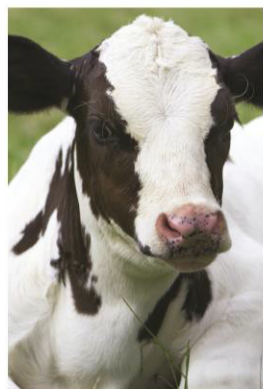


# Compiled & Edited Tennessee Laws Pertaining to Animals



2021

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# Foreword

The production of a resource book like this always involves a long journey for the participants, filled with hard work and difficult decisions. All of us hope that each of you find this a useful resource in your work with, and involving, animals and the law.

The editors have designed this book principally to serve as an edited collection of Tennessee statutes relating to animals. Because these statutes were collected and edited, the collection is necessarily incomplete. The criteria and process used by the editors in selecting statutes of interest to our target audiences were thoughtfully conceived. However, the choices they made may differ from those that you would make. We welcome feedback from you—including suggestions for future editions—as to how we can better edit this resource to serve your needs.

Moreover, especially because this book is a selective collection of statutory law available on a specific date, readers should not rely on this book as a source of legal advice. The legislature of the State of Tennessee can and will add, modify, and repeal laws in every legislative session. Additionally, courts have the opportunity to interpret and add to the law with each new case that properly comes before them. Finally, ordinances and other rules serve to make these laws applicable and enforceable on a local level. The interaction of these sources of regulation is complex and the rules of conduct that result from that interaction are best identified and explained by attorneys licensed to practice in the State of Tennessee that are familiar with the applicable statutes, court cases, ordinances, and other rules. We urge you to seek counsel from these legal advisors in interpreting and using the statutes presented in this book; a mere reading of the statutes is not enough to ensure complete understanding.

With all that having been said, we offer you this volume for use in your work. Use this resource well, use it often; and, as requested above, do give us your feedback on its contents. We look forward to hearing from you.

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#### **§ 4-3-203 Department of Agriculture powers and duties**

The department of agriculture has the power to:

- (1) Encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, livestock industry, dairying, poultry raising, beekeeping, production of wool and other allied industries;
- (2) Promote and improve methods of conducting agricultural industries, with a view to increasing the production, and facilitating the distribution, of products at minimum cost;
- (3) Collect, publish and distribute statistics relating to crop production and marketing of beef, pork, poultry, fish, mutton, wool, butter, cheese and other agricultural products, so far as such statistical information may be of value to the agricultural and allied interests of the state;
- (4) Inquire into the cause of contagious, infectious and communicable diseases among domestic animals, and the means for the prevention and cure of the same;
- (5) Assist, encourage and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, stock shows or other exhibits of the products of agriculture;
- (6) Cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution, and to aid in whatever way may be consistent or necessary in accomplishing the reduction of waste and expenses in marketing;
- (7) Cooperate with the agricultural college, the experiment stations of the state university and the federal government;
- (8) Enter and inspect any rights-of-way of any highway, railway, field, orchard, nursery, fruit packing house, storeroom, depot or other place where fruits are grown or stored, and inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such plant life is infected with pests or with their eggs or larvae, or with any contagious disease injurious to plant life, abate the same as a nuisance;
- (9) Enforce all of the penal and regulatory laws of the state in the same manner and with like authority as the sheriffs of the counties; and
- (10)
  - (A) Promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. Such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in chapter 5 of this title, except as otherwise provided by law.
  - (B) The enactment of a federal declaration of an extraordinary emergency or issuance of an emergency federal order or similar federal enactment that relates to the spread of plant or animal disease, the spread of pests from state to state, the protection of the food or feed supply, or that otherwise relates matters generally regulated by the department shall be deemed to constitute sufficient evidence of an immediate danger to the public health, safety or welfare of such a nature to justify the enactment of emergency rules for purposes of § 4-5-208(a).

#### **§ 4-3-610 Acquiring dogs for detection of drugs**

- (a) The state of Tennessee, acting through the commissioner and department of correction, is authorized to assist counties and municipalities in acquiring dogs trained to detect marijuana and other illicit substances for use in jails and workhouses for the purposes set out in § 41-1-118.
- (b) Sheriffs, police chiefs and other local law enforcement officials are encouraged to utilize the dogs provided for in subsection (a).

#### **§ 4-5-208 Emergency rules**

- (a) An agency may, upon stating its reasons in writing for making such findings, proceed

without prior notice or hearing to adopt an emergency rule, if the agency finds that:

- (1) An immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public;
  - (2) The rule only delays the effective date of another rule that is not yet effective;
  - (3) It is required by the constitution or court order;
  - (4) It is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures described in this chapter might jeopardize the loss of a federal program or funds; or
  - (5) The agency is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules.
- (b) The emergency rule shall become effective immediately, unless otherwise stated in the rule, upon a copy of the rule and a copy of the written statement of the reasons for the rule being filed with the secretary of state. The emergency rule may be effective for a period of not longer than one hundred eighty (180) days. An agency shall not adopt the same or a substantially similar emergency rule within one (1) calendar year from its first adoption, unless the agency clearly establishes that it could not reasonably be foreseen during the initial one hundred eighty-day period that the emergency would continue or would likely recur during the next nine (9) months. The adoption of the same or substantially similar rule through ordinary rulemaking procedures authorized by this chapter shall not be precluded by this section.
- (c) The agency shall take steps to make emergency rules known to persons who will be affected by the rules. The secretary of state shall post the emergency rule filing to the administrative register web site within two (4) business days of filing. An emergency rule filing shall remain on the administrative register website until the filing expires. The secretary of state shall update relevant rules to reflect the filing and the expiration of emergency rules.
- (d) In any action contesting a rule adopted in reliance upon this section, the burden of persuasion shall be upon the agency to demonstrate that the rule meets the criteria established by this section.
- (e) An agency's finding of an emergency pursuant to this section shall not be based upon the agency's failure to timely process and file rules through the normal rulemaking process.

#### **§ 4-7-106 (Tennessee Highway Patrol) Enforcement of animal disease laws**

- (a) The Tennessee highway patrol is granted the further authority, and it is its duty, to enforce title 44, chapter 2, part 1, relative to the prevention of the spread of communicable diseases among domestic animals and protection to the livestock industry.
- (b) The Tennessee highway patrol is granted the same authority and police power to enforce title 44, chapter 2 as is vested in the commissioner of agriculture and in the state veterinarian by title 44, chapter 2.
- (c) Any fines assessed and collected under title 44, chapter 2, part 1 in arrests made by the Tennessee highway patrol shall be divided, one-half (½) to the department of agriculture and one-half (½) to the Tennessee highway patrol.

#### **§ 4-7-115 (Tennessee Highway Patrol) Use of dogs to detect drugs**

The Tennessee highway patrol is authorized to utilize dogs trained to detect marijuana and other illicit substances in its work, as may be desirable and appropriate.

**§ 5-1-115 Removal of vegetation and debris from certain lots**

- (a) The authority in this section is permissive and not mandatory and may or may not be exercised by a county, as each county deems appropriate.
- (b) If it is determined by the appropriate department or person, as designated by the governing body of a county, that any owner of record of real property has created, maintained or permitted to be maintained on such property, the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, garbage, or any combination of the preceding elements, or a vacant dilapidated building or structure, so as to endanger the health, safety or welfare of other citizens, or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:
  - (1) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;
  - (2) The person, office, address and telephone number of the department or person giving notice;
  - (3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the community; and
  - (4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- (c)
  - (1) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The cost shall be a lien upon the property in favor of the county. These costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes are collected, when the county causes a notice thereof to be filed in the office of the register of deeds of the county in which the property lies, second only to liens of the state, county and municipality for taxes, any lien of the county for special assessments and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.
  - (2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten-day period provided for in subdivision (c)(1) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.
- (d)
  - (1) The county governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The county shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (b). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.



- (2) Any person aggrieved by an order or act of the board, agency or commission under this subsection (d) may seek judicial review of the order or act. The time period established in subsection (c) shall be stayed during the pendency of a hearing.

(e)

- (1) Except in any county having a population of:

<u>Not less than</u>	<u>Nor more than</u>
5,800	6,100
31,500	31,800
40,200	40,500
55,700	56,000
77,800	78,000
92,200	92,500

according to the 1990 federal census or any subsequent federal census, the provisions of subsection (c) permitting a county to remedy such dangerous conditions shall not apply to any parcel of property upon which an owner-occupied residence is located.

- (2) Notwithstanding subdivision (e)(1), in any county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census, the provisions of subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

- (3) This subsection (e) shall not apply to subsection (g).

- (4) Notwithstanding subdivision (e)(1), in any county having a population of not less than twenty-seven thousand seven hundred (27,700) nor more than twenty-seven thousand eight hundred (27,800), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

- (5) Notwithstanding subdivision (e)(1), in any county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

- (6) Notwithstanding subdivision (e)(1), in any county having a population of not less than thirty-eight thousand three hundred (38,300) and not more than thirty-eight thousand four hundred (38,400), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

- (7) Notwithstanding subdivision (e)(1), in any county having a population of not less than fifty-seven thousand four hundred (57,400) and not more than fifty-seven thousand five hundred (57,500), according to the 2010 federal census or any subsequent federal census, subsection (c) permitting a county to remedy such dangerous conditions shall apply to any parcel of property, including any parcel upon which an owner-occupied residence is located.

- (f) This section is in addition and supplemental to, and not in substitution for, similar authority in any county's charter or other applicable law.

(g)

- (1) As used in this subsection (g):

- (A) "Community organization" means a community-oriented organization or group including, but not limited to, a school group, church youth group, neighborhood preservation nonprofit corporation, or community support group; and
  - (B) "Vacant property" means property on which no building exists or on which a building exists but any such building is no longer utilized for any business, commercial or residential purposes.
- (2) If a person fails to remedy the condition on vacant property within the time period prescribed by subsection (c), subject to any stay as provided in subsection (d), upon the adoption of a resolution by a two-thirds ( $\frac{2}{3}$ ) vote of the county legislative body of any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, to implement this subsection (g) within such county, a community organization shall be entitled to petition the county to enter upon such vacant property to remedy the conditions identified in subsection (b). Upon the filing of such a petition, the county is authorized to contract with such community organization for such purposes. The contract shall provide for the manner in which the community organization shall be compensated for remedying the conditions pursuant to such contract. Any county that contracts with a community organization for such purposes shall be absolutely immune from any liability to any and all persons and for damage to the vacant property for conditions remedied by the community organization. No monetary liability and no cause of action of any nature shall arise against the county for acts of omission or commission of such community organization for conditions remedied pursuant to such contract.

#### **§ 5-1-120 Power to regulate stray animals**

Counties, by resolution of their respective legislative bodies, may license and regulate dogs and cats, establish and operate shelters and other animal control facilities, and regulate, capture, impound and dispose of stray dogs, stray cats and other stray animals.

#### **§ 5-9-110 Animal welfare**

The several counties of the state, after the affirmative vote on reference of the question to the people, shall be empowered to levy a tax and provide for the administration of its proceeds for the purpose of securing humane treatment of animals therein that are not subject to the state game and fish laws.

#### **§ 6-2-201 Municipal authority generally -- general powers**

Every municipality incorporated under this charter may:

...

- (21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;
- (30) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

...

(See full statute)

#### **§ 6-19-101 Powers under city manager -- general powers**

(a) Every city incorporated under chapters 18-22 of this title may:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for municipal purposes;
- (2) Adopt such classifications of the subjects and objects of taxation as may not be contrary to law;
- (3) Make special assessments for local improvements;

- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner provided in this section;
- (6) Issue and give, sell, pledge, or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the city, upon the credit of the city or solely upon the credit of specific property owned by the city, or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;
- (7) Expend the money of the city for all lawful purposes;
- (8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the city or state;
- (9) Condemn property, real or personal or any easement, interest, or estate or use therein, either within or without the city, for present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of title 29, chapter 16, or in such other manner as may be provided by general law;
- (10) Take and hold property within or without the city or state upon trust; and administer trusts for the public benefit;
- (11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the city, its inhabitants, or any part of the city;
- (12) Grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the city and those in the city. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises. When an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer, except as provided in § 65-4-107(b). The board of commissioners may prescribe in each grant of a franchise, the rates, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that may be opened after the grant of the franchise;
- (13) Make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the city and those in the city. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association or corporation, but also as against the city itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the city at the date of the contract, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that may be opened after the grant of the contract;
- (14) Prescribe reasonable regulations regarding the construction, maintenance,

- equipment, operation and service of public utilities and compel, from time to time, reasonable extensions of facilities for such services, but nothing in this subdivision (14) shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);
- (15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits and regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under §§ 7-31-107 — 7-31-111 and 29-16-203, or in such other manner as may be provided by general laws;
- (16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys as provided by title 7, chapters 32 and 33;
- (17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board of commissioners;
- (18) Acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;
- (19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate such collection and disposal, and the cost of such collection, regulation or disposal may be funded by taxation or special assessment to the property owner;
- (20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law;
- (21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;
- (22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the city, and to exercise general police powers;
- (23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;
- (24) Inspect, test, measure and weigh any article for consumption or use within the city, and charge reasonable fees therefor, and to provide standards of weights, tests and measures in such manner as may be provided pursuant to title 47, chapter 26, part 9;
- (25) Establish, regulate, license and inspect weights and measures in accordance with subdivision (24);
- (26) Regulate the location, bulk, occupancy, area, lot, location, height, construction

- and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof and require any alteration or changes necessary to make them healthful, clean or safe;
- (27) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;
  - (28) Purchase or construct, maintain and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the city, or to contract with the county to keep these persons in the correctional facility of the county and to enforce the payment of fines and costs in accordance with §§ 40-24-104 and 40-24-105 or through contempt proceedings in accordance with general law;
  - (29) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction;
  - (30) Establish schools, to the extent authorized pursuant to general law, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the city;
  - (31) Regulate, tax, license or suppress the keeping or going at large of animals within the city, impound the same and, in default of redemption, to sell or kill the same;
  - (32) Call elections as provided in this charter; and
  - (33) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though such powers were specifically enumerated in this section.
- (b)
- (1) In addition to the general powers provided in subsection (a), any city incorporated under chapters 18-22 of this title may, upon the adoption of an ordinance by a two-thirds ( $\frac{2}{3}$ ) vote of the board of commissioners, impose a fee for the specific purpose of raising revenue to fund the construction and maintenance of a municipal fire station and fire department and for no other purpose.
  - (2) Any city establishing a fee under this subsection (b) shall provide in the ordinance system for the collection and enforcement of fees authorized and imposed pursuant to this subsection (b).
  - (3) The amount of the fee shall initially be set by the city in the ordinance imposing the fee. The ordinance may provide for a means of increasing and decreasing the fee as determined by the board of commissioners. After the construction of the fire station for which the fee is initially imposed, the city shall reduce the fee to reflect only the cost of maintenance of the fire station or operation of the municipal fire department unless additional fire stations are needed.
  - (4) If a city imposing a fee under this subsection (b) is in a county that imposes a fire fee:
    - (A) The fees established under this subsection (b) shall not be set in excess of the rates imposed by the county at the time the city adopts the ordinance pursuant to subdivision (b)(1); and
    - (B) The county shall not collect the fire fee from residents after the date the city adopts the ordinance pursuant to subdivision (b)(1).

## **§ 6-54-113 Removal of vegetation and debris from certain lots**

(a)

- (1) "Municipality," as used in this section, includes incorporated cities and towns and metropolitan governments.
- (2) The authority provided in this section is permissive and not mandatory and may or may not be exercised by a municipality, as each municipality deems appropriate.

(b) If it is determined by the appropriate department or person as designated by the governing body of a municipality that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the municipality may publish the notice in a newspaper of general circulation in the county where the property sits for no less than two (2) consecutive issues or personally deliver the notice to the owner of record. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice and personal delivery shall constitute receipt of notice immediately upon delivery. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

- (1) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;
- (2) The person, office, address and telephone number of the department or person giving notice;
- (3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the community; and
- (4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(c)

(1)

(A) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same

- time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.
- (B) When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. Subdivision (c)(1)(A) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the municipality shall wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subdivision (c)(1)(A) for these charges.
- (2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten-day period specified in subdivision (a)(1) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.
- (d)
- (1) The municipal governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The municipality shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (b). Failure to make the request within this time
- (2) Any person aggrieved by an order or act of the board, agency or commission under this subsection (d) may seek judicial review of the order or act. The time period established in subsection (c) shall be stayed during the pendency of a hearing.
- (e) The provisions of this section are in addition and supplemental to, and not in substitution for, similar authority in any municipality's charter or other applicable law.
- (f) In the event a privately owned cemetery would otherwise meet the requirements of this section, and if a Boy Scout troop or other organization were to remedy the conditions existing on such property, the municipality shall be prohibited from filing a lien against such property for the value of the work performed by such organization. Such organization shall be immune from any legal action for damages, and no cause of action for civil or criminal liability may be brought by the owner of record of the cemetery or descendants of those buried in the cemetery against such organization, so long as reasonable care is taken by such organization not to violate § 46-2-105, § 46-3-108 [repealed], or any other provision of law, rule or regulation.
- (g)
- (1) As used in this subsection (g):
- (A) "Community organization" means a community-oriented organization or group including, but not limited to, a school group, church youth group, neighborhood preservation nonprofit corporation, or community support group; and
- (B) "Vacant property" means property on which no building exists or on which a building exists but any such building is no longer utilized for any business, commercial or residential purposes.
- (2) Except as provided in subsection (f), if a person fails to remedy the condition on vacant property within the time period prescribed by subsection (c), subject to any stay as provided in subsection (d), upon the adoption of a resolution by a two-thirds ( $\frac{2}{3}$ ) vote of the municipal legislative body of any municipality located in any county having a population in excess of eight hundred thousand (800,000), according to

the 2000 federal census or any subsequent federal census, to implement this subsection (g) within any such municipality, a community organization shall be entitled to petition the municipality to enter upon such vacant property to remedy the conditions identified in subsection (b). Upon the filing of such a petition, the municipality is authorized to contract with such community organization for such purposes. The contract shall provide for the manner in which the community organization shall be compensated for remedying the conditions pursuant to such contract. Any municipality that contracts with a community organization for such purposes shall be absolutely immune from any liability to any and all persons and for damage to the vacant property for conditions remedied by the community organization. No monetary liability and no cause of action of any nature shall arise against the municipality for acts of omission or commission of such community organization for conditions remedied pursuant to such contract.

