therein.

Reading Tenn. Code Ann. § 39-17-1311(a) in pari materia with Tenn. Code Ann. § 39-17-1311 (b)(1) indicates that the legislature intended to prohibit holders of handgun carry permits from possessing a handgun, or any other firearm, in playgrounds, public parks or other recreational facilities unless they are being used strictly in compliance with one or more of the exemptions set forth in subsection (b)(1). If such conduct were lawful under subsection (a), the creation of such exemptions in subsection (b) would be meaningless.[2]

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[2]Likewise, under the interpretation suggested by the request, when read in light of Tenn. Code Ann. § 39-17-1302(a), Tenn. Code Ann. § 39-17-1311 would become meaningless. Since Tenn. Code Ann. § 39-11-1302(a) already prohibits the outright possession, sale, repair and manufacture of machine guns, short barrel rifles and shotguns and explosive and hoax devices except by persons who are engaged in the activities described in section 39-17-1302(b) and since none of the activities described in that subsection involve the use of those weapons in parks, playgrounds or other recreational facilities, there would be no need for a separate prohibition related to the use of those weapons at such locations.

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