

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

October 9, 2019

Opinion No. 19-19

Possession of Antique Firearms by Felons

Question

Public Chapter 279, which became effective May 2, 2019, exempted “antique firearm[s]” from the definition of “firearm” in Tenn. Code Ann. § 39-11-106(a)(11). 2019 Tenn. Pub. Acts, ch. 279. Do the prohibitions in Tenn. Code Ann. § 39-17-1307 on the possession of firearms by individuals convicted of felonies and certain misdemeanors still apply to the possession of antique firearms?

Opinion

No.

ANALYSIS

Tennessee law, like federal law, prohibits individuals convicted of felonies and certain misdemeanors from possessing firearms. Under the applicable provisions, an individual convicted of a “felony crime of violence,” an “attempt to commit a felony crime of violence,” a “felony involving the use of a deadly weapon,” or a “felony drug offense” is prohibited from possessing all firearms. Tenn. Code Ann. § 39-17-1307(b)(1)(A), (B). That same blanket prohibition applies to an individual who has been convicted of a misdemeanor crime of domestic violence, who is subject to an order of protection, or who is prohibited from possessing a firearm under federal law or the law of any other state. *Id.* § 39-17-1307(f)(1)(A)-(C). Individuals who have been convicted of any other felony are prohibited from possessing only handguns, not firearms generally. *Id.* § 39-17-1307(c)(1). For purposes of that prohibition, a “handgun” is defined as “any firearm with a barrel length of less than twelve inches” that is designed or adapted to be fired with one hand. *Id.* § 39-11-106(a)(16).

Before the effective date of Public Chapter 279, Tennessee law—unlike federal law—did not distinguish between antique firearms and firearms more generally. *See* Tenn. Code Ann. § 39-11-106(a)(11) (2018); *contrast* 18 U.S.C. § 921(a)(3) (defining “firearm” and providing that the term “does not include an antique firearm”). Accordingly, this Office concluded in previous opinions that the state law prohibitions against possession of firearms applied to possession of antique firearms as well. *See* Tenn. Att’y Gen. Op. 15-75 (Nov. 9, 2015) (“As a general rule, a person who has been convicted of a felony may not possess any antique, black powder, or any other type of firearm unless his firearm rights have been completely restored.”); *see also* Tenn. Att’y Gen. Op. 15-33 (Apr. 10, 2015).

Public Chapter 279 aligns Tennessee law with federal law by amending the definition of “firearm” in Tenn. Code Ann. § 39-11-106(a)(11) to exclude antique firearms. *See* 2019 Tenn. Pub. Acts, ch. 279, § 1. It also adds a definition of “antique firearm” to Tenn. Code Ann. § 39-11-106(a) that mirrors the federal definition in 18 U.S.C. § 921(a)(16). 2019 Tenn. Pub. Acts, ch. 279, § 2, *codified at* Tenn. Code Ann. § 39-11-106(a)(37).

Accordingly, antique firearms, as newly defined in § 39-11-106(a)(37), are no longer included within the definition of “firearm” under Tennessee law. As a result, convicted felons and other individuals identified in § 39-17-1307 are no longer prohibited from possessing antique firearms. Nor does the prohibition on the possession of handguns apply to antique firearms. That prohibition applies, by definition, only to “firearms” with specific characteristics, *id.* § 39-11-106(a)(16), and antique firearms are no longer considered “firearms” under state law.

In sum, as a result of the passage of Public Chapter 279, the prohibitions in § 39-11-1307 on the possession of firearms and handguns by individuals convicted of felonies and certain misdemeanors no longer apply to antique firearms.

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