**§ 6-54-135 Allowing pet dogs in outdoor dining areas at restaurants**

- (a) For purposes of this section, "pet dog" means a dog other than a service or guide dog assisting a handicapped person.
- (b) Notwithstanding any other prohibition to the contrary, certain jurisdictions, as provided in subsection (c), may, by ordinance or resolution, authorize the presence of pet dogs in outdoor dining areas of restaurants, if the ordinance provides for adequate controls to ensure compliance with the Tennessee Food, Drug and Cosmetic Act, compiled in title 53, chapter 1, and any other applicable statutes and ordinances. An ordinance enacted under this section shall provide for a permitting process to authorize individual restaurants to permit dogs as provided in this section and to charge applicants and authorized restaurants a reasonable permit fee as the ordinance may establish. Additionally, the ordinance shall provide that:
  - (1) No pet dog shall be present in the interior of any restaurant or in any area where food is prepared;
  - (2) The restaurant shall have the right to refuse to serve the owner of a pet dog if the owner fails to exercise reasonable control over the pet dog or the pet dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the restaurant;
  - (3) All public food service establishment employees shall wash their hands promptly after touching, petting or otherwise handling a pet dog. Employees shall be prohibited from touching, petting or otherwise handling pet dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment;
  - (4) Employees and patrons shall be instructed that they shall not allow pet dogs to come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved in food service operations;
  - (5) Patrons shall keep their pet dogs on a leash at all times and keep their pet dogs under reasonable control;
  - (6) Pet dogs shall not be allowed on chairs, tables or other furnishings;
  - (7) Accidents involving pet dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area;
  - (8) A sign or signs reminding employees and patrons of the applicable rules shall be posted on the premises in a manner and place as determined by the local permitting authority; and
  - (9) Pet dogs shall not be permitted to travel through indoor or nondesignated portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food establishment shall not require entrance into or



passage through any indoor area of the food establishment.

(c)

- (1) This section shall apply in a municipality with a population of at least one hundred thousand (100,000), according to the 2000 federal census or any subsequent census.
- (2) This section shall also apply in a county with a population of at least one hundred thousand (100,000), according to the 2000 federal census or any subsequent census.
- (3) This section shall also apply in counties having a population, according to the 2000 federal census or any subsequent census, of:

<u>not less than</u>	<u>nor more than</u>
5,500	5,600
11,369	11,450
14,300	14,400
16,600	16,700
38,200	38,300
39,200	39,300
48,000	48,100
56,700	56,800
71,100	71,200
105,800	105,900

#### **§ 7-5-103 Metropolitan Governments' Port Authority Act: definitions [relevant portions]**

As used in this chapter, unless the context otherwise requires:

...

- (11) "Metropolitan government" means the political entity created by consolidation of all, or substantially all, of the political and corporate functions of a county and a city or cities;

...

- (12) "Pollution" means the placing of any noxious or deleterious substances, including noise, in any air or water of or adjacent to the state of Tennessee or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the state of Tennessee in a manner and to an extent that renders or is likely to render the air or waters inimical or harmful to the public health, safety or welfare, or to any animal, bird or aquatic life, or to the use of the air or waters for domestic, industrial, agricultural or recreational purposes;

#### **§ 7-31-106 Unlawful use of sidewalks**

When any sidewalks are constructed, every person who rides or drives a horse, team or other vehicle on the sidewalks, except for the purpose of crossing the sidewalks when necessary to do so, or who hitches any horse or other animal to any tree growing on or adjacent to such sidewalks, commits a Class C misdemeanor.

#### **§ 7-51-1401 Adult-oriented establishments -- part definitions**

As used in this part, unless the context otherwise requires:

- (5) "Bestiality" means sexual activity, actual or simulated, between a human being and an animal;

...

- (9) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture or death upon another person or animal;

- (10) "Sexually-oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely covered; and

...

#### **§ 7-63-101 Municipal violations -- Citation or complaint in lieu of arrest**

When any person violates any traffic, or other ordinance, law or regulation of any municipal, metropolitan or city government in the presence of a:

- (1) Law enforcement officer of such government;
- (2) Member of the fire department or building department who is designated as a special police officer of the municipality; or
- (3) Transit inspector employed by a public transportation system or transit authority organized pursuant to chapter 56, part 1 of this title;

such officer or inspector may issue, in lieu of arresting the offender and having a warrant issued for the offense, a citation or complaint for such offense. A copy of such citation, which shall contain the offense charged and the time and place when such offender is to appear in court, shall be given to the offender.

#### **§ 7-63-201 Sanitation, litter control and animal control -- issuance of summons -- copies**

Notwithstanding § 7-63-101, any municipal, metropolitan or city government may designate by ordinance or resolution certain municipal enforcement officers in the areas of sanitation, litter control, and animal control who may not arrest or issue citations in lieu of arrests pursuant to part 1 of this chapter, but who, upon witnessing a violation of any ordinance, law or regulation of that municipal, metropolitan or city government, may issue an ordinance summons, leaving a copy with the offender, showing the offense charged and the time and place when such offender is to appear in court.

#### **§ 7-81-207 Powers of assembly [relevant portions]**

The town assembly of each of the towns has powers by ordinance to:

...

- (3) Make regulations to prevent the introduction of contagious diseases in the town;
- (4) Pass all laws necessary or proper to secure the health of the inhabitants of the town;

...

- (6) Prohibit the running at large of animals within the corporate limits, whether the owners of the animals reside within the corporate limits or not;
- (7) Prohibit the keeping of hogs or other animals in pens or in enclosures that may become offensive or injurious to the health of the inhabitants;

...

- (9) Impose fines, forfeitures, and penalties for the breach of any ordinance, and provide for their recovery and appropriation;

#### **§ 7-86-103 Emergency communications – definitions [relevant portions]**

...

- (19) "Public safety emergency services provider" means any municipality or county government that provides emergency services to the public. Such providers or services include, but are not limited to, emergency fire protection, law enforcement, police protection, emergency medical services, poison control, animal control, suicide prevention, and emergency rescue management;

**§ 7-86-307 Plan for providing statewide 911 and enhanced wireless 911 service.**  
**[relevant portions]**

...

(b)

- (1) The board shall encourage and promote the planning, development, and implementation of 911 service for each newly created emergency communications district. Any emergency communications district newly created after May 20, 1998, shall have its 911 system plan approved by the board prior to implementation. The plan for each such district shall include specific local requirements. Such plan shall include, but not be limited to, law enforcement, firefighting, and emergency medical services and may include, but not be limited to, other emergency services such as poison control, animal control, suicide prevention, and emergency management services.
- (2) Such plan shall also include funding requirements necessary to implement and operate the 911 system; provided, that if anticipated revenues are not adequate to achieve and maintain technical and operating standards as established by the board in this part, the board shall undertake a study to determine other options for the provision of 911 service to that area.

...

**§ 8-21-701 County clerks – specific fees authorized**

In addition to any other fees for services established by law, county clerks are entitled to demand and receive for the following services the fees attached:

...

- (14) For issuance of permits and licenses for which fees are not otherwise provided 5.00
- (15) For filing documents for which fee is not otherwise provided 5.00

...

**§ 8-50-103 Employment of the disabled -- discrimination prohibited -- penalty – complaint**

- (a) This section and § 8-50-104 shall be known and may be cited as the “Tennessee Disability Act.”
- (b) There shall be no discrimination in the hiring, firing and other terms and conditions of employment of the state of Tennessee or any department, agency, institution or political subdivision of the state, or of any private employer, against any applicant for employment based solely upon any physical, mental or visual disability of the applicant, unless such disability to some degree prevents the applicant from performing the duties required by the employment sought or impairs the performance of the work involved. Furthermore, no blind person shall be discriminated against in any such employment practices because such person uses a guide dog. A violation of this subsection (b) is a Class C misdemeanor.
- (c)
  - (1) Any person claiming to be aggrieved by a discriminatory practice prohibited by this section may file with the Tennessee human rights commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the commission to identify the persons charged.
  - (2) Upon receipt of such complaint, the commission shall follow the procedure and exercise the powers and duties provided in §§ 4-21-302 — 4-21-311, and the person shall have all rights provided therein.
- (d) For purposes of this section, “employer” means the state, or any political or civil subdivision thereof, and persons employing eight (8) or more persons within the state.

**§ 9-8-307 Jurisdiction — Claims — Waiver of actions — Standard for tort liability — Damages — Immunities — Definitions — Transfer of claims.**

(a)

(1) The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as defined in § 8-42-101, falling within one (1) or more of the following categories:

(A) The negligent operation or maintenance of any motor vehicle or any other land, air, or sea conveyance. In addition, the state may be held liable pursuant to this subdivision (a)(1)(A) for the negligent operation of state-owned motor vehicles or other conveyances by persons who are not state employees; provided, that such persons operated the vehicle or other conveyance with the permission of a state employee;

(B) Nuisances created or maintained;

(C) Negligently created or maintained dangerous conditions on state controlled real property. The claimant under this subdivision (a)(1)(C) must establish the foreseeability of the risks and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures;

(D) Legal malpractice or health care liability by a state employee; provided, that the state employee has a professional/client relationship with the claimant;

(E) Negligent care, custody and control of persons;

(F) Negligent care, custody or control of personal property;

(G) Negligent care, custody or control of animals. Damages are not recoverable under this section for damages caused by wild animals;

(H) Negligent construction of state sidewalks and buildings;

(I) Negligence in planning and programming for, inspection of, design of, preparation of plans for, approval of plans for, and construction of, public roads, streets, highways, or bridges and similar structures, and negligence in maintenance of highways, and bridges and similar structures, designated by the department of transportation as being on the state system of highways or the state system of interstate highways;

(J) Dangerous conditions on state maintained highways. The claimant under this subdivision (a)(1)(J) must establish the foreseeability of the risk and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures;

(K)

(i) Workers' compensation claims by state employees, including injuries incurred by national guard members, Tennessee state guard members, civil air patrol members, civil defense agency personnel and emergency forest firefighters while on active duty and in the course of that duty;

(ii) The commission's payment of these claims shall be in such amount and subject to such limitations as set forth in title 50, chapter 6, except the following provisions shall have no application to workers' compensation claims filed against the state: §§ 50-6-103, 50-6-104, 50-6-106(5), 50-6-118, 50-6-128, 50-6-203(a)-(e) and (g), 50-6-205(b)(2), (b)(3), (c) and (d), 50-6-208, 50-6-210(f), 50-6-211, 50-6-213, 50-6-222, 50-6-225(d), 50-6-229(b), 50-6-233, 50-6-236(c)(2)-(3) and (g), 50-6-237, 50-6-238, 50-6-239, 50-6-244, 50-6-306, 50-6-307, and title 50, chapter 6, part 4. Section 50-6-114 shall apply to workers' compensation claims against the state, except that the state is authorized to give an employee the option to use accrued sick and annual leave in lieu of receiving temporary total disability benefits. In no event shall an employee receive both accrued sick and annual leave and temporary total disability

- benefits for the period of temporary total disability. Where appropriate, the claims commission shall be considered the court or tribunal to determine claims within title 50, chapter 6. Payments shall be made and accepted without regard to fault as a cause of the injury or death;
- (iii) The subsequent injury and vocational recovery fund shall have no application to workers' compensation claims against the state of Tennessee. Payment of compensation shall not be considered a binding determination of the obligations of the employer as to future compensation payments. Likewise, the acceptance of compensation by the officer or employee is not considered a binding determination of the obligations of the employer as to future compensation payments; nor shall the acceptance of compensation by the officer or employee be considered a binding determination of the employer's rights;
- (iv) The interested parties have the right to settle all matters of compensation between themselves, but all settlements, before the settlements are binding on either party, shall be reduced to writing and shall be approved by the claims commissioner before whom the claim for compensation is entitled to be heard, or to a workers' compensation judge pursuant to § 50-6-240. Any proposed settlement presented to a claims commissioner for approval pursuant to this subdivision (a)(1)(K)(iv) shall be examined by the claims commissioner to determine whether the officer or employee is receiving, substantially, the benefits provided by the Workers' Compensation Law, compiled in title 50, chapter 6. To this end, the commissioner may call and examine witnesses. Upon such settlement being approved, an order shall be rendered by the commissioner and duly entered by the clerk;
- (v) In case any officer or employee of the state of Tennessee for whose injury or death compensation is payable under the Workers' Compensation Law shall at the time of injury be employed or paid jointly by two (2) or more employers subject to such law, such employers shall contribute to payment of such compensation in a proportion of their several wage liability to such officer or employee. The state of Tennessee is considered the primary employer and the determination of workers' compensation paid shall be pursuant to the procedures provided for state officers and employees. If one (1) or more, but not all, of such officers and employees are subject to the Workers' Compensation Law and otherwise subject to liability for compensation hereunder, then the liability of such of them as are so subject shall be to pay the proportion of the entire compensation which their portion of the wage liability bears to the wages of the officer or employee; provided, that nothing in this section shall prevent any agreement between the different employers between themselves as to the distribution of the ultimate burden of such compensation. The state of Tennessee shall pay the officer or employee under the Workers' Compensation Law and seek contribution from other contributing employers. The state of Tennessee has a right of action in the courts against the joint employers;
- (vi) Notwithstanding § 9-8-402(d) or any other law to the contrary, upon motion of the employee, the claims commission may, prior to the benefits review conference or any final hearing on the claim, order the state to initiate, continue or reinstate temporary disability benefits or to provide medical benefits to the employee pending a final decision in the case, if the claims commission determines that such an order would be appropriate in light of available information. If the commission determines it appropriate to order the state to provide medical benefits pursuant to this subdivision (a)(1)(K)(vi), the

- commission's authority shall include, but not be limited to, the authority to order specific medical treatment recommended by the treating physician, and the authority to require the state to provide the appropriate panel of physicians to the employee, including a panel of appropriate specialists. With respect to the determination of whether to order the payment of temporary disability or medical benefits, the claims commission shall decide such issues solely on the basis of the information available to the commission, without favor or presumption for or against either party;
- (L) Actions for breach of a written contract between the claimant and the state which was executed by one (1) or more state officers or employees with authority to execute the contract; provided, that the group insurance agreements created pursuant to §§ 8-27-202 and 8-27-302 shall be considered contracts for purposes of this subsection (a) in order for the commission to determine insurance claims which have been previously rejected by the state insurance committee or the local education insurance committee;
  - (M) Negligent operation of machinery or equipment;
  - (N) Negligent deprivation of statutory rights created under Tennessee law, except for actions arising out of claims over which the civil service commission has jurisdiction. The claimant must prove under this subdivision (a)(1)(N) that the general assembly expressly conferred a private right of action in favor of the claimant against the state for the state's violation of the particular statute's provisions;
  - (O) Claims for the recovery of taxes collected or administered by the state, except any tax collected or administered by the commissioner of revenue, any tax collected or administered by the commissioner of commerce and insurance pursuant to title 56, and any unemployment insurance tax collected or administered by the commissioner of labor and workforce development;
  - (P) Claims for the loss, damage or destruction of the personal property of state employees based on § 9-8-111;
  - (Q)
    - (i) Claims for injuries incurred by persons where such injury occurred while the person was a passenger in a motor vehicle operated by a state employee while such employee was acting within the scope of employment. The claimant has the burden of proving the following:
      - (a) The injuries suffered by the claimant occurred as a result of an accident involving a motor vehicle operated by a non-state employee and a motor vehicle operated by a state employee who, at the time of the accident, was acting within the scope of employment;
      - (b) The proximate cause of the accident was the negligent operation of the motor vehicle operated by the nonstate employee;
      - (c) The claimant has been unable to recover any damages from the negligent party because the negligent party was uninsured or underinsured at the time of the accident and is otherwise financially incapable of fully compensating the claimant;
      - (d) The claimant has been unable to recover sufficient amounts under the Workers' Compensation Law or from any other public or private source, including the claimant's uninsured motorist's insurance policy, to fully compensate for the injuries suffered; and
      - (e) The claimant's presence in the motor vehicle operated by the state employee was for the benefit of the state, except that this requirement shall be waived for persons who are injured while a passenger in a state-owned motor vehicle used in the state employee van pool program

- authorized in § 4-3-1105(19);
- (ii) Notwithstanding subsection (e), awards under this subdivision (a)(1)(Q) are limited to amounts recoverable under subdivision (a)(1)(K). Awards under this subdivision (a)(1)(Q) shall not be considered payments under an uninsured motorists insurance policy as provided for in title 56, chapter 7, part 12;
  - (R) Claims for libel and/or slander where a state employee is determined to be acting within the scope of employment;
  - (S)
    - (i) Claims for compensation filed under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, and § 40-24-107. Claims filed pursuant to this subdivision (a)(1)(S) shall be determined in accordance with title 29, chapter 13;
    - (ii) Notwithstanding title 29, chapter 13, to the contrary, the claims commission has exclusive jurisdiction to determine all claims filed for compensation under the Criminal Injuries Compensation Act in accordance with title 29, chapter 13; provided, that this exclusive jurisdiction shall apply only to claims for compensation filed on or after January 1, 1987. At the request of the claimant and with the consent of the court, any claim filed prior to January 1, 1987, may be transferred to the claims commission for determination of the claim;
  - (T) Actions based on § 69-1-201;
  - (U) Actions based on violations of the requirements of procurement of commodities or services under title 71, chapter 4, part 7;
  - (V) Unconstitutional taking of private property, as defined in § 12-1-202, including intentional state governmental action resulting in a taking other than the taking of real property and real property rights for the state's system of highways or the state's system of interstate highways; and
  - (W) Claims arising out of the billing, collection, or remittance of 911 surcharges.
- (2) No item enumerated in this subsection (a) shall be interpreted to allow any claim against the state on account of the acts or omissions of persons, partnerships, corporations or other entities licensed or regulated by agencies of the state, notwithstanding any negligence committed by the state in the course of performing licensing or regulatory activities. No item enumerated in this subsection (a) shall be interpreted to allow any claims against the state arising out of or resulting from:
- (A) The issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization, except as provided for in subdivision (a)(1)(V);
  - (B) An inspection, or by reason of making an inadequate or negligent inspection of any property, except as provided for in subdivision (a)(1)(I);
  - (C) Riots, unlawful assemblies, public demonstrations, mob violence and civil disturbances; except that the claims commission shall have jurisdiction over riots and disturbances occurring on or after January 1, 1985, by persons who are in the care, custody and control of the state where the state's negligence is the proximate cause of the riot or disturbance which, in turn, is the proximate cause of the injury to the claimant or damage to the claimant's personal property;
  - (D) Acts of a defendant serving a sentence under probation coupled with periodic confinement pursuant to § 40-35-307; work release pursuant to § 40-35-315; on furlough pursuant to § 40-35-316; a community-based alternative to confinement pursuant to title 40, chapter 36; or parole pursuant to § 40-35-504, unless the defendant is in the custody of or under the control or

- supervision of a jailer, corrections officer, law enforcement officer, or other agent of the state, or unless the state was negligent in its release of the defendant; provided, that the state is liable for reasonable medical care for inmates under work release, furlough, or community-based alternatives to confinement, although the inmates are not physically in the custody and control of and under the direct personal control of a jailer, corrections officer or other law enforcement officer. The state, county, municipality or political subdivision which may employ the inmate but does not have direct supervision and control of the inmate's work release, confinement or community-based alternative to confinement is not liable for the inmate's reasonable medical treatment for injuries incurred while on such work release, community-based alternative, or other work detail. Nothing in this subdivision (a)(2)(D) shall be construed as changing the general law of comparative fault. Nothing in this subdivision (a)(2)(D) shall be construed as changing the liability for injuries caused by a person or agency due to that person's or agency's own negligence. Nothing in this subdivision (a)(2)(D) shall be construed as changing the general law on liability in subdivision (a)(1)(E); or
- (E) Any failure or malfunction occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted and reasonably implemented complying with generally accepted computer and information system design standards. Notwithstanding any other provision of the law, nothing in this subdivision (a)(2)(E) shall in any way limit the liability of a third party, direct or indirect, who is negligent. Further, a person who is injured by the negligence of a third party contractor, direct or indirect, shall have a cause of action against the contractor.
- (3) It is the intent of the general assembly that the claims commission shall only hear claims arising on or after January 1, 1985. All claims arising prior to January 1, 1985, are to be governed by the law as it was prior to that date. For purposes of jurisdiction, a claim for recovery of taxes is deemed to arise on the date of the payment under protest. However, for any claim falling within the jurisdiction of the claims commission as determined by this subdivision (a)(3) and arising before January 1, 1985, the board of claims may authorize the chair of the board to transfer any claim or classes of claims to the claims commission. No claims shall be transferred where the claimant objects. Transferred claims are subject to the same requirements and procedures as claims originally filed with the claims commission. It is the intent of the general assembly that the jurisdiction of the claims commission be liberally construed to implement the remedial purposes of this legislation. It is the intent of the general assembly that no distinctions be made between officers and employees of the state under this legislation. The availability of state records and documents concerning claims is subject to the same discovery defenses as are available to other parties. The portion of the records in possession of the division of claims and risk management containing the amount of funds reserved for each claim for the risk management fund is confidential and not subject to § 10-7-503, until the final adjudication of the claim.
- (b) Claims against the state filed pursuant to subsection (a) shall operate as a waiver of any cause of action, based on the same act or omission, which the claimant has against any state officer or employee. The waiver is void if the commission



determines that the act or omission was not within the scope of the officer's or employee's office or employment.

- (c) The determination of the state's liability in tort shall be based on the traditional tort concepts of duty and the reasonably prudent person's standard of care.
- (d) The state will be liable for actual damages only. No award shall be made unless the facts found by the commission would entitle the claimant to a judgment in an action at law if the state had been a private individual. The state will not be liable for punitive damages and the costs of litigation other than court costs. The state will not be liable for willful, malicious, or criminal acts by state employees, or for acts on the part of state employees done for personal gain. The state may assert any and all defenses, including common law defenses, which would have been available to the officer or employee in an action against such an individual based upon the same occurrence. The state may assert any absolute common law immunities available to the officer or employee, however, good faith common law immunity may not be asserted. If the claimant is successful with any claim filed with the claims commission after January 1, 1985, the state shall pay such interest as the commissioner may determine to be proper, not exceeding the legal rate as provided in § 47-14-121. In contract actions, interest may be awarded, but if the rate of interest is provided in the contract, the award of interest shall be at that rate.
- (e) For causes of action arising in tort, the state shall only be liable for damages up to the sum of three hundred thousand dollars (\$300,000) per claimant and one million dollars (\$1,000,000) per occurrence. The board of claims is authorized to purchase insurance, on a per claimant or per occurrence basis, for any class of claim. Any recovery covered by such a policy may exceed the monetary limits of this subsection (e), but only up to the policy limit.
- (f) No language contained in this chapter is intended to be construed as a waiver of the immunity of the state of Tennessee from suit in federal courts guaranteed by the eleventh amendment to the Constitution of the United States.
- (g) No language contained in this chapter is intended to be construed to abridge the common law immunities of state officials and employees.
- (h) State officers and employees are absolutely immune from liability for acts or omissions within the scope of the officer's or employee's office or employment, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain. For purposes of this chapter, "state officer" or "employee" has the meaning set forth in § 8-42-101(3).
- (i)
  - (1) Claims that were timely filed against a state employee with a court of competent jurisdiction and that fall within the jurisdiction of the claims commission found in subdivision (a)(1)(A) shall be dismissed as to the state employee and transferred to the division of claims and risk management to proceed as a claim against the state; provided, that the state employee alleged to have acted negligently was, at the time of the incident giving rise to the claim, operating a private motor vehicle within the scope of the employee's office or employment, and the employee's action or inaction was not willful, malicious, criminal or done for personal gain. When a motion for transfer is made, the court shall require that notice be given the attorney general and reporter and the state shall be permitted to intervene and respond to the motion. Upon such transfer, the claim shall be considered timely filed with the division of claims and risk management and the claims commission. Such transfer shall be effected upon an order of dismissal and transfer from the court. Any such transfer must be made within one (1) year of the filing of the original complaint with the court or on or after April 22, 1998, whichever is later. Such claims shall be considered by the division of claims and risk management and the claims

commission, as provided by law. This subsection (i) shall be effective for causes of action arising on or after July 1, 1995, pending on or after April 22, 1998, and causes of action arising on or after April 22, 1998.

(2) Claims which are transferred to the division of claims and risk management pursuant to this subsection (i) shall be investigated by the division of claims and risk management, acted upon or transferred by the division, and acted upon by the claims commission pursuant to the same statutory requirements and procedures as apply to claims originally filed with the division of claims and risk management.

(j) [Repealed effective July 1, 2022. See Compiler's Note.] Notwithstanding any other provision of this chapter to the contrary, the state does not waive its sovereign immunity for any loss, damage, injury, or death arising from COVID-19, as defined in § 29-34-802(a), unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission of the state or an employee or agent of the state constituting gross negligence. The requirements of § 29-34-802(c) apply to any such cause of action when applicable.

### **§ 11-1-103 Cooperation with wildlife resources agency -- relationships between divisions**

The several divisions located within the department of environment and conservation shall cooperate with the state wildlife resources agency, and the employees of the divisions shall lend whatever assistance is necessary to carry out the provisions of the game and fish laws. Likewise, the employees of the state wildlife resources agency shall cooperate with the other divisions in the department and lend assistance whenever it is deemed necessary by the commissioner of environment and conservation, it being the purpose to coordinate fully the activities of the state wildlife resources agency with other conservation activities in the department. In the event any controversy shall arise in the department between any of the various divisions therein as to their respective duties and functions, the commissioner shall have authority to make the final decision concerning the controversy, and to define the respective limits of authority of each division.

### **§ 11-3-107 Parks and recreation employees -- commissioned law enforcement officers**

(a) The division of parks and recreation is authorized to employ a suitable number of persons as park rangers, ranger naturalists, park managers and in other positions, however designated or named, having qualifications established by the division of parks and recreation, and approved by the department of human resources. They will manage and supervise the operation of the state parks and other recreational areas managed or administered by the division; provided, that persons employed as park rangers as of January 1, 1986, who meet the qualifications set out by this section as it existed on January 1, 1986, shall not be denied promotion to a position as park manager or any equivalent position because of not meeting any more stringent qualifications which may be established pursuant to this subsection (a).

(b)

(1) Employees of the division of parks and recreation, when properly trained and qualified, may be commissioned by the commissioner of environment and conservation as law enforcement officers. When so commissioned, they shall have all of the police powers necessary to enforce all state laws, rules and regulations, within the state parks, state forests, state natural areas, all other state-owned areas under the jurisdiction of the division, and all recreational areas which are administered or managed by the division under lease, easement or other agreement with any public or private owner of the property. The commissioned employees of the division shall have all police powers necessary to apprehend and

arrest any person within the state, for any violation of state law or rule or regulation of the division committed on any state park or other area described above. They shall enforce the laws, rules and regulations and maintain order, for the protection of state property and the public welfare. They shall have the right to carry firearms or other arms while on duty as commissioned law enforcement officers of the division. It is the responsibility of the division to assure that law enforcement duties are pursued with the utmost awareness and care and not to the detriment of the primary responsibilities of rangers and managers, which are to provide for visitor information and education, to manage and maintain park resources and personnel and to conduct recreation programs.

- (2) The employees commissioned under subdivision (b)(1) may also provide both law enforcement and search and rescue assistance outside of the areas described in subdivision (b)(1) at the request of federal, state, or local officials if such assistance is necessary for the protection of life, health, or safety. For the purposes of rendering such assistance, the commissioned employees shall have all the powers and protections of a law enforcement officer throughout the state.
- (c)
  - (1) Notwithstanding title 12, chapter 2, part 4, when the division of parks and recreation makes a determination to retire an equine from service, the park ranger, ranger naturalist, park manager or any other similar employee who has used the equine to carry out such person's duties as a law enforcement officer or as an employee of the division of parks and recreation, may take possession of the equine upon paying to the division of parks and recreation the value assigned to the equine pursuant to subdivision (c)(3).
  - (2) Upon taking possession of a retired equine pursuant to subdivision (c)(1), the park ranger, ranger naturalist, park manager or any other similar employee shall be responsible for all costs associated with maintaining such equine.
  - (3) The division of parks and recreation is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, necessary to carry out this subsection (c) including establishing a value for the equine at the time the decision is made to retire the equine from service.
- (d) The division of parks and recreation, with the approval of the department of human resources, shall establish standards of training and qualification for the commissioning of employees as law enforcement officers, and for in-service training of its commissioned employees. Training standards shall be consistent with those established by a recognized agency such as the Tennessee peace officer standards and training commission, the Jerry F. Agee Tennessee Law Enforcement Training Academy or the department of interior, national park service.
- (e) After twenty-five (25) years of honorable service by a commissioned employee, the department of environment and conservation, bureau of state parks and recreation shall authorize the employee, upon retirement, to retain such employee's service weapon in recognition of the employee's many years of good and faithful service. A commissioned employee who retires on disability retirement also may be authorized to retain that employee's service weapon.

#### **§ 11-4-803 Cooperation with executive director of wildlife resources agency**

The state forester, by and with the approval of the commissioner of agriculture, shall cooperate with the executive director of the wildlife resources agency in furtherance of the policy of this state to protect and propagate wild animals, wild birds and fish, and, by and with the consent of the commissioner, shall designate any state forest a game refuge or preserve, and is authorized to cooperate with the executive director of the wildlife resources agency in developing such state forests for the purpose of preserving and

propagating the wildlife of this state.

#### **§ 11-5-108 Vandalism of caves or caverns**

- (a) It is an offense for any person, without the prior permission of the owner, to knowingly:
- (1) Break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, mar or harm any natural material found within any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns or other similar crystalline material formations;
  - (2) Kill, harm or disturb any plant, animal or artifact found therein;
  - (3) Disturb or alter the natural condition of such cave or cavern; or
  - (4) Break, force, tamper with, remove, or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, whether or not entrance is actually gained.
- (b) Nothing in this section shall be construed to prohibit the owner of property from performing on such owner's property any of the acts set forth in subsection (a).
- (c) An act constituting a violation of this section is to be valued according to § 39-11-106(a)(36) and punished as theft under § 39-14-103.

#### **§ 11-11-113 Use of right of way- Hunting restricted (along Tennessee Trails System) [relevant portion]**

- (b) No hunting of wild game shall be permitted on or along any section of the system except as authorized by the department; provided, that the owner of real property adjacent to any part of the system may hunt with or without department authorization on that portion of the system which is adjacent to such owner's property.

#### **§ 11-14-102 Natural Areas Preservation -- purpose**

The general assembly finds that in the countryside of Tennessee there are areas possessing scenic, scientific, including biological, geological and/or recreational values, and which are in prospect and peril of being destroyed or substantially diminished by actions such as dumping of refuse, commercialization, construction, changing of population densities or similar actions, there being either no regulations by the state or by local governments or regulations which are inadequate or so poorly enforced as not to yield adequate protection to such areas. It is the intention of the general assembly to provide protection for such areas.

#### **§ 11-14-105 Natural Areas Preservation - Classifications**

There shall be two (2) classes of areas within the meaning of this part:

- (1) Class I, scenic-recreational areas, which are areas associated with and containing waterfalls, natural bridges, natural lakes, small but scenic brooks or streams, gorges, coves, woodlands, caverns or other similar features or phenomena, which are unique in scenic and recreational value and not extensive enough for a state park but worthy of perpetual preservation; and
- (2) Class II, natural-scientific areas, which are areas associated with and containing floral assemblages, forest types, fossil assemblages, geological phenomena, hydrological phenomena, swamplands and other similar features or phenomena which are unique in natural or scientific value and are worthy of perpetual preservation.

#### **§ 11-14-106 Natural Areas Preservation - Development permitted**

- (a) The following development shall be permitted in the two (2) classes of areas:
- (1)
    - (A) Class I areas may be developed with foot trails, foot bridges, overlooks, primitive

- campgrounds and small picnic areas with associated sanitary facilities;
- (B) Class II areas may be developed with foot trails, foot bridges, overlooks and primitive campgrounds; and
- (2) Either class may be developed with such facilities as may be reasonably necessary for the dissemination of educational material and for the safe and proper management and protection of the area; provided, that no such facility shall be constructed or sited in such a manner as to be inconsistent with the preservation of the natural or scientific values in a Class II area or as an intrusion upon the scenic and recreational values in a Class I area.
- (b) The commissioner shall adopt rules and regulations for each natural area, specifying the activity or activities permitted. Such permissible activities shall not be inconsistent with the purpose of perpetual preservation. If, in the discretion of the commissioner, any portion of an area is deemed to be of so fragile a nature that overuse may damage it, limitations may be placed on activities within those portions. Removal of plants, animals or geological specimens shall not be permitted except by permit issued by the commissioner. If hunting or fishing are among the activities permitted by the commissioner, the commissioner shall adopt, with the advice of the wildlife resources agency, rules and regulations to regulate such activity on the natural area in question. Such rules and regulations may be more restrictive than the rules and regulations adopted for statewide hunting and fishing by the wildlife resources agency.

#### **§ 11-14-108 Designation of areas**

- (a) The general assembly may designate Class I or Class II areas proposed by the commissioner to become parts of the system. However, designation by the general assembly need not necessarily be restricted to areas proposed by the department.
- (b) The following areas are designated natural areas:
  - (1) Class I—Scenic-Recreational Areas
    - (A) Bays Mountain. An approximately three thousand five hundred (3,500) acre natural area located in Sullivan and Hawkins counties, plus any of approximately seven hundred (700) acres in private ownership which may be acquired for addition to the natural area. The area includes a lake, interpretive trails, outdoor education and recreation facilities, and areas of great scenic beauty, including Laurel Run Gorge where several of Tennessee's rare plant species occur. The area is managed by the governments and agencies of Kingsport and Hawkins County with cooperation and support from the Tennessee natural areas program;
    - (B) Big Cypress Tree. A bottomland hardwood, partly forested area containing the largest recorded bald cypress (*Taxodium distichum*) tree on the North American continent with approximately two hundred seventy (270) acres in Weakley County. The Big Cypress Tree State Natural Area composed of approximately three hundred twenty-nine (329) acres with deeds of record in the register of deeds office of Weakley County in deed book 194 page 411, book 154 page 246, and book 154 page 244, is transferred from the jurisdiction of the Tennessee wildlife resources agency to the jurisdiction of the department of environment and conservation; provided, that hunting shall continue to be permitted following the transfer in the entire portion of the area that the agency has allowed hunting in the year preceding June 8, 2007, in the same manner as hunting is permitted in a wildlife management area within the agency designated region such area is located; and provided, that the agency shall have full access to, and use of, any facility in the area. Access and use shall include control of any structure constructed by the agency;
    - (C) Burgess Falls. A cascade-type one-hundred-twenty-foot (120') falls with included

- lake and scenic stream, consisting of approximately two hundred seventeen (217) acres of land and water in Putnam and White counties;
- (D) Chimneys. An area of approximately thirty-three (33) acres along Pocket Creek in Marion County that protects an unusual geologic feature and surrounding forested gorge. This area, located within the Cumberland Plateau Physiographic Province, includes two (2) isolated sandstone pinnacles rising out of Pocket Gorge. The pinnacles are connected by a natural bridge or arch that forms a natural window in their base. In addition to the pinnacles, this area also includes several waterfalls and an "old growth" hemlock forest;
  - (E) Devil's Backbone. A forest of approximately nine hundred fifty (950) acres with a high diversity of upland community types representative of the western Highland Rim. It is located in Lewis County west of the Natchez Trace Parkway. Its prominent topographic features are numerous dry rocky ridges with moderate to steep slopes which form hollows with several perennial streams. The department will develop a plan for the development and management of the additional acreage east of the Natchez Trace in consultation with Lewis County;
  - (F) Dunbar Cave. A well-explored, scenic and historic cave along with a small lake and upland hardwood forest, consisting of approximately one hundred fifteen (115) acres of land and water in Montgomery County;
  - (G) Falling Water Falls. A one-hundred-thirty-foot (130') falls with view of the Sequatchie Valley, consisting of approximately one hundred thirty-six (136) acres in Hamilton County;
  - (H) Frozen Head State Park. An area of approximately eight thousand six hundred twenty (8,620) acres lying within the twenty-two thousand eight hundred (22,800) acre Frozen Head State Park. The area contains undisturbed forest land of unique configuration and is located in the southeast portion of Morgan County. The state park is comprised of the class I area, the class II area, three hundred thirty (330) acres located along North Prong Flat Fork Creek and Judge Branch below one thousand six hundred feet (1,600') elevation and one (1) acre on the summit of Frozen Head Mountain, and seven thousand three hundred twenty (7,320) acres known as the Emory tract;
  - (I) Ghost River (Section of the Wolf River). An area of approximately two thousand three hundred six (2,306) acres located in Fayette County that supports high quality bottomland hardwood forest and forested wetland communities occurring along scenic meanders of the Wolf River. The Bald Cypress-Tupelo Forest Community is a dominant natural feature established along river, swamp, and lake habitats and is representative of unaltered pristine river systems;
  - (J) Grundy Forest. An area consisting of two hundred thirty-four (234) acres containing unique gorges with outstanding scenic views in Grundy County;
  - (K) Hampton Creek Cove. A six hundred ninety-three (693) acre site in the headwaters of Hampton Creek in Carter County, that supports several rare plants and animals for Tennessee and represents a key tract in the protection of the Roan Mountain Massif;
  - (L) House Mountain. An area of approximately five hundred twenty-seven (527) acres on the upper slopes and crest of the four thousand (4,000) acre mountain which is a unique synclinal outlier of Clinch Mountain, possessing a combination of scenic views, geological formations and bird and plant life, lying within a major metropolitan area and incorporating the southern terminus of the Trail of the Lonesome Pine, in Knox County. No land for the House Mountain scenic-recreational area shall be acquired by any governmental entity by use of its power of eminent domain;
  - (M) John Noel State Natural Area at Bon Aqua. An area of approximately thirty-five

- (35) acres in Hickman County protecting a small remnant mesic white oak forest community of “old growth” characteristics, including a variety of oak and hickory species of considerably larger diameter than those found in similar forest types elsewhere in Middle Tennessee. The forest is also significant because umbrella magnolia, a relatively uncommon species on the Western Highland Rim, is abundant in the understory;
- (N) Natural Bridge. A twenty-five-foot (25') natural rock bridge, consisting of approximately three (3) acres in Franklin County;
  - (O) Ozone Falls. A one-hundred-ten-foot (110') falls and scenic gorge area, consisting of approximately sixteen and five-tenths (16.5) acres in Cumberland County;
  - (P) Reelfoot Lake. A natural, earthquake-formed lake, consisting of approximately eighteen thousand (18,000) acres of land and water owned by the state of Tennessee and the United States in Lake and Obion counties;
  - (Q) Rugby. An area of approximately seven hundred sixty-two (762) acres in Morgan County located adjacent to Historic Rugby. This forested tract protects the watershed of Little Creek and has a rich spring flora;
  - (R) Shelby Farms Forest—Lucius E. Burch, Jr. Natural Area. An area of approximately seven hundred eighty-eight and thirty-three one-hundredths (788.33) acres located within Shelby Farms Forest Park in Shelby County. This coastal plain site includes areas of bottomland hardwood/bald cypress-tupelo forest and forested wetland communities along the northeasterly and northerly sides of the Wolf River and provides habitat for plant and animal species in need of conservation. The seven hundred eighty-eight and thirty-three one-hundredths (788.33) acre natural area includes two (2) separate forest areas: an approximately four hundred thirteen and seventy-five one-hundredths (413.75) acre bottomland hardwood/bald cypress-tupelo swamp forest north of Walnut Grove Road, and an approximately three hundred seventy-four and fifty-eight one-hundredths (374.58) acre mature bottomland hardwood/bald cypress forest south of Walnut Grove Road. Such description is more particularly described in a survey prepared by Dickinson & Bennett, Inc., for Shelby County Government on November 5, 2003;
  - (T) Short Springs. An area of approximately four hundred twenty (420) acres located within Coffee County. The area includes rich woods, forested ravines, low cascades, springs and waterfalls, one (1) of which is sixty feet (60') in height; in addition it contains a large diversity of wildflowers including two (2) state-listed endangered plant species (*Nestronia* and *Broad-leaved Bunchflower*). It is an excellent example of the forested slopes which are transitional between the Highland Rim and the Central Basin; and
  - (U) Stillhouse Hollow Falls. An area of approximately ninety (90) acres in Maury County containing a seventy-five-foot-high waterfall that cascades into a deep plunge pool at the base of a rock amphitheater. The surrounding hardwood forest includes an understory of oakleaf hydrangea and a rich display of spring flora, including the rare grass of Parnassus;
- (2) Class II—Natural-Scientific Areas
- (A) Auntney Hollow. An area of approximately twenty-seven (27) acres located in Lewis County that supports the federally listed plant, Tennessee yellow-eyed grass (*Xyris tennesseensis*). This Western Highland Rim site protects a significant population of this rare plant, which occurs here in a globally rare xyris seep community. The rare grass of Parnassas (*Parnassia grandifolia*) is a codominant plant species of the xyris seep community;
  - (B) Barnett's Woods. A forty (40) acre site located in Montgomery County which

- supports the federally threatened Price's potato bean;
- (C) Beaman Park. An area of approximately one thousand six hundred seventy-eight (1,678) acres located in Davidson County that protects a diversity of high quality forest communities, barrens, and rare plant species, including Eggert's sunflower, Michigan lily, lady's slipper orchids, shortleaf pine, and butternut trees. Its natural features include ridges, narrow moist hollows with steep slopes, springs, streams and waterfalls representative of Western Highland Rim topography;
  - (D) Bone Cave. A cave of extremely significant archaeological, historical, and scenic value consisting of approximately three hundred thirty-four (334) acres in Warren County;
  - (E) Campbell Bend Barrens. An area of approximately thirty-five (35) acres in Roane County containing an undisturbed example of a Ridge and Valley limestone barrens plant community with exposed limestone. It is comprised of native grasses, other barrens flora, and is surrounded by a mixed hardwood forest;
  - (F) Carroll Cabin Barrens. An area of approximately two hundred fifty (250) acres located in Decatur County. This West Tennessee Uplands site supports a rare glade/barrens community that occurs in association with outcrops of Silurian limestone formations. The Limestone Hill Barrens Community grassland is dominated by little bluestem (*Schizachyrium scoparium*) with rare plant species that include barrens silky aster (*Aster pratensis*), hairy fimbriatilis (*Fimbristylis puberula*), and slender blazing star (*Liatris cylindracea*);
  - (G) Cedars of Lebanon Natural Area. An area consisting of two thousand six hundred ninety (2,690) acres comprising the best examples of the Cedar Glade ecosystem in Tennessee and possibly the entire United States. It is located in Wilson County;
  - (H) Colditz Cove. An area of approximately one hundred sixty-five (165) acres in Fentress County containing the seventy-five foot (75') Northrup Falls and a scenic gorge with many interesting rock formations;
  - (I) Couchville Cedar Glade. A one hundred forty (140) acre site in Davidson County adjacent to Long Hunter State Park which supports the largest population of the globally-rare, federally endangered Tennessee coneflower. This site is considered to be one of the best barren and glade sites in Tennessee;
  - (J) Crowder Cemetery Barrens. An area of approximately fifteen (15) acres in Roane County containing a floristically rich example of a Ridge and Valley limestone barrens with several rare plant species, including the tall larkspur, slender blazing star, and white upland aster, as well as an outstanding display of prairie dock;
  - (K) Dry Branch. An area of approximately two thousand one hundred sixty-eight (2,168) acres located in Lewis County that protects one of the largest known populations of the rare plant, Tennessee yellow-eyed grass, as well as the rare seep communities where it grows. This western Highland Rim site also protects a number of other rare plant species, including small-headed rush and large-leaved grass of Parnassus;
  - (L) Duck River Complex. A complex of five (5) separate subunit natural areas totaling approximately two thousand six hundred twelve (2,612) acres within the twelve thousand (12,000) acre Duck River Wildlife Management Area in Maury County. Located in the Central Basin, these areas support rare species associated with globally rare cedar glades and barrens communities, including the federally listed leafy prairie-clover (*Dalea foliosa*). The areas support diverse forest community types, caves and other karst features, and scenic attributes associated with a segment of the Duck Scenic River that flows through this public land;
  - (M) Elsie Quarterman Cedar Glade. An area of approximately one hundred eighty-five (185) acres in Rutherford County that includes a large expanse of cedar



- glades and barrens supporting a population of the federally endangered Tennessee coneflower (*Echinacea tennesseensis*), and numerous other cedar glade endemic plants and natural communities;
- (N) Fall Creek Falls State Park. An isolated and rugged portion of the Cumberland Plateau in Van Buren and Bledsoe counties containing sixteen thousand one hundred eighty-one (16,181) acres of the twenty-five thousand four hundred seventeen (25,417) acre state park;
  - (O) Fate Sanders Barrens. An area of approximately two hundred thirty (230) acres located in Rutherford County that includes barrens with small glades interspersed among cedar-hardwood forest. The barrens of this Central Basin site are dominated by native warm season grasses, while the glades support state-listed rare and endemic plant species;
  - (P) Flat Rock Cedar Glades and Barrens. An area approximately eight hundred forty-six (846) acres in Rutherford County that includes a large expanse of cedar glades and barrens supporting populations of the federally and state endangered Pyne's Ground-Plum (*Astragalus bibullatus*) and Leafy Prairie-Clover (*Dalea foliosa*), as well as numerous other rare and endemic species of plants. This biologically rich site is within the Central Basin Physiographic Province and represents one of the largest and most ecologically diverse glade/barren complexes in the Central Basin;
  - (Q) Frozen Head State Natural Area. An area of approximately six thousand five hundred thirty (6,530) acres within the twenty-two thousand eight hundred (22,800) acre Frozen Head State Park located in Morgan County and within the Cumberland Plateau Physiographic Province. The entire area possesses deep hollows and valleys that represent numerous forest types with mixed mesophytic forest being the most prevalent. It contains significant mature forests and rare plants and is one of the least disturbed areas within the Cumberland Mountains;
  - (R) Gattinger's Cedar Glade and Barrens. An area of approximately fifty-seven (57) acres located in Rutherford and Wilson counties. This Central Basin site supports one of the largest known populations of the rare Tennessee coneflower, as well as numerous other rare and endemic cedar glade plants. It is a pristine limestone cedar glade-barrens complex;
  - (S) Hawkins Cove. A two hundred forty-nine (249) acre site in Franklin County which supports a population of the Cumberland rosinweed, a rare plant for Tennessee;
  - (T) Hicks Gap. An area of approximately three hundred fifty (350) acres located within Prentice Cooper State Forest in Marion County. The area includes a forested slope in the scenic Tennessee River Gorge containing a large population of a federally endangered plant species known as *Scutellaria montana* (large-flowered skullcap);
  - (U) Hill Forest. An area of approximately two hundred twenty-five (225) acres in Davidson County protecting a western mesophytic forest community with "old growth" characteristics located in Metropolitan Nashville. The forest has a high diversity of exceptionally large diameter tree species including oaks, hickories, and tulip poplars and is an exemplary remnant forest within an urban setting;
  - (V) Honey Creek. A wooded area near the Big South Fork River Gorge that includes rock houses, scenic streams, and a waterfall. The area is located in Scott County, and consists of one hundred nine (109) acres;
  - (W) Hubbard's Cave. A fifty (50) acre site located in Warren County. More than two hundred fifty thousand (250,000) federally endangered gray and Indiana bats, more than all other known Tennessee caves combined, hibernate in the cave;
  - (X) John and Hester Lane Cedar Glades. An area of approximately forty-five (45) acres located in Wilson County and within the Central Basin Physiographic

Province. This site consists of a complex of pristine limestone cedar glades and mixed cedar-hardwood forests, and protects one of the largest known populations of the rare and endemic federal and state listed Tennessee coneflower, as well as a population of the state and federal listed leafy prairie-clover. This ecologically significant site also protects numerous other species of rare cedar glade flora;

- (Y) Langford Branch. An area of approximately twenty-three (23) acres in Lewis County that supports the federally listed Tennessee yellow-eyed grass (*Xyris tennesseensis*). Tennessee yellow-eyed grass occurs in an ecologically significant small calcareous seep community with other rare plants that include grass of parnassus (*Parnassia grandifolia*) and short-headed rush (*Juncus brachycephalus*). The seep is nested within an oak-hickory forest with grassland barrens species occurring on steep slopes;
- (Z) Laurel Snow. A wooded area with three (3) flowing streams, two (2) scenic waterfalls, gorges, and a small stand of virgin timber consisting of two thousand two hundred fifty-nine (2,259) acres in Rhea County;
- (AA) Lost Creek. An area of approximately two hundred eleven (211) acres located in White County with habitat for the federally endangered Indiana bat and seven (7) globally imperiled cave dwelling invertebrates, six (6) of which are endemic to Tennessee;
- (BB) Manus Road Cedar Glade. An area of approximately twenty-two (22) acres located in Rutherford County. This Central Basin site supports a high quality limestone cedar glade with rare and endemic cedar glade plants including the federally endangered Pyne's ground plum (*Astragalus bibullatus*) and the state listed *evolvulus* (*Evolvulus nuttallianus*) and Tennessee milk-vetch (*Astragalus tennesseensis*);
- (CC) May Prairie. A remnant of the prairie that once covered many acres in Middle Tennessee, consisting of approximately four hundred ninety-two (492) acres in Coffee County;
- (DD) Meeman-Shelby Forest. An area of approximately eleven thousand (11,000) acres located within Meeman-Shelby State Park in Shelby County. This area supports large unfragmented cypress dominated sloughs and bottomland hardwood forests that represent exemplary forest communities of the Mississippi Alluvial Plain in West Tennessee. It also supports significant unfragmented upland hardwood forests occurring along the Chickasaw Bluff;
- (EE) Montgomery Bell. This area is comprised of a southern tract of approximately seven hundred eighty-four (784) acres and a northern tract, referred to as Wildcat Ridge, of approximately three hundred two (302) acres of oak-hickory forests in Dickson County. These tracts are among the best known examples of representative oak-hickory forest ecosystems on the Western Highland Rim in Tennessee;
- (GG) Morrison Meadow. An area of approximately eighteen (18) acres in Warren County on the Eastern Highland Rim containing an excellent example of a once extensive wetland prairie/barrens complex and associated wet flatwoods. Dominated by native warm-season grasses, the native barrens at this site contain a high level of floristic diversity, including at least ten (10) state listed plant species and is regarded as one of the most significant botanical sites in the state;
- (HH) Mount View Glade. A nine (9) acre site located in Davidson County which supports an important colony of the globally-rare, federally-endangered Tennessee coneflower;
- (II) Mr. and Mrs. Harry Lee Carter Natural Area. An area of approximately nine

- hundred thirty-one (931) acres, located in Franklin County, also known as, and containing, Lost Cove Cave (Buggytop Caves);
- (JJ) North Chickamauga Creek Gorge. An area of approximately seven thousand ninety-three (7,093) acres located in Hamilton County that includes the rugged and steep gorge of North Chickamauga Creek. This area provides habitat for the state and federally endangered large-flowered skullcap (*Scutellaria montana*) and the state endangered and federally threatened Virginia spirea (*Spirea virginiana*), as well as numerous other rare species of plants. This Cumberland Plateau site includes a diversity of forest types from rich mixed mesophytic forest in the gorge to xeric oak-hickory-pine forest on the uplands;
- (KK) Old Forest. A forested area of approximately one hundred twenty-six (126) acres located in the eastern half of Overton Park in Shelby County. Overton Park was purchased in 1901 as the first city park in Memphis and is listed on the national register of historic places. The park's forest is comprised of upland old growth that has never been cleared or farmed despite its location in the center of a major urban area. The forest contains more than three hundred thirty (330) flowering plant species from eighty-five (85) plant families, including eleven (11) species of oak trees, eight (8) species of grapevines and a wide variety of native wildflowers. The forest is roughly bounded by the Memphis Zoo's perimeter and North Parkway on the north, East Parkway on the east, Poplar Avenue on the south, and Lick Creek on the west;
- (LL) Overbridge. An area of seventy (70) acres in Rutherford County which supports a pristine cedar glade community including a population of the federally endangered Pyne's Ground Plum and six (6) state listed plants;
- (MM) Piney Falls. Two (2) small waterfalls along with a scenic gorge that includes pockets of virgin timber, consisting of approximately eight hundred eighteen (818) acres in Rhea County;
- (NN) Pogue Creek. An area of approximately three thousand (3,000) acres in Fentress County located adjacent to Pickett State Forest and containing scenic gorges with numerous cliffs, sandstone arches, waterfalls, and rock houses, as well as rich forest communities. It also protects populations of rare species including Cumberland sandwort and Lucy Braun's snakeroot;
- (OO) Powell River Preserve. A twenty-nine (29) acre site located in Claiborne County which supports the state's largest population of large-leaved grass of *Parnassus* and showy ladyslipper;
- (PP) Radnor Lake. A one thousand three hundred sixty-seven (1,367) acre area in Davidson County, containing a seventy (70) acre lake, marshes, streams, and wooded hills;
- (QQ) Riverwoods Natural Area. An area of approximately twenty-one (21) acres, located in Shelby County;
- (RR) Roundtop Mountain. An area bordering for one (1) mile on the Great Smoky Mountains National Park and containing an ecosystem very similar to the relatively untouched Appalachian Uplands of the national park. The area is located in Sevier County;
- (SS) Savage Gulf. A mixed-mesophytic, semi-virgin forest, consisting of approximately fifteen thousand five hundred ninety (15,590) acres in Grundy County;
- (TT) Sequatchie Cave. An area of approximately one hundred thirty-three (133) acres located where Owen Spring Branch flows from the mouth of the cave at Sequatchie Cave Park in Marion County. The cave and its cool spring water support the federally listed royal snail (*Pyrgulopsis ogmophaphe*) and numerous other rare faunal species. This is also the type locality of a rare

