STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

February 27, 2014

Opinion No. 14-24

Constitutionality of Legislation Amending the "Tennessee Firearms Freedom Act"

QUESTION

Is Senate Bill 1607/House Bill 2145 (hereinafter "SB1607") of the 108th Tennessee General Assembly, which would amend the "Tennessee Firearms Freedom Act," constitutional?

OPINION

No.

ANALYSIS

The proposed bill, SB1607, would amend Title 4, Chapter 54, of the Tennessee Code, known as the "Tennessee Firearms Freedom Act." The bill would amend the act to expressly provide that a firearm, firearm accessory, or ammunition that "is present in this state or is owned or possessed by an individual or entity in this state" is not subject to any federal enactment or federal enforcement action. S.B. 1607, 108th Gen. Assem., § 2 (2014). The bill would declare any federal enactment void in this State as to any such firearm, accessory, or ammunition. *Id.* § 4. The bill would also render "[a]ny person or entity that violates" the amended act civilly liable for actual and statutory damages, and it makes provision for both public and private rights of action. *Id.* § 5.

This Office has previously opined that very similar legislation, if enacted, would violate the Supremacy Clause of the United States Constitution. *See* Tenn. Att'y Gen. Op. 13-14 (Feb. 22, 2013). Like the bills that were the subject of that opinion, the current proposal is intended to create an actual conflict with federal law such that compliance with both state and federal regulations would be a physical impossibility. *See Florida Lime and Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-43 (1963). If enacted as proposed, SB1607 would declare void and unenforceable any and all federal firearms regulation within the State of Tennessee. For the reasons set forth in our prior opinion, such action would be inconsistent with and impermissible under the Supremacy Clause of the United States Constitution. U.S. Const., art. VI, cl. 2.

ROBERT E. COOPER, JR.
Attorney General and Reporter

JOSEPH F. WHALEN
Acting Solicitor General

JENNIFER L. SMITH
Deputy Attorney General

Requested by:

The Honorable Brian Kelsey
State Senator
7 Legislative Plaza
Nashville, Tennessee 37243-0231