



# County Technical Assistance Service

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## Guns on Public Property

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Table of Contents

Guns on Public Property .....	3
-------------------------------	---

## Guns on Public Property

**Reference Number:** CTAS-575

Guns on School Property. Pursuant to TCA § 39-17-1309, it is an offense for any person to possess or carry, whether openly or concealed, any firearm, not used solely for instructional or school-sanctioned ceremonial purposes, 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. It is not an offense for a nonstudent adult to possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult, while the vehicle is on school property.

Guns in Parks. Pursuant to T.C.A. § 39-17-1311, it is legal for persons with a valid handgun carry permit to carry a handgun while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place owned or operated by the state, a county, a municipality, or instrumentality of the state, a county, or municipality. However, it is illegal for a person with a handgun carry permit to carry a handgun on such property while it is in use 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 for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field; and the person knew or should have known the athletic activity or school-related activity was taking place on the property; or failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use. See Op. Tenn. Att'y Gen.15-63 (July 29, 2015) (Possession of Firearms in Public Parks Owned by Counties and Municipalities).

Guns in County Buildings. Pursuant to T.C.A. § 39-17-1359, a local government entity or agent thereof is authorized to prohibit the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the government entity. The prohibition also applies to a person who is authorized to carry a firearm pursuant to T.C.A. § 39-17-1351.

In 2017, the legislature amended the statute by adding the following:

A county is not authorized 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 are provided at each public entrance to the property:

- (1) Metal detection devices;
- (2) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and
- (3) That 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 private security officer or an authorized representative with the authority to deny entry to the property.

These restrictions do not apply to:

- (1) Facilities that are licensed under title 33, 37, or 68;
- (2) Property on which firearms are prohibited by § 39-17-1309 or § 39-17-1311(b)(1)(H)(ii);
- (3) Property on which firearms are prohibited by § 39-17-1306 at all times regardless of whether judicial proceedings are in progress;
- (4) Buildings that contain a law enforcement agency, as defined in § 39-13-519;
- (5) Libraries; or
- (6) Facilities that are licensed by the department of human services, under title 71, chapter 3, part 5, and administer a Head Start program.

Guns in Trunks. Notwithstanding T.C.A. § 39-17-1309, T.C.A. § 39-17-1311, or T.C.A. § 39-17-1359, unless expressly prohibited by federal law, the holder of a valid handgun carry permit recognized in Tennessee may transport and store a firearm or firearm ammunition in the permit holder's privately owned motor vehicle while on or utilizing any public or private parking area if-

- (1) The permit holder's vehicle is parked in a location where it is permitted to be; and
- (2) The firearm or ammunition being transported or stored in the vehicle:

(A) Is kept from ordinary observation if the permit holder is in the motor vehicle; or

(B) Is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to such motor vehicle if the permit holder is not in the motor vehicle. T.C.A. § 39-17-1313.

A handgun carry permit holder transporting, storing or both transporting and storing a firearm or firearm ammunition does not violate the law if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the handgun carry permit holder securing the firearm or firearm ammunition from observation in or on a motor vehicle.

Pursuant to T.C.A. § 50-1-312, no employer may discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner consistent with T.C.A. § 39-17-1313. An employee discharged, or subject to an adverse employment action, in violation of T.C.A. § 50-1-312 (b)(1)(A) shall have a cause of action against the employer to enjoin future acts in violation of this section and to recover economic damages plus reasonable attorney fees and costs.

Except as otherwise provided in T.C.A. § 39-17-1313 for parking areas, nothing in T.C.A. § 50-1-312 shall be construed as prohibiting an employer from prohibiting firearms or firearm ammunition on the premises of the employer.

#### Cause of Action Against County

A party who is adversely affected by an ordinance, resolution, policy, rule, or other enactment that is adopted or enforced by a county or any county agency, department, or official that violates T.C.A. § 39-17-1314(g) may file an action in a court of competent jurisdiction against the county for:

- (A) Declaratory and injunctive relief; and
- (B) Damages.

T.C.A. § 39-17-1314(g)(1)(applies to any ordinance, resolution, policy, rule, or other enactment dealing with the local regulation of firearms that is adopted or enforced on or after July 1, 2017).

As used in T.C.A. § 39-17-1314(g), a party is "adversely affected" if:

1. The party is an individual who:
  - (A) Lawfully resides within the United States;
  - (B) May legally possess a firearm under Tennessee law; and
  - (C) Is or was subject to the ordinance, resolution, policy, rule, or other enactment that is the subject of an action filed under subsection (g). An individual is or was subject to the ordinance, resolution, policy, rule, or other enactment if the individual is or was physically present within the boundaries of the political subdivision for any reason; or
2. The party is a membership organization that:
  - (A) Includes two (2) or more individuals described in T.C.A. § 39-17-1314 (h)(1); and
  - (B) Is dedicated in whole or in part to protecting the rights of persons who possess, own, or use firearms for competitive, sporting, defensive, or other lawful purposes.

T.C.A. § 39-17-1314(h).

A prevailing plaintiff in an action under T.C.A. § 39-17-1314(g) is entitled to recover from the county the following:

1. The greater of:
    - (A) Actual damages, including consequential damages, attributable to the ordinance, resolution, policy, rule, or other enactment; or
    - (B) Three (3) times the plaintiff's attorney's fees;
  2. Court costs, including fees; and
  3. Reasonable attorney's fees; provided, that attorney's fees shall not be awarded under T.C.A. § 39-17-1314 (i)(3) if the plaintiff recovers under T.C.A. § 39-17-1314(i)(1)(B).
- T.C.A. § 39-17-1314(i).
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