- cadisfly (*Glyphopsyche sequatchie*);
- (UU) Sherwood Forest. An area of approximately three thousand seventy-five (3,075) acres located in Franklin County that protects the federally endangered Morefield's leather-flower (*Clematis morefieldii*) and the federally threatened painted snake coiled forest snail (*Anguispira picta*). In addition, this natural area protects five (5) state-listed species, including three (3) plant and two (2) animal species;
- (WW) Stinging Fork Falls. A gorge lying in and along Stinging Fork Creek that includes waterfalls and scenic overlooks. The area consists of seven hundred seventy-six (776) acres and is located in Rhea County;
- (XX) Stones River Cedar Glade and Barrens. An area of approximately one hundred and eighty-five (185) acres located within Stones River National Battlefield in Rutherford County. This Central Basin site includes rare limestone cedar glades and barrens communities, and is a recovery site for the rare Tennessee coneflower and Pyne's ground-plum. This site also supports numerous other rare and endemic cedar glade plants;
- (YY) Sunk Lake. An area containing a series of open lakes and swamp forest, and consisting of approximately one thousand eight hundred seventy-three (1,873) acres in Lauderdale County;
- (ZZ) Sunnybell Cedar Glade. A thirty-six (36) acre site in Rutherford County which supports a large population of rare yellow sunnybells and six (6) other rare plants;
- (AAA) Taylor Hollow. A one hundred sixty-two (162) acre remnant old growth forest in Sumner County which supports the rare blue-eyed Mary and dwarf trillium;
- (BBB) Twin Arches. An area of approximately one thousand five hundred (1,500) acres containing two (2) fifty foot (50') high natural bridge arches located in Pickett County;
- (CCC) Vesta Cedar Glade. A one hundred fifty (150) acre cedar glade in Wilson County, which supports one of only five (5) known populations of the endangered Tennessee coneflower plus other rare cedar glade plants;
- (DDD) Vine Cedar Glade. An area of approximately thirty five (35) acres in Wilson County that includes rare cedar glades and barrens communities and supports a population of the federally endangered Tennessee coneflower (*Echinacea tennesseensis*) as well as numerous other species of rare cedar glade plants. This area is located in the Central Basin physiographic province of middle Tennessee;
- (EEE) Virgin Falls. A wooded area consisting of one thousand one hundred thirty-three (1,133) acres and containing the unusual Virgin Falls, sinkholes, caves, and portions of the Caney Fork River located in White County;
- (FFF) Walker Branch Dragonfly and Damselfly Preserve. This is approximately five hundred twenty (520) acres in Hardin County near the Tennessee River. This site has forested wetland communities including Tupelo gum (*Nyssa aquatica*) and Bald cypress (*Taxodium distichum*) with surrounding floodplain and upland forest community types. There are upland seeps, which combined with these many other forest communities, provide unique habitat for more than thirty-seven (37) species of dragonflies and damselflies;
- (GGG) Walls of Jericho. An area of approximately seven hundred fifty (750) acres in Franklin County located within the Bear Hollow Wildlife Management Area. This forested property contains a gorge known as the Walls of Jericho, a large, bowl-shaped natural amphitheater with interesting and unusual rock formations carved by Turkey Creek. In addition to its natural beauty, this property protects a diverse array of plant and animal species, including the rare limerock

- arrowwood;
- (HHH) Walnut Knob. An area of approximately eighteen (18) acres located in Smith County that protects a population of the federally endangered Braun's rockcress (*Boechera perstellata*). A mesic forest with large limestone outcrops, in addition to a dry oak forest, provides habitat for the rockcress;
  - (III) Walterhill Floodplain. A thirty-four (34) acre area located along the Stones River in Rutherford County, and supporting one of the world's largest populations of the Stones River bladderpod, one of Tennessee's rarest plants;
  - (JJJ) Washmorgan Hollow. A seventy-three (73) acre site in Jackson County which supports a rare mint population and is a significant neotropical bird habitat;
  - (KKK) Watauga River Bluffs. An area of approximately fifty (50) acres located along the Watauga River in Carter County that includes a mixture of calcareous riverine bluffs and mixed oak/hemlock forest. This site supports a population of the rare Carolina pink (*Silene caroliniana*), and one of the best examples of a rock chestnut oak-eastern red cedar forest in the Ridge and Valley physiographic province;
  - (LLL) William B. Clark Conservation Area. An area of approximately four hundred twenty-eight (428) acres located in Fayette County that supports high quality bottomland hardwood and forested wetland communities occurring along scenic meanders of the Wolf River. Located in the Coastal Plain physiographic province of west Tennessee, this site contains unaltered river channels and forested flood plains featuring high quality Bald Cypress-Water Tupelo forest communities, and provides habitat for numerous species of plants and animals in need of conservation;
  - (MMM) William L. Davenport Refuge. An area of approximately one hundred twenty (120) acres in Polk County that includes a southern Appalachian bog community. This plant community is considered globally rare. It is characterized by an open canopy and is covered by a mat of large cranberry (*Vaccinium macrocarpon*) interspersed with tawny cotton-grass (*Eriophorum virginicum*), and alder (*Alder serrulata*) at the bog's edge;
  - (NNN) Wilson School Road forest and cedar glades. A predominately forested area of approximately fifty-eight (58) acres in Marshall County in the Central Basin containing small limestone cedar glades and karst topography with wet weather conveyances, and dry woodlands containing eastern red cedar and blue ash trees. There are three (3) rare plant species known on this site, including the globally rare running glade clover (*Trifolium calcaricum*), Carolina anemone (*Anemone caroliniana*), and Tennessee glade cress (*Leavenworthia exigua* var. *exigua*); and
  - (OOO) Window Cliffs. An area of approximately two hundred seventy-five (275) acres located in Putnam County with mesas, limestone arches, panoramic vistas, habitat for three (3) state-listed plants, a scenic waterfall, and a portion of Cane Creek.

**§ 12-2-201 Sale authorized – sales to governmental entities – duties of the chief procurement officer.**

- (a) The chief procurement officer is hereby authorized to dispose of at public sale, or to a governmental entity in accordance with the requirements of § 12-2-407, all motor vehicles and intoxicating beverages which have been seized and confiscated by any duly authorized agent, employee, or representative of certain departments and agencies of this state; to wit, the alcoholic beverage commission, department of safety, and wildlife resources agency, including any such seizure and confiscation made by any sheriff, deputy sheriff or constable of any county, when any such motor vehicle or

intoxicating beverage shall have been used, owned or possessed in violation of any of this state, relating to intoxicating liquors, or shall have been used, owned or possessed in violation of any of the laws relating to narcotics and contraband drugs, or when the same shall have been used, owned, or possessed in violation of certain game and fish laws, the intoxicating liquor laws being chapter 49 of the Public Acts of 1939, as amended, and compiled in title 57, chapter 3, parts 1-4, as well as chapter 119 of the Public Acts of 1941, as amended, compiled in title 57, chapter 9, part 2, and chapter 50 of Public Acts of 1919, as amended by § 57-9-115, the narcotic and contraband drug laws being chapter 83 of the Public Acts of 1955, as amended, compiled in §§ 53-11-201, 53-11-203 and 53-11-204, and the game and fish laws being chapter 115 of the Public Acts of 1951, as amended, compiled in § 70-6-202.

(b)

- (1) Notwithstanding any provision of the law or this chapter to the contrary, in the sale of motor vehicles to governmental entities in accordance with § 12-2-407, it is the duty of the chief procurement officer to:
  - (A) Determine the place of storage and the location of the sale of such motor vehicles;
  - (B) Determine, in lieu of § 12-2-205, the fair market value of such vehicles to be sold;
  - (C) Set the percentage of the sale price to be retained by the procurement office to defray the costs of administering the sale and such percentage may exceed the amount provided in § 12-2-207(a);
  - (D)
    - (i) Enter notice of the intended disposal by public sale in at least one (1) newspaper of general circulation in the county or counties in which the disposal is to be made;
    - (ii) Include in such advertisement the manner in which interested parties can obtain information regarding the make, model, condition and options which may be on a vehicle; and
    - (iii) Post printed public notices in at least two (2) public places in the county in which the vehicle was seized and confiscated, with one (1) of the public places to be the courthouse; and
  - (E) Promulgate rules and regulations for the implementation of this section.
- (2) For such sales, § 12-2-202(b) does not apply. Notwithstanding any law or § 12-2-208 to the contrary, any state, city or county officer, employee or such person's agent may buy or offer to buy motor vehicles when such purchase is in the name of and for the use of a governmental entity.

#### **§ 12-2-410 Disposal procedures**

All disposals of surplus state personal property shall be conducted by the department of general services, in accordance with this part and applicable regulations of the procurement commission. The procurement commission may, however, in its discretion, designate the department having jurisdiction over the producing facility as the agent for disposal in the case of surplus agricultural products or livestock; provided, that such disposal is made in accordance with the other provisions of this part and the applicable regulations of the procurement commission.

#### **§ 12-4-702 Prompt Pay Act of 1985 – Definitions [See Full Statute - Applicable to Contracts between State Agencies and Contractors] [Relevant Part]**

As used in this part, unless the context otherwise requires:

...

- (1) "Property" means anything of value, including, but not limited to, real estate,

tangible and intangible personal property, contract rights, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, electric or other power and signatures which purport to create, maintain or extinguish any legal obligation; [Note that this definition of property is only applicable to sections within the Prompt Pay Act of 1985, which requires that state agencies pay contractors in accordance to their contract]

#### **§ 29-34-209 Immunity for forcible entry of a motor vehicle to remove minor or animal**

- (a) A person whose conduct conforms to the requirements of subsection (b) shall be immune from civil liability for any damage resulting from the forcible entry of a motor vehicle for the purpose of removing a minor or an animal from the vehicle.
- (b) Subsection (a) applies if the person:
  - (1) Determines the vehicle is locked or there is otherwise no reasonable method for the minor or animal to exit the vehicle;
  - (2) Has a good faith belief that forcible entry into the vehicle is necessary because the minor or animal is in imminent danger of suffering harm if not immediately removed from the vehicle and, based upon the circumstances known to the person at the time, the belief is a reasonable one;
  - (3) Has contacted either the local law enforcement agency, the fire department, or a 911 operator prior to forcibly entering the vehicle;
  - (4) Places a notice on the vehicle's windshield with the person's contact information, the reason the entry was made, the location of the minor or animal, and the fact that the authorities have been notified;
  - (5) Remains with the minor or animal in a safe location, out of the elements but reasonably close to the vehicle, until law enforcement, fire, or another emergency responder arrives; and
  - (6) Used no more force to enter the vehicle and remove the child or animal from the vehicle than was necessary under the circumstances.
- (c) Nothing in this section shall affect the person's civil liability if the person attempts to render aid to the minor or animal in addition to what is authorized by this section.

#### **§ 35-6-403 Business and other activities conducted by trustee**

- (a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.
- (b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.
- (c) Activities for which a trustee may maintain separate accounting records include:
  - (1) Retail, manufacturing, service, and other traditional business activities;
  - (2) Farming;
  - (3) Raising and selling livestock and other animals;
  - (4) Management of rental properties;

- (5) Extraction of minerals and other natural resources;
- (6) Timber operations; and
- (7) Activities to which § 35-6-414 applies.

#### **§ 35-15-408 Trust for care of animal**

- (a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one (1) animal alive during the settlor's lifetime, upon the death of the last surviving animal. The trust may not be enforced for more than ninety (90) years.
- (b) A trust authorized by this section may be enforced by any of the following who are appointed under the terms of a trust: a trustee, trust advisor, trust protector or other person or, if no person is so appointed, by a person appointed by the court. In addition, a person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.
- (c) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

#### **§ 36-3-601 Domestic Abuse - definitions**

As used in this part, unless the context otherwise requires:

- (1) "Abuse" means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;
- (2) "Adult" means any person eighteen (18) years of age or older, or who is otherwise emancipated;
- (3)
  - (A) "Court," in counties having a population of not less than two hundred sixty thousand (260,000) nor more than eight hundred thousand (800,000), according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;
  - (B) Notwithstanding subdivision (3)(A), "court," in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;
  - (C) "Court," in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;
  - (D) "Court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available;
  - (E) In counties having a population in excess of eight hundred thousand (800,000),



according to the 1990 federal census or any subsequent federal census, “court” means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, “court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

- (F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (3) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo;
- (4) “Domestic abuse” means committing abuse against a victim, as defined in subdivision (5);
- (5) “Domestic abuse victim” means any person who falls within the following categories:
  - (A) Adults or minors who are current or former spouses;
  - (B) Adults or minors who live together or who have lived together;
  - (C) Adults or minors who are dating or who have dated or who have or had a sexual relationship. As used herein, “dating” and “dated” do not include fraternization between two (2) individuals in a business or social context;
  - (D) Adults or minors related by blood or adoption;
  - (E) Adults or minors who are related or were formerly related by marriage; or
  - (F) Adult or minor children of a person in a relationship that is described in subdivisions (5)(A)-(E);
- (6) “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;
- (7) “Petitioner” means the person alleging domestic abuse, sexual assault or stalking in a petition for an order for protection;
- (8) “Preferred response” means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;
- (9) “Respondent” means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;
- (10) “Sexual assault victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of any form of rape, as defined in § 39-13-502, § 39-13-503, § 39-13-506 or § 39-13-522, or sexual battery, as defined in § 39-13-504, § 39-13-505, or § 39-13-527;
- (11) “Stalking victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315; and
- (12) “Weapon” means a firearm or a device listed in § 39-17-1302(a)(1)-(7).

### **§ 36-3-606 Scope of protection order**

- (a) A protection order granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault may include, but is not limited to:
  - (1) Directing the respondent to refrain from committing domestic abuse, stalking or sexual assault or threatening to commit domestic abuse, stalking or sexual assault against the petitioner or the petitioner's minor children;
  - (2) Prohibiting the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;
  - (3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;

- (4) Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;
  - (5) Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;
  - (6) Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties;
  - (7) Awarding financial support to the petitioner and such persons as the respondent has a duty to support. Except in cases of paternity, the court shall not have the authority to order financial support unless the petitioner and respondent are legally married. Such order may be enforced pursuant to chapter 5 of this title;
  - (8) Directing the respondent to attend available counseling programs that address violence and control issues or substance abuse problems. A violation of a protection order or part of such order that directs counseling pursuant to this subdivision (a)(8) may be punished as criminal or civil contempt. Section § 36-3-610(a) applies with respect to a non-lawyer general sessions judge who holds a person in criminal contempt for violating this subdivision (a)(8); or
  - (9) Directing the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor residing in the household. In no instance shall the animal be placed in the care, custody, or control of the respondent, but shall instead be placed in the care, custody or control of the petitioner or in an appropriate animal foster situation.
  - (10) Directing the respondent to immediately and temporarily vacate a residence shared with the petitioner, pending a hearing on the matter, notwithstanding any provision of this part to the contrary;
  - (11) Directing the respondent to pay the petitioner all costs, expenses and fees pertaining to the petitioner's breach of a lease or rental agreement for residential property if the petitioner is a party to the lease or rental agreement and if the court finds that continuing to reside in the rented or leased premises may jeopardize the life, health and safety of the petitioner or the petitioner's children. Nothing in this subdivision (a)(11) shall be construed as altering the terms of, liability for, or parties to such lease or rental agreement.
  - (12) Ordering a wireless service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to a petitioner pursuant to § 36-3-621.
- (b) Relief granted pursuant to subdivisions (a)(4)-(8) shall be ordered only after the petitioner and respondent have been given an opportunity to be heard by the court.
  - (c) Any order of protection issued under this part shall include the statement of the maximum penalty that may be imposed pursuant to § 36-3-610 for violating such order.
  - (d) No order of protection made under this part shall in any manner affect title to any real property.
  - (e) An order of protection issued pursuant to this part shall be valid and enforceable in any county of this state.
  - (f) An order of protection issued pursuant to this part that fully complies with 18 U.S.C. § 922(g)(8) shall contain the disclosures set out in § 36-3-625(a).

### **§ 36-5-713 Noncompliance with support order to affect ability to hold licenses**

- (a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued under the provisions of titles 43, 44, 45, 55, 56, 62, 63, 68, 70 or 71, for an individual to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to

operate any motor vehicle or other conveyance, applicants for licensure, certification or registration, and licensees renewing their licenses, and existing licensees, must not then be subject to a certification that the licensee is not in compliance with an order of support.

- (b) The supreme court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of §§ 36-5-701 -- 36-5-707.

**§ 36-6-511 Qualifications for licensure or registration; eligibility**

- (a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued under the provisions of titles 43, 44, 45, 56, 62, 63, 68, 70 or 71, for an individual to engage in a profession, trade, occupation, business, or industry, or to hunt or fish, applicants for licensure, certification or registration, and licensees renewing their licenses, and existing licensees, must not then be subject to a certification that the licensee is not in compliance with an order of visitation.
- (b) The supreme court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with an order of visitation.

**§ 37-1-702 Animal cruelty cases can be heard in teen court; procedure [relevant portion]**

...

- (c) In choosing cases to be referred to the teen court for disposition, the juvenile court shall determine that:

- (1) The offense or attempted underlying the juvenile petition was one (1) of the following:

...

