

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE <i>ex rel.</i>	)	
RANDY RAYBURN;	)	
JOHN (JANE) DOES NOS. 1-13;	)	
	)	
	)	
Petitioners,	)	
	)	
vs.	)	Civil Action No. 09-1284 -I
	)	CHANCELLOR CLAUDIA C.
	)	BONNYMAN
ROBERT E. COOPER,	)	
JR., TENNESSEE ATTORNEY GENERAL	)	
	)	
	)	
Defendant.	)	

SUPPLEMENTAL BRIEF: RE LEGISLATIVE HISTORY & COUNT IX

Petitioners wish to provide the Court with additional authority and legal argument in connection with legislative history of Public Chapter 339 and *Count IX: Void for Vagueness*.

The legislative history of the “restaurant carry” bill demonstrates that the Legislature fully realized there was a dilemma and confusion in defining where carrying would be allowed because the Tennessee laws did not define or license “bars.” Petitioners are filing the CD-ROM audio transcripts available from the State Library Archives (the tapes are being copied and will be filed later today or Monday Morning).

On February 19, 2009 in a House Handgun Study Subcommittee hearing on the House version of the bill [HB 092] Representative McCord explained this “problem. The February 19, 2009 House Handgun Study Subcommittee hearing on the House version of the bill [HB 092] is available : <http://bit.ly/WU9cd>

“[Rep. McCord] We had discussion after discussion about the problems in Tennessee Code about not having bars. We don’t have bars we have

adult venues. The best simplest approach that we have tried to take in accomplishing this goal I think it is the members' desire that I have spoke to in this Committee to have a true restaurant carry bill not a bar carry bill and that's the desire. So the issues before us are how to define that since Tennessee Code Annotated does not have a bar. We have taken two routes. This would up for the discussion of the committee. One issue would be there would be an outright ban after a certain time frame. This is not the best way to fix this problem perhaps but it is the simplest way to fix this problem. If you carry a handgun into a restaurant and you are not consuming, it all goes back to not consuming, it all goes back to non consumption, that's illegal [sic], if you are in a restaurant that serves alcohol, an Applebee's, an O' Charley's, then there is an outright ban at, the proposal was 10 o'clock, we'' leave that open for discussion. . . .We will have discussion on should that be 9 o'clock, eleven o'clock p.m. and it would be an outright ban from that point on. The second part of the bill would be that if you require proof of age notification for admission to an establishment. If there is someone out front for example that cards and says you are required to be 18 or more to enter this facility there is an outright ban on carry in those areas as well....That gets most of what the average person would call a bar. . . . The reason we have this confusion we don't have bars in Tennessee. All those places down on Second Avenue are restaurants. Anywhere that sells alcohol in the State of Tennessee is licensed as a restaurant. What you traditionally may call a bar we don't recognize in Tennessee. That's why we are having to go around this problem in the manner that we are."

The law as passed, however, did not contain either a time limit or age restriction and limited carrying only to "restaurants" as defined in Public Chapter 339. The Senate removed these restrictions that were placed on the bill by the House. *See* Senator Jackson's comments immediately before the Senate passed the bill on April 16, 2009 (before the veto). *Available at:* <http://bit.ly/122A36>. Senator Jackson explained that the House amendments had been dropped as an undue restriction on the right to bear arms and described the bill as allowing a permit holder to carry into *restaurants*.

After the Governor's veto, on the floor of the House, the House bill's sponsor, Chairman (Representative Todd) explained this precise issue to House Representative Casada stated: "[Rep. Casada] Now I know when you read the news media it used the words gun in bars. Chairman [Rep. Todd, House sponsor

of the bill], can you take a gun, a carry permit, under this bill in a bar? [Answer by Rep. Todd] “No sir.”” Available at <http://bit.ly/15aGFht>

Clearly the Legislature intended to pass a restaurant bill that would limit carry to restaurants and not bars. The Legislature recognized the vagueness problem but did not fix it. The legislative history establishes unconstitutional vagueness.

Respectfully Submitted,

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& EDMUND J. SCHMIDT III

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served upon the following via hand delivery on this ___ day of _____, 2009:

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