(F) Cruelty to animals, § 39-14-202;

- (d)

- (1) A teen court has the authority to conduct proceedings and to receive evidence and hear testimony related to the dispositional stage. The teen court shall consist of five (5) teen members chosen by the juvenile court as set out in § 37-1-704. The teen members shall choose a presiding officer who shall conduct the proceeding under the supervision of the juvenile court judge. After hearing all evidence and testimony, the teen court shall retire to deliberate and a written decision shall be written by the presiding officer.
- (2) The written decision shall be transmitted to the juvenile court judge as a recommendation, together with all papers relating to the case. The written recommendation will specify a proposed disposition together with reasons therefor.
- (3) Upon receipt of the recommendation, the judge shall review it, along with all papers relating to the case. The judge may accept, modify or reject the recommendation. If the judge accepts the recommendation as presented or modified, the judge shall confirm it by order. If the judge rejects the recommendation, the judge shall permit any additional hearing as may be necessary and shall enter an order as necessary.
- (4) The juvenile court shall dismiss the petition or charges at the conclusion of the deferral period if the court determines that the teen has successfully completed the teen court program. If the teen fails to successfully complete the prescribed program, or if a new delinquent or unruly petition is filed against the teen during the deferral period, the petition under which the teen court disposition was ordered may be reinstated and the case may proceed as if the teen court disposition had never been entered.

### **§ 38-1-401 Cross reporting of animal cruelty - definitions**

As used in this part, unless the context otherwise requires:

- (1) "Animal" means a domesticated living creature or a wild creature previously captured;
- (2) "Cruelty," "abuse," and "neglect" mean every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted;
- (3) "Owner" means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. "Owner" includes corporations as well as individuals; and
- (4) "Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts, that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect animal cruelty, abuse, or neglect.

### **§ 38-1-402 Duty to report/cross report cruelty, abuse or neglect -- No duty to investigate -- Confidentiality**

- (a) Any state, county or municipal employee of a child or adult protective services agency, while acting in a professional capacity or within the scope of employment, who has knowledge of or observes an animal that the person knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, shall report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.
- (b) The report required under subsection (a) may be made within two (2) working days of receiving the information concerning the animal, by facsimile transmission of a written report presented in the form described in § 38-1-403, or by telephone, if all of the information that is required to be provided pursuant to § 38-1-403 is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.
- (c) Unless a duty exists under current law, nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.
- (d) Nothing in this part shall expand or limit confidentiality requirements under existing law relative to child or adult protective services. The name of any employee of a child or adult protective services agency who reports known or reasonably suspected animal cruelty, abuse or neglect shall remain confidential.

### **§ 38-1-403 How to report/cross report cruelty, abuse or neglect -- No impact on accepted hunting, fishing, livestock and veterinarian practices**

- (a) If not made by telephone, reports made pursuant to § 38-1-402 (a) may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county, that includes the definitions contained in § 38-1-401 and a space for the reporter to include each of the following:
  - (1) The reporter's name and title;
  - (2) The reporter's business address and telephone number;
  - (3) The name, if known, of the animal's owner or custodian;
  - (4) The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place;
  - (5) A description of the location of the animal and the premises;
  - (6) The type and numbers of animals involved;
  - (7) A description of the animal and its condition; and
  - (8) The date, time, and a description of the observation or incident that led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter

believes may be relevant.

- (b) Any employee making a report or telephone call pursuant to this part shall make all reasonable efforts to include the information delineated in subsection (a). Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.
- (c) When two (2) or more employees of a state, county or municipal child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, by mutual agreement, a report may be made by one (1) person. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.
- (d)
  - (1) Nothing in this part shall be construed as prohibiting legal hunting and fishing activities.
  - (2) Nothing in this part shall be construed as prohibiting the owner of livestock as defined in § 43-1-114(b), or someone acting with consent of the owner of livestock, from engaging in usual and customary practices that are accepted by colleges of agriculture or veterinary medicine with respect to livestock, nor shall this part be construed as requiring the reporting of those practices.
  - (3) Nothing in this part shall be construed to apply to a veterinarian or veterinary technician engaged in accepted veterinary practices.

#### **§ 38-6-108 Use of dogs to detect marijuana**

The Tennessee bureau of investigation is authorized to utilize dogs trained to detect marijuana and other illicit substances in its work, as may be desirable and appropriate.

#### **§ 39-11-106 Criminal offenses - definitions**

(a) As used in this title, unless the context requires otherwise:

- (1) "Antique firearm" means:
  - (A) Any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before the year 1898;
  - (B) Any replica of any firearm described in subdivision (a)(1)(A) if such replica:
    - (i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
    - (ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
  - (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition;
- (2) "Benefit" means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;
- (3) "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;
- (4) "Coercion" means a threat, however communicated, to:
  - (A) Commit any offense;
  - (B) Wrongfully accuse any person of any offense;
  - (C) Expose any person to hatred, contempt or ridicule;
  - (D) Harm the credit or business repute of any person; or
  - (E) Take or withhold action as a public servant or cause a public servant to take or

- withhold action;
- (5) "Criminal negligence" refers to a person who acts with criminal negligence with respect to the circumstances surrounding that person's conduct or the result of that conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;
  - (6) "Deadly weapon" means:
    - (A) A firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury; or
    - (B) Anything that in the manner of its use or intended use is capable of causing death or serious bodily injury;
  - (7)
    - (A) "Deception" means that a person knowingly:
      - (i) Creates or reinforces a false impression by words or conduct, including false impressions of fact, law, value or intention or other state of mind that the person does not believe to be true;
      - (ii) Prevents another from acquiring information which would likely affect the other's judgment in the transaction;
      - (iii) Fails to correct a false impression of law or fact the person knows to be false and:
        - (a) The person created; or
        - (b) Knows is likely to influence another;
      - (iv) Fails to disclose a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the impediment is or is not valid, or is or is not a matter of public record;
      - (v) Employs any other scheme to defraud; or
      - (vi)
        - (a) Promises performance that at the time the person knew the person did not have the ability to perform or that the person does not intend to perform or knows will not be performed, except mere failure to perform is insufficient to establish that the person did not intend to perform or knew the promise would not be performed;
        - (b) Promising performance includes issuing a check or similar sight order for the payment of money or use of a credit or debit card when the person knows the check, sight order, or credit or debit slip will not be honored for any reason;
    - (B) "Deception" does not include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed;
  - (8) "Defendant" means a person accused of an offense under this title and includes any person who aids or abets the commission of such offense;
  - (9) "Deprive" means to:
    - (A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;
    - (B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or
    - (C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;
  - (10) "Destructive device":
    - (A) Means:

- (i) Any explosive, incendiary, or poison gas:
  - (a) Bomb;
  - (b) Grenade;
  - (c) Rocket having a propellant charge of more than four ounces (4 oz.);
  - (d) Missile having an explosive or incendiary charge of more than one-quarter ounce (0.25 oz.);
  - (e) Mine; or
  - (f) Device similar to any of the devices described in subdivisions (a)(10)(A)(i)(a)-(e); and
- (ii) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subdivision (a)(10)(A)(i) and from which a destructive device may be readily assembled; and
- (B) Does not include:
  - (i) Any device that is neither designed nor redesigned for use as a weapon;
  - (ii) Any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device;
  - (iii) Surplus ordnance sold, loaned, or given by the secretary of the Army pursuant to 10 U.S.C. § 7684(2), 10 U.S.C. § 7685, or 10 U.S.C. § 7686;
  - (iv) Any antique or rifle which the owner intends to use solely for sporting purposes; or
  - (v) Any other device that is not likely to be used as a weapon;
- (11) "Effective consent" means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:
  - (A) Induced by deception or coercion;
  - (B) Given by a person the defendant knows is not authorized to act as an agent;
  - (C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or
  - (D) Given solely to detect the commission of an offense;
- (12) "Emancipated minor" means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor's parents;
- (13) "Firearm":
  - (A) Means:
    - (i) Any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
    - (ii) The frame or receiver of any such weapon;
    - (iii) Any firearm muffler or firearm silencer; or
    - (iv) Any destructive device; and
  - (B) Does not include an antique firearm;
- (14) "Force" means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;
- (15) "Fraud" means as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;
- (16) "Government" means the state or any political subdivision of the state, and includes any branch or agency of the state, a county, municipality or other political subdivision;
- (17) "Governmental record" means anything:
  - (A) Belonging to, received or kept by the government for information; or
  - (B) Required by law to be kept by others for information of the government;

- (18) "Grave sexual abuse" means:
- (A) Aggravated rape, pursuant to § 39-13-502;
  - (B) Rape, pursuant to § 39-13-503;
  - (C) Rape of a child, pursuant to § 39-13-522; or
  - (D) Aggravated rape of a child, pursuant to § 39-13-531;
- (19) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1) hand;
- (20) "Harm" means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;
- (21) "Intentional" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result;
- (22) "Jail" includes workhouse and "workhouse" includes jail, whenever the context so requires or will permit;
- (23) "Knowing" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result;
- (24) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:
- (A) Maintain public order; or
  - (B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and
  - (C) Investigate the commission or suspected commission of offenses;
- (25) "Legal privilege" means a particular or peculiar benefit or advantage created by law;
- (26) "Minor" means any person under eighteen (18) years of age;
- (27)
- (A) "Obtain" means to:
    - (i) Bring about a transfer or purported transfer of property or of a legally recognized interest in the property, whether to the defendant or another; or
    - (ii) Secure the performance of service;
  - (B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;
- (28) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;
- (29) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;
- (30) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;
- (31) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from



- land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water, cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;
- (32) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;
- (33) "Public servant" means:
- (A) Any public officer or employee of the state or of any political subdivision of the state or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;
  - (B) Any person exercising the functions of any such public officer or employee;
  - (C) Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or jurors; or
  - (D) Any person elected, appointed or designated to become a public servant, although not yet occupying that position;
- (34) "Reckless" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;
- (35)
- (A) "Recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored;
  - (B) "Recorded device" includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;
- (36) "Security guard/officer" means an individual employed to perform any function of a security guard/officer and security guard/officer patrol service as set forth in the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35;
- (37) "Serious bodily injury" means bodily injury that involves:
- (A) A substantial risk of death;
  - (B) Protracted unconsciousness;
  - (C) Extreme physical pain;
  - (D) Protracted or obvious disfigurement;
  - (E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or
  - (F) A broken bone of a child who is eight (8) years of age or less;
- (38) "Services" includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television, entertainment subscription service or other public services, accommodations in hotels, restaurants or

elsewhere, admissions to exhibitions, use of vehicles or other movable property, and any other activity or product considered in the ordinary course of business to be a service, regardless of whether it is listed in this subdivision (a)(37) or a specific statute exists covering the same or similar conduct; and

(39) "Value":

(A) Subject to the additional criteria of subdivisions (a)(38)(B)-(D), "value" under this title means:

- (i) The fair market value of the property or service at the time and place of the offense; or
- (ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;

(B) The value of documents, other than those having a readily ascertainable fair market value, means:

- (i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or
- (ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;

(C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(38)(A) and (B), the property or service is deemed to have a value of less than fifty dollars (\$50.00);

(D) If the defendant gave consideration for or had a legal interest in the property or service that is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(38)(A), (B) or (C) to determine value; and

(E) For a violation of § 39-14-408(b)(1), the value of the property includes the fair market value of repairing, cleaning, and restoring the property.

(b) The definition of a term in subsection (a) applies to each grammatical variation of the term.

### **§ 39-11-616 Use of device to protect property**

(a) The justification afforded by §§ 39-11-614 and 39-11-615 extends to the use of a device for the purpose of protecting property, only if:

- (1) The device is not designed to cause or known to create a substantial risk of causing death or serious bodily harm;
- (2) The use of the particular device to protect the property from entry or trespass is reasonable under the circumstances as the person believes them to be; and
- (3) The device is one customarily used for such a purpose, or reasonable care is taken to make known to probable intruders the fact that it is used.

(b) Nothing in this section shall affect the law regarding the use of animals to protect property or persons

### **§ 39-13-804 Intentional release of dangerous chemical or hazardous material with intent of causing harm**

(a) The intentional release of a dangerous chemical or hazardous material utilized in a lawful industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes those agents with intent and for the purpose of causing harm to persons either directly or indirectly through harm to animals or the environment. The release of dangerous chemicals or hazardous materials for any purpose shall remain subject to regulation under federal and state environmental laws.

(b) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural,

commercial, or private purposes, such as gasoline used to power engines or propane used for heating or cooking, is not proscribed by this part.

- (c) No university, research institution, private company, individual, hospital, or other health care facility shall be subject to this part for actions taken in furtherance of objectives undertaken for a lawful purpose; provided, that such actions are taken in connection with scientific or public health research or are necessary for therapeutic or clinical purposes, and, as required, are licensed or registered with the centers for disease control and prevention pursuant to the Code of Federal Regulations (CFR) or other applicable authorities.

### **§ 39-14-103 Theft of property**

- (a) A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.
- (b)
- (1) As a condition of pretrial diversion, judicial diversion, probation or parole for a violation of subsection (a) when the violation occurs as set out in subdivision (b)(2), the person may be required to perform debris removal, clean-up, restoration, or other necessary physical labor at a location within the area affected by the disaster or emergency that is in the county where the offense occurred.
  - (2) The condition of pretrial diversion, judicial diversion, probation or parole containing the requirement set out in subdivision (b)(1) may be used if the violation of subsection (a) occurs:
    - (A) During or within thirty (30) days following the occurrence of a tornado, flood, fire, or other disaster or emergency, as defined in § 58-2-101;
    - (B) Within the area affected by the disaster or emergency; and
    - (C) When, as a result of the disaster or emergency, the owner of the property taken, or the person charged with custody of the property, is unable to adequately guard, secure or protect the property from theft.
  - (3) Subdivision (b)(2) shall apply regardless of whether a state of emergency has been declared by a county, the governor, or the president of the United States at the time of or subsequent to the theft.
  - (4) Any period of physical labor required pursuant to subdivision (b)(1) shall not exceed the maximum sentence authorized pursuant to § 39-14-105.

### **§ 39-14-105 Grading of theft [Effective until July 1, 2021; See Next Entry for Version effective on July 1, 2021]**

- (a) Theft of property or services is:
- (1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less;
  - (2) A Class E felony if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);
  - (3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000);
  - (4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000);
  - (5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more but less than two hundred fifty thousand dollars (\$250,000); and
  - (6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars (\$250,000) or more.

- (b)
  - (1) In a prosecution for theft of property, theft of services, and any offense for which the punishment is determined pursuant to this section, the state may charge multiple criminal acts committed against one (1) or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent or enterprise.
  - (2) The monetary value of property from multiple criminal acts which are charged in a single count of theft of property shall be aggregated to establish value under this section.
- (c) Venue in a prosecution for any offense punishable pursuant to this section shall be in the county where one (1) or more elements of the offense occurred, or in the county where an act of solicitation, inducement, offer, acceptance, delivery, storage, or financial transaction occurred involving the property, service or article of the victim.
- (d) Notwithstanding subsection (a), theft of a firearm shall be punished by confinement for not less than thirty (30) days in addition to any other penalty authorized by law.

### **§ 39-14-105 Grading of theft**

- (a) Theft of property or services is:
  - (1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less, except when the property obtained is a firearm;
  - (2) A Class E felony if the property obtained is a firearm worth less than two thousand five hundred dollars (\$2,500), or if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);
  - (3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000);
  - (4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000);
  - (5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more but less than two hundred fifty thousand dollars (\$250,000); and
  - (6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars (\$250,000) or more.
- (b)
  - (1) In a prosecution for theft of property, theft of services, and any offense for which the punishment is determined pursuant to this section, the state may charge multiple criminal acts committed against one (1) or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent or enterprise.
  - (2) The monetary value of property from multiple criminal acts which are charged in a single count of theft of property shall be aggregated to establish value under this section.
- (c) Venue in a prosecution for any offense punishable pursuant to this section shall be in the county where one (1) or more elements of the offense occurred, or in the county where an act of solicitation, inducement, offer, acceptance, delivery, storage, or financial transaction occurred involving the property, service or article of the victim.
- (d) Theft of a firearm shall be punished by confinement for not less than one hundred eighty (180) days in addition to any other penalty authorized by law.

### **§ 39-14-201 Definitions for animal offenses**

As used in this part, unless the context otherwise requires:

- (1) "Animal" means a domesticated living creature or a wild creature previously captured;
- (2) "Livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to,

cattle, sheep, swine, goats, and poultry;

- (3) "Non-livestock animal" means a pet normally maintained in or near the household or households of its owner or owners, other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as "livestock" pursuant to this part; and
- (4) "Torture" means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but nothing in this part shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.

### **§ 39-14-202 Cruelty to animals**

- (a) A person commits an offense who intentionally or knowingly:
  - (1) Tortures, maims or grossly overworks an animal;
  - (2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;
  - (3) Abandons unreasonably an animal in the person's custody;
  - (4) Transports or confines an animal in a cruel manner; or
  - (5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.
- (b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.
- (c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.
- (d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.
- (e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.
- (f)
  - (1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.
  - (2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).
  - (3) An offense under subdivision (f)(2) is a Class B misdemeanor.

- (g)
  - (1) Cruelty to animals is a Class A misdemeanor.
  - (2) A second or subsequent conviction for cruelty to animals is a Class E felony.
  - (3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subsection (e) is a Class A misdemeanor.

### **§ 39-14-203 Fighting or Baiting Exhibitions**

- (a) It is unlawful for any person to:
  - (1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;
  - (2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;
  - (3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts;
  - (4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring;
  - (5) Knowingly cause a person under eighteen (18) years of age to attend an animal fight; or
  - (6) Possess, own, buy, sell, transfer, or manufacture cock fighting paraphernalia with the intent that the paraphernalia be used in promoting, facilitating, training for, or furthering cock fighting.
- (b) It is the legislative intent that this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.
- (c)
  - (1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony. Notwithstanding § 40-35-111, in addition to any other penalty imposed, the court shall prohibit the defendant from having custody of any companion animal, as defined in § 39-14-212(b), for a period of at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court shall prohibit any person convicted of a second or subsequent offense under this subdivision (c)(1) from having custody of any companion animal for the person's lifetime.
  - (2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.
- (d)
  - (1) A violation of subdivision (a)(4) or (a)(6) is a Class A misdemeanor.
  - (2) A violation of subdivision (a)(5) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), the fine for a violation of subdivision (a)(5) shall be not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500).
- (e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal, as long as it does not violate any other part of this section or federal law.
- (f)
  - (1) For purposes of this section, "cock fighting paraphernalia" means gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.
  - (2) In determining whether a particular object is cock fighting paraphernalia, the court or other authority making that determination may, in addition to all other logically

relevant factors, consider the following:

- (A) Statements by the owner or anyone in control of the object concerning its use;
- (B) Prior convictions, if any, of the owner or of anyone in control of the object for violation of any state or federal law relating to cock fighting or any other violation of this part;
- (C) The presence and condition of any animal on the same property;
- (D) Instructions, oral or written, provided with the object concerning its use;
- (E) Descriptive materials accompanying the object that explain or depict its use;
- (F) The manner in which the object is displayed for sale;
- (G) The existence and scope of legitimate uses for the object in the community; and
- (H) Expert testimony concerning its use.

#### **§ 39-14-204 Dyed baby fowl and rabbits**

(a)

(1) It is unlawful for any person to:

- (A) Sell, offer for sale, barter or give away baby chickens, ducklings or goslings of any age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties, if those fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed; or
- (B) Bring or transport such fowl or rabbits into the state for the purposes mentioned in subdivision (a)(1)(A).

(2) This section shall not be construed to prohibit the sale or display of baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.

(3) Each baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense.

(b) A violation of this section is a Class C misdemeanor.

#### **§ 39-14-205 Intentional killing of animal**

(a)

(1)

(A) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.

(B) A violation of subdivision (a)(1)(A) is theft of property, graded according to the value of the animal, and punished in accordance with § 39-14-105.

(2)

(A) In determining the value of a police dog, fire dog, search and rescue dog, service animal or police horse under § 39-14-105, the court shall consider the value of the police dog, fire dog, search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.

(B) Notwithstanding subdivision (a)(1)(B), a violation of subdivision (a)(1)(A) with respect to a police dog, fire dog, search and rescue dog, or police horse shall be a Class E felony, unless the offense would be a higher classification based on the animal's value, in which case the violation shall be graded pursuant to subdivision (a)(1)(B).

(b) A person is justified in killing the animal of another if the person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person. A person is not justified in killing the animal of another

if at the time of the killing the person is trespassing upon the property of the owner of the animal. The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In that case subsection (a) shall apply to the person.

#### **§ 39-14-206 Taking fish caught by another**

- (a) It is unlawful for any person to take fish out of the box, net, basket or off the hook of another person, or to raise any box, net, basket, or trot-line, without the consent of the owner of the device, unless the fish is taken by an officer to be used as evidence in the prosecution of a violation of the game and fish laws.
- (b) Any violation of this section is a Class C misdemeanor.

#### **§ 39-14-207 Feeding of impounded animals -- Care provided by humane society; recovery of expenses**

- (a) In case any impounded animal is without necessary food and water for more than twelve (12) successive hours, it is lawful for any person, as often as necessary, to enter any place in which any animal is so confined, and to supply it with necessary food and water so long as it remains so confined. That person shall not be liable to any action for entry, and the reasonable cost of the food and water may be collected from the owner or keeper of the animal. The animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.
- (b) In case any animal is injured, diseased, suffering from the elements, or malnourished, and is found at large by any agent of any humane society chartered by the state, the agent may cause adequate veterinary treatment or shelter or nourishment to be furnished to the animal. The society shall have a right of action against the owner of the animal for all necessary and reasonable expenses so incurred. Within forty-eight (48) hours after taking custody of the animal, the society shall make reasonable efforts to notify the owner of the animal's whereabouts and condition. Nothing in this subsection (b) shall affect the right of action of the veterinarian or furnisher of goods or services against the person or persons with whom the veterinarian or furnisher of goods or services contracted for payment of charges. Any such right of action by a humane society may be voided by an owner who elects to forfeit the animal to the society rather than pay for the goods or services rendered.

#### **§ 39-14-208 Theft of guide dogs**

A person who intentionally or knowingly unlawfully injures the guide dog of another and, thereby, permanently deprives the owner of the use of the guide dog's services commits theft of that animal and shall be punished under § 39-14-105. In determining the value of the guide dog for purposes of § 39-14-105, the court shall consider the value of the guide dog as both the cost of the dog as well as the cost of any specialized training the guide dog received.

#### **§ 39-14-209 Horse shows**

- (a) It is the duty of any person designated and acting as a ringmaster of any horse show or similar event to disqualify any horse determined by the ringmaster to be suffering from the causes set out in § 39-14-202(a)(5) from further participation in the show, and to make a report of the same, including the name of the horse, the owner of the horse, and the exhibitor of the horse, to the manager or chair of the show, who in turn shall report the same in writing to the district attorney general of the judicial district wherein the incident occurred for appropriate action.
- (b) A violation of this duty is a Class C misdemeanor.



**§ 39-14-210 Societies for prevention of cruelty to animals -- Power of governmental agencies working with victimized animals**

- (a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such a society in any county, may, within that county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.
- (b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in that person's presence. Any person who interferes with or obstructs any officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.
- (c) Any agent or officer of a society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:
  - (1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or
  - (2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control. If the animal bears any notification information on an identification tag or collar, or on a chip, if the agent or officer of the society has the use of a chip reader, the reasonable effort to locate and notify the animal's owners must be made within forty-eight (48) hours of the time that the society takes custody of the animal or, if the animal is taken into custody on a Friday, within two (2) business days of the date that the society takes custody of the animal.
- (d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to the society in aid of the purpose for which it was incorporated, and no injunction shall be granted against the society or attorney or its officers or agents, except upon motion, after due notice and hearing.
- (e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.
- (f) Upon seizure by law enforcement, custody of any animal victimized under this part shall be placed with any governmental animal control agency, law enforcement agency, or their designee. The governmental animal control agency, law enforcement agency, or their designee shall assist the animal and preserve evidence for prosecution.
- (g)
  - (1)
    - (A) Any governmental animal control agency, law enforcement agency, or their designee into whose custody any animal victimized under this part is placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security.
    - (B) The security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency, law enforcement agency, or their designee in caring and providing for the animal pending disposition of the criminal charges.
    - (C) Reasonable expenses include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal.
    - (D) The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of

security is ordered pursuant to this subsection (g), then the governmental animal control agency, law enforcement agency, or their designee may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges.

- (2) If the person from whom the animal is seized is the owner of the animal and the person has not posted the security ordered pursuant to subdivision (g)(1) within ten (10) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency, law enforcement agency, or their designee for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and the person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency, law enforcement agency, or their designee to make all reasonable efforts to determine who the owner of the animal is and to notify the owner of the pending proceeding.
- (3) No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency, law enforcement agency, or their designee until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency, law enforcement agency, or their designee for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency, law enforcement agency, or their designee for disposition in accordance with reasonable practices for the humane treatment of animals.
- (4) Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency, law enforcement agency, or their designee in lieu of posting security. The voluntary relinquishment has no effect on the outcome of the criminal charges.

**§ 39-14-211 Examination of livestock by commissioner of agriculture or other persons.**

- (a) No entry onto the property of another, arrest, interference with usual and customary agricultural or veterinary practices, confiscation, or any other action authorized by this part or any other law shall be taken in response to an allegation that this part has been violated with regard to livestock unless, prior to or at the time of such action:
  - (1) The livestock in question has been examined by:
    - (A) The commissioner of agriculture or the commissioner's duly authorized agent trained to conduct livestock cruelty examinations;
    - (B) A graduate of an accredited college of veterinary medicine specializing in livestock practice; or
    - (C) A graduate of an accredited college of agriculture with a specialty in livestock; and
  - (2) Upon examination of the livestock, the commissioner, commissioner's agent, or graduate has probable cause to believe that a violation of this part has occurred with regard to the livestock.
- (b) If a person authorized by this section to make a probable cause examination of livestock does not examine the livestock within twenty-four (24) hours of receiving the allegation, a licensed veterinarian may make the inspection, and the veterinarian's findings shall be afforded the same presumption and effect as an examination

conducted by a person authorized pursuant to subsection (a).

**§ 39-14-212 Aggravated cruelty to animals – definitions; construction; penalty**

- (a) A person commits aggravated cruelty to animals when, with no justifiable purpose, the person intentionally or knowingly:
- (1) Kills, maims, tortures, crushes, burns, drowns, suffocates, mutilates, starves, or otherwise causes serious physical injury, a substantial risk of death, or death to a companion animal; or
  - (2) Fails to provide food or water to the companion animal resulting in a substantial risk of death or death.
- (b) For purposes of this section:
- (1) [Deleted by 2021 amendment.]
  - (2) “Companion animal” means any non-livestock animal as defined in § 39-14-201;
  - (3) “Elderly” means any person sixty-five (65) years of age or older; and
  - (4) “Minor” means any person under eighteen (18) years of age.
- (c) Subsection (a) is not to be construed to prohibit or interfere with the following endeavors:
- (1) Dispatching an animal in any manner absent of aggravated cruelty;
  - (2) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a);
  - (3) Dispatching rabid or diseased animals;
  - (4) Dispatching animals posing a clear and immediate threat to human safety;
  - (5) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
  - (6) Performing accepted veterinary medical practices or treatments;
  - (7) Dispatching animals in accordance with § 44-17-403(e);
  - (8) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;
  - (9) Dispatching wild or abandoned animals on a farm or residential real property; or
  - (10) Applying methods and equipment used to train animals.
- (d) Aggravated cruelty to animals is a Class E felony.
- (e) In addition to the penalty imposed by subsection (d), the sentencing court shall order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of the animals to the agency presenting the case. Notwithstanding § 40-35-111, the court shall prohibit the defendant from having custody of companion animals for at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court may also impose any other reasonable restrictions on the person's custody of other animals as is necessary for the protection of the animals. The court shall prohibit any person convicted of a second or subsequent offense under this section from having custody of any companion animal for the person's lifetime.
- (f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.
- (g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.
- (h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of

seizure to the time of proper disposition of the case.

- (i)
  - (1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.
  - (2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.
- (j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.
- (k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.
- (l) This section is not to be construed to change, modify, or amend any provision of title 70, involving fish and wildlife.
- (m) This section does not apply to activities or conduct that are prohibited by § 39-14-203.
- (n) This section does not apply to equine animals or to animals defined as livestock by § 39-14-201.

#### **§ 39-14-213 Removal of transmitting collars or microchip implants from dogs**

- (a) A person who removes from a dog an electronic or radio transmitting collar or microchip implant without the permission of the owner of the dog and with the intent to prevent or hinder the owner from locating the dog commits a Class B misdemeanor, punishable by fine only; provided, however, that, if the dog wearing an electronic or radio transmitting collar or microchip implant is lost or killed as the proximate result of the removal of the collar or implant, the person commits a Class A misdemeanor, punishable by fine only.
- (b) Upon conviction for a violation of this section, the court shall order that the violator pay as restitution to the owner the actual value of a dog lost or killed as a result of the removal of an electronic or radio transmitting collar or microchip implant from the dog by the violator. The court may also order the violator to pay as restitution to the owner any breeding revenues forfeited due to the loss or death of a dog.

#### **§ 39-14-214 Criminal offenses against animals**

- (a) A person commits an offense who knowingly:
  - (1) Engages in any sexual activity with an animal;
  - (2) Causes, aids, or abets another person to engage in any sexual activity with an animal;
  - (3) Permits any sexual activity with an animal to be conducted on any premises under the person's charge or control;
  - (4) Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual activity with an animal for a commercial or recreational purpose; or
  - (5) Photographs or films, for purposes of sexual gratification, a person engaged in a sexual activity with an animal.
- (b) A violation of this section is a Class E felony.
- (c) In addition to the penalty imposed in subsection (b):
  - (1) The court may order that the convicted person do any of the following:

- (A) Not harbor or own animals or reside in any household where animals are present;
- (B) Participate in appropriate counseling at the defendant's expense; or
- (C) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (a); and
- (2) Notwithstanding § 40-35-111, the court shall prohibit the convicted person from having custody of any companion animal, as defined in § 39-14-212(b), for a period of at least two (2) years from the date of conviction and may impose a lifetime prohibition. The court shall prohibit any person convicted of a second or subsequent offense under this section from having custody of any companion animal for the person's lifetime.
- (d) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices.
- (e) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.
- (f) For purposes of this section:
  - (1) "Animal" has the same meaning as the term is defined in § 63-12-103;
  - (2) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image; and
  - (3) "Sexual activity" means physical sexual contact between the person and the animal.

**§ 39-14-215 Emergency care for non-livestock animal; steps to locate owner; civil liability**

- (a) For purposes of this section:
  - (1) "Animal control agency" means a county or municipal animal shelter, dog pound, or animal control agency, private humane society, state, county or municipal law enforcement agency, or any combination thereof, that temporarily houses stray, unwanted or injured animals;
  - (2) "Emergency" means a natural disaster, including earthquake, fire, flood, or storm; a hazardous chemical or substance incident; a vehicular collision with an animal, or other transportation accident where an animal is injured or in need of assistance to protect its health or life;
  - (3) "Emergency care" means medical and other health treatment, services, or accommodations that are provided to an injured or ill animal for a medical condition or injury of such a nature that the failure to render immediate care would reasonably likely result in the deterioration of a sick or injured animal's condition or in the animal's death;
  - (4) "Livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;
  - (5) "Non-livestock animal" means a pet normally maintained in or near the household or households of its owner or owners, other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including, but not limited to, pet rabbits, a pet chick, duck, or pot-bellied pig that is not classified as "livestock" pursuant to this part;
  - (6) "Running at large" means that a non-livestock animal goes uncontrolled by the animal's owner upon the premises of another without the consent of the owner of

the premises, or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street, or any other place open to the public generally; and

- (7) "Stray animal" means that a non-livestock animal is roaming with no physical restraint without an identification tag, collar, or chip and that has no record of ownership.

(b)

- (1) Any person who in good faith and without compensation for services provides, renders, or obtains emergency care for a non-livestock animal that is running at large, abandoned, injured or in distress due to an emergency, or for a stray non-livestock animal, shall not be subject to civil liability for any injuries or harm to such animal resulting from the rendering or obtaining of emergency care, or any act or failure to act to provide or arrange for further emergency care for such animal, if such person's actions do not constitute malice, gross negligence, or criminal misconduct.

(2)

- (A) If a person fails to take reasonable steps to locate the owner of such animal prior to rendering or obtaining emergency care, then subdivision (b)(1) shall not apply.

- (B) Taking reasonable steps to locate the owner of such animal includes:

- (i) Attempting to contact the owner using any notification information located on the animal's identification tag, collar, or chip within forty-eight (48) hours of the time that the person takes custody of the animal or, if the animal is taken into custody on a Friday, within two (2) business days of the date that the person takes custody of the animal; and

(ii)

- a. Providing notice to an appropriate animal shelter, dog pound, animal control agency or humane shelter operated by the municipality, county, or other governmental agency located where the person resides that the animal is in the custody of the person. The person shall also notify an appropriate shelter in the location where the person took custody of the animal, if the location is outside of the municipality or county where the person resides.

- b. The person shall give to the shelter or shelters such person's contact information.

- (C) This subdivision (b)(2) shall not apply if the animal is determined by a licensed veterinarian to:

- (i) Need immediate emergency care to alleviate pain or save the life of the animal; or

- (ii) Exhibit visible signs of recent abuse as described in § 39-14-202.

- (c) Notwithstanding § 63-12-142, a licensed veterinarian, or ancillary veterinary personnel employed by and working under the direct supervision of a licensed veterinarian, who, in good faith, at the request of someone other than the owner renders:

- (1) Emergency care to an ill or injured non-livestock animal is not liable to the owner of the animal for any civil damages arising from the treatment provided to the animal except in cases of malice, gross negligence, or criminal misconduct; or

- (2) Treatment other than emergency care to a non-livestock animal is not liable to the owner of the animal for any civil damages arising from the treatment provided to the animal except in cases of malice, gross negligence, or criminal misconduct, only if the person requesting the treatment certifies in writing to the veterinarian, or ancillary veterinary personnel, that such person has taken reasonable steps to locate the owner as provided in subdivision (b)(2).

- (d) An animal control agency or an employee of an animal control agency acting within the scope of such employment, who, in good faith, takes into its custody and cares for a stray or abandoned non-livestock animal, or a non-livestock animal running at large for which reasonable steps to locate the owner of such animal are taken, that has been delivered to such agency or employee by an individual or group of individuals not affiliated with the agency, shall not be subject to civil liability for its care of such animal if the agency or employee's actions do not constitute malice, gross negligence or criminal misconduct.
- (e) Except as provided in subsection (c), this section shall not in any way limit the application of, or supersede, § 44-17-203, § 44-17-403(e) or § 63-12-142.

### **§ 39-14-216 Service animals**

- (a)
  - (1) As used in this section, "service animal" means:
    - (A) Any animal that is individually trained, or being trained by an employee or puppy raiser from a recognized training agency or school to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and
    - (B) Any police dog, fire dog, search and rescue dog, or police horse.
  - (2) Other species of animals not specified in this subsection (a), whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.
  - (3) For purposes of a service animal as defined under subdivision (a)(1)(A), the work or tasks performed by the service animal must be directly related to the handler's disability. (b) Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of the animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of subdivision (a)(1)(A).
- (b) It is an offense to knowingly:
  - (1) Maim or otherwise inflict harm upon a service animal;
  - (2) Attempt to maim or otherwise inflict harm upon a service animal; or
  - (3) Permit an animal that the person owns or is in the immediate control of to maim or otherwise inflict harm upon a service animal.
- (c) It is an offense to recklessly maim or otherwise inflict harm upon a service animal or permit an animal that the person owns or is in the immediate control of to maim or otherwise inflict harm upon a service animal.
- (d) It is an offense to knowingly interfere with a service animal in the performance of its duties, or permit an animal that the person owns or is in control of to interfere with a service animal in the performance of its duties.
- (e)
  - (1) A violation of subsection (b) or (c) is a Class A misdemeanor.
  - (2) A violation of subsection (d) is a Class C misdemeanor.
- (f)
  - (1) In addition to any other penalty provided by this section, a person convicted of a

violation of subsection (b), (c) or (d) shall be ordered by the court to make full restitution for all damages that arise out of or are related to the offense, including incidental and consequential damages incurred by the service animal's handler or the recognized training agency or school.

(2) "Restitution," for purposes of this section, includes:

- (A) The value of the service animal if the animal is disabled or can no longer perform service animal duties;
- (B) Replacement and training or retraining expenses of the service animal or handler if necessary to restore the animal to service animal capabilities;
- (C) Veterinary and other medical and boarding expenses for the service animal;
- (D) Medical expenses for the handler; and
- (E) Lost wages or income incurred by the handler during any period that the handler is without the services of the service animal.

(g) If the violation of this section involves a guide dog and the offense results in injury to the dog that permanently deprives the owner of the use of the guide dog's services, nothing in this section shall preclude prosecution and conviction for such conduct under § 39-14-208.

### **§ 39-14-217 Aggravated cruelty to livestock animals**

(a) As used in this section only, "livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption, including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1)-(12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

- (1) Setting an animal on fire;
- (2) Burning an animal with any hot object;
- (3) Cutting or stabbing an animal with any object;
- (4) Causing blunt force trauma to an animal;
- (5) Securing an animal to a vehicle and dragging it;
- (6) Blinding an animal;
- (7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;
- (8) Hanging a living animal;
- (9) Skinning an animal while it is still alive;
- (10) Administering electric shock to an animal;
- (11) Drowning an animal; or
- (12) Shooting an animal with a weapon.

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

- (1) Any provision of title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;
- (2) Activities or conduct that are prohibited by § 39-14-203; or
- (3) Dispatching an animal in any manner not prohibited by this section.

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

- (1) Dispatching rabid, diseased, sick or injured livestock animals;
- (2) Dispatching livestock animals posing a clear and immediate threat to human



- safety;
- (3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
- (4) Performing accepted veterinary medical practices or treatments;
- (5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;
- (6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or
- (7) Applying methods and equipment used to train livestock animals.
- (f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:
  - (1) The owner of the livestock animal for damages; and
  - (2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.
- (g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.
- (h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.
- (i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.
- (j) Aggravated cruelty to a livestock animal is a Class E felony.

**§ 39-14-218 "Cremation" for animals defined -- Receipt**

- (a) As used in this section, "cremation" means the heating process by which the remains of a deceased animal are reduced to bone fragments through combustion and evaporation; provided, however, that "cremation" does not include any reduction of animal remains to bone fragments that is incidental to the preparation of food or any manufacturing process.
- (b) No person who, for remuneration, engages in the cremation of animal remains in this state, shall fail to ensure that a written receipt is provided to each person who delivers animal remains to such person for cremation. The receipt shall be signed by both the person who receives the animal remains and the person who delivered the animal remains for cremation and shall indicate:
  - (1) The name of the deceased animal, if any;
  - (2) The date and time of delivery;
  - (3) The name of the person who delivered the animal remains for cremation; and
  - (4) The name of the person who received the animal remains for cremation from the person identified in subdivision (b)(3).
- (c) At the time of releasing the cremated remains of an animal, a person who, for remuneration, engages in the cremation of animal remains in this state shall ensure that a written receipt signed by both the person who released the cremated animal remains and the person who received the cremated animal remains is provided to the person who received the cremated animal remains. The receipt shall indicate:
  - (1) The name of the deceased animal, if any;

- (2) The date and time of the release;
- (3) The name of the person to whom the cremated animal remains were released; and
- (4) The name of the person who released the cremated animal remains to the person identified in subdivision (c)(3).
- (d) The requirements of this section shall not apply to veterinarians licensed to practice in this state in accordance with the Tennessee Veterinary Practice Act, compiled in title 63, chapter 12.
- (e) Failure to provide a receipt as required by subsection (b) or (c) is a Class E felony. In addition to any authorized period of incarceration, failure to provide a receipt as required by subsection (b) or (c) is punishable by a fine in the amount of no less than five hundred dollars (\$500).

**§ 39-14-802 Tennessee Farm Animal and Research Facilities Protection Act - definitions**

As used in this part, unless the context otherwise requires:

- (1) "Actor" means a person accused of any of the offenses defined in this part;
- (2) "Animal" means any warm-blooded or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, including, but not limited to, hogs, equines, mules, cattle, sheep, goats, dogs, rabbits, poultry, fish, and bees. "Animal" does not include any animal held primarily as a pet;
- (3) "Animal facility" means any vehicle, building, structure, pasture, paddock, pond, impoundment, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale and any office, building, or structure where records or documents relating to an animal or to animal research, testing, production, or education are maintained;
- (4) "Commissioner" means the commissioner of agriculture;
- (5) "Consent" means assent in fact, whether express or implied, by the owner or by a person legally authorized to act for the owner which is not:
  - (A) Induced by force, threat, false pretenses, or fraud;
  - (B) Given by a person the actor knows, or should have known, is not legally authorized to act for the owner;
  - (C) Given by a person who by reason of youth, mental disease or defect, if intoxication is known, or should have been known, by the actor to be unable to make reasonable decisions; or
  - (D) Given solely to detect the commission of an offense;
- (6) "Deprive" means unlawfully to withhold from the owner, interfere with the possession of, free, or dispose of an animal or other property;
- (7) "Disrupt" means to engage in conduct that materially interferes with the operations of the animal facility in a manner such that the activities conducted by or in the facility are permanently or temporarily halted, compromised, delayed, harmed or impaired;
- (8) "Owner" means a person who has title to the property, lawful possession of the property, or a greater right to possession of the property than the actor;
- (9) "Person" means any individual, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two (2) or more persons having a joint or common interest, or other legal entity;
- (10) "Possession" means actual care, custody, control, or management;
- (11) "Property" means any real or personal property and includes any document, record, research data, paper, or computer storage medium; and
- (12) "State" means the state of Tennessee.

**§ 39-14-803 Tennessee Farm Animal and Research Facilities Protection Act - offenses**

- (a) A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property and to disrupt the enterprise conducted at the animal facility.
- (b) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility and the damage or loss thereto exceeds five hundred dollars (\$500).
- (c)
  - (1) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility and the damage or loss thereto is five hundred dollars (\$500) or less, or enters or remains on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:
    - (A) Had notice that the entry was forbidden;
    - (B) Knew or should have known that the animal facility was or had closed to the public; or
    - (C) Received notice to depart but failed to do so.
  - (2) For purposes of this subsection (c), "notice" means:
    - (A) Oral or written communication by the owner or someone with actual or apparent authority to act for the owner;
    - (B) The presence of fencing or other type of enclosure or barrier designed to exclude intruders or to contain animals; or
    - (C) A sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.
- (d) This part does not apply to, affect, or otherwise prohibit actions taken by the department of agriculture, any other federal, state, or local department or agency, or any official, employee or agent thereof while in the exercise or performance of any power or duty imposed by law or by rule and regulation.

**§ 39-14-804 Tennessee Farm Animal and Research Facilities Protection Act - penalties**

- (a) A person found to be in violation of any of the offenses defined in § 39-14-803(a) and (b) commits a Class C felony.
- (b) Any person violating § 39-14-803(c) commits a Class B misdemeanor.

**§ 39-14-805 Powers and duties of commissioner**

For purposes of enforcing this part, the commissioner:

- (1) May investigate any offense under this part;
- (2) May seek the assistance of any law enforcement agency of the United States, the state, or any local government in the conduct of the investigations; and
- (3) Shall coordinate the investigation to the maximum extent practicable, with the investigations of any law enforcement agency of the United States, the state, or any local government.

**§ 39-14-806 Recovery of damages, fees, costs -- Remedies -- Injunctions**

- (a) Any person who has been damaged by reason of a violation of this part may recover

all actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees, from the person causing the damage.

- (b) In addition to the remedies provided in this part or elsewhere in the laws of this state, and notwithstanding the existence of an adequate remedy at law, any person who has been damaged by reason of a violation of this part is authorized to apply to the chancery courts for an injunction or restraining order. The courts shall have jurisdiction, and for good cause shown, shall grant a temporary or permanent injunction or a temporary restraining order restraining or enjoining any person from violating or continuing to violate this part. The injunction or restraining order shall be issued without bond and may be granted, notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.
- (c) Nothing in this part shall be construed to limit the exercise of any other rights arising out of or relating to a violation of this part.

#### **§ 39-16-304 Misrepresentation of service animal or support animal**

- (a) As used in this section, "service animal" and "support animal" have the same meanings as the terms are defined in § 66-7-111(a).
- (b) A person commits the offense of misrepresentation of a service animal or support animal who knowingly:
  - (1) Fraudulently represents, as a part of a request to maintain a service animal or support animal in residential rental property under § 66-7-111 or §66-28-406, that the person has a disability or disability-related need for the use of a service animal or support animal; or
  - (2) Provides documentation to a landlord under § 66-7-111(c) or § 66-28-406(c) that falsely states an animal is a service animal or support animal.
- (c) Misrepresentation of a service animal or support animal is a Class B misdemeanor.

#### **§ 39-17-101 Handling snakes so as to endanger life prohibited**

- (a) It is an offense for a person to display, exhibit, handle, or use a poisonous or dangerous snake or reptile in a manner that endangers the life or health of any person.
- (b) An offense under this section is a Class C misdemeanor.

#### **§ 39-17-1302 Prohibited weapons**

- (a) A person commits an offense who intentionally or knowingly possesses, manufactures, transports, repairs or sells:
  - (1) An explosive or an explosive weapon;
  - (2) A device principally designed, made or adapted for delivering or shooting an explosive weapon;
  - (3) A machine gun;
  - (4) A short-barrel rifle or shotgun;
  - (5) Hoax device;
  - (6) Knuckles; or
  - (7) Any other implement for infliction of serious bodily injury or death that has no common lawful purpose.
- (b) It is a defense to prosecution under this section that the person's conduct:
  - (1) Was incident to the performance of official duty and pursuant to military regulations in the army, navy, air force, coast guard or marine service of the United States or the Tennessee national guard, or was incident to the performance of official duty in a governmental law enforcement agency or a penal institution;
  - (2) Was incident to engaging in a lawful commercial or business transaction with an organization identified in subdivision (b)(1);

- (3) Was incident to using an explosive or an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;
- (4) Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance or scientific research;
- (5) Was incident to displaying the weapon in a public museum or exhibition; or
- (6) Was licensed by the state of Tennessee as a manufacturer, importer or dealer in weapons; provided, that the manufacture, import, purchase, possession, sale or disposition of weapons is authorized and incident to carrying on the business for which licensed and is for scientific or research purposes or sale or disposition to an organization designated in subdivision (b)(1).
- (c) It is an affirmative defense to prosecution under this section that the person must prove by a preponderance of the evidence that:
  - (1) The person's conduct was relative to dealing with the weapon solely as a curio, ornament or keepsake, and if the weapon is a type described in subdivisions (a)(1)-(4), that it was in a nonfunctioning condition and could not readily be made operable; or
  - (2) The possession was brief and occurred as a consequence of having found the weapon or taken it from an aggressor.
- (d) It is an exception to the application of subsection (a) that the person acquiring or possessing a weapon described in subdivisions (a)(3) or (a)(4) is in full compliance with the requirements of the National Firearms Act (26 U.S.C. §§ 5841-5862).
- (e) Subsection (a) shall not apply to the possession, manufacture, transportation, repair, or sale of an explosive if:
  - (1) The person in question is eighteen (18) years of age or older; and
  - (2) The possession, manufacture, transport, repair, or sale was incident to creating or using an exploding target for lawful sporting activity, as solely intended by the commercial manufacturer.
- (f)
  - (1) An offense under subdivision (a)(1) is a Class B felony.
  - (2) An offense under subdivisions (a)(2)-(4) is a Class E felony.
  - (3) An offense under subdivision (a)(5) is a Class C felony.
  - (4) An offense under subdivisions (a)(6)-(7) is a Class A misdemeanor.

**§ 39-17-1308 Defenses to unlawful possession or carrying of a weapon**

- (a) It is a defense to the application of § 39-17-1307 if the possession or carrying was:
  - (1) Of an unloaded rifle, shotgun or handgun not concealed on or about the person and the ammunition for the weapon was not in the immediate vicinity of the person or weapon;
  - (2) By a person authorized to possess or carry a firearm pursuant to § 39-17-1315, § 39-17-1351, or § 39-17-1366;
  - (3) At the person's:
    - (A) Place of residence;
    - (B) Place of business; or
    - (C) Premises;
  - (4) Incident to lawful hunting, trapping, fishing, camping, sport shooting or other lawful activity;
  - (5) By a person possessing a rifle or shotgun while engaged in the lawful protection of livestock from predatory animals;
  - (6) By a Tennessee valley authority officer who holds a valid commission from the commissioner of safety pursuant to this part while the officer is in the performance of the officer's official duties;
  - (7) By a state, county or municipal judge or any federal judge or any federal or county

magistrate;

- (8) By a person possessing a club or baton who holds a valid state security guard/officer registration card as a private security guard/officer, issued by the commissioner, and who also has certification that the officer has had training in the use of club or baton that is valid and issued by a person certified to give training in the use of clubs or batons;
  - (9) By any person possessing a club or baton who holds a certificate that the person has had training in the use of a club or baton for self-defense that is valid and issued by a certified person authorized to give training in the use of clubs or batons, and is not prohibited from purchasing a firearm under any local, state or federal laws;
  - (10) By any out-of-state, full-time, commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification; provided, that if no valid commission card and photo identification are retained, then it shall be unlawful for that officer to carry firearms in this state and this section shall not apply. The defense provided by this subdivision (a)(10) shall only be applicable if the state where the out-of-state officer is employed has entered into a reciprocity agreement with this state that allows a full-time, commissioned law enforcement officer in Tennessee to lawfully carry or possess a weapon in the other state; or
  - (11) By a person authorized to carry a handgun pursuant to § 36-3-626 or § 39-17-1365.
- (b) The defenses described in this section are not available to persons described in § 39-17-1307(b)(1).

**§ 39-17-1363 Offense of owning, possessing, or having custody or control of a potentially vicious dog or a vicious dog**

(a) For purposes of this section:

- (1) "Potentially vicious dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
    - (A) When unprovoked and off the property of the owner or keeper of the dog, inflicts a bite causing bodily injury, as defined in § 39-11-106, to a person or domestic animal; or
    - (B) When unprovoked and off the property of the owner or keeper of the dog, on two (2) or more separate occasions, chases, menaces or approaches a person or domestic animal in an aggressive manner or apparent attitude of attack;
  - (2) "Vicious dog" means any dog that without provocation and off the property of the owner or keeper of the dog, has attacked a person causing death or serious bodily injury, as defined by § 39-11-106, to such person; and
  - (3) "Violent felony" means:
    - (A) Any felony involving the use or attempted use of force, violence or a deadly weapon;
    - (B) A violation of § 39-17-417, § 39-17-433 or § 39-17-435; or
    - (C) A violation of § 39-14-203(a)(1)-(3), § 39-14-205, § 39-14-212 or § 39-14-214.
- (b) It is an offense for any person convicted of a violent felony to knowingly own, possess, have custody or control of a potentially vicious dog or a vicious dog for a period of ten (10) years after such person has been released from custody following completion of sentence or is no longer under active probation, community correction or parole supervision for such violent felony, whichever date is later.
- (c) It is an offense for any person convicted of a violent felony to own, possess, or have custody or control of a dog that:
- (1) Is not micro chipped for permanent identification; and

- (2) Is not spayed or neutered and is older than twelve (12) weeks of age.
- (d) A violation of this section is a Class A misdemeanor.
- (e)
  - (1) It is an affirmative defense to prosecution under subsection (c), which must be proven by a preponderance of the evidence, that the dog in question is microchipped and neutered or spayed, or that the dog in question was microchipped and neutered or spayed within thirty (30) days of the defendant being charged with a violation of this section.
  - (2) Medical records from, or a certificate by, a person who is licensed by the person's state of residence as a doctor of veterinary medicine, whose license is in good standing and who has personally examined, inserted a microchip in, or operated upon the dog, indicating that the dog in question has been microchipped or spayed or neutered, shall be sufficient evidence that the dog in question has been microchipped or spayed or neutered.
  - (3) If the dog in question is microchipped by a different doctor than the doctor who spayed or neutered the dog, medical records or a certificate indicating that both procedures have been performed are required for purposes of this defense.
- (f) This section shall only apply if a person's conviction for a violent felony occurs on or after July 1, 2010.

#### **§ 40-13-104 Prosecutor not required**

A prosecutor is dispensed with and the district attorney general may file bills of indictment, officially, and without a prosecutor marked on the bill of indictment, in the following cases:

- (1) Upon a presentment;
- (2) Upon an inquest of willful homicide or murder;
- (3) Upon a recognizance to answer for a breach of the peace, or other inferior offense, committed in the presence of and taken notice of by any judge from the judge's own view;
- (4) Upon a charge of gaming;
- (5) Upon a charge of drawing a lottery or vending lottery tickets;
- (6) Upon a charge of keeping a billiard table without a license;
- (7) Upon a charge of violation of graves;
- (8) Upon a charge against a county legislative body or a county mayor for failing to provide safe prisons;
- (9) Upon an order of the circuit or criminal court to file an indictment, officially, which may be made when it appears to the court that an indictable offense has been committed, and that no one will be prosecutor;
- (10) Upon information made to the district attorney general by a judge of the court of general sessions, upon the judge's own knowledge, of an indictable offense, committed during the sitting of the court;
- (11) Upon a report of the clerk of the chancery court that an executor, administrator or guardian has neglected or refused for thirty (30) days after a subpoena has been served to appear before the clerk and settle the accounts;
- (12) Upon a charge of violating the laws to suppress the use, importation or sale of prohibited weapons;
- (13) Upon a charge of violating the laws against illegal voting, and to preserve the purity of elections;
- (14) Against the clerk of any court who knowingly and willfully, with intent and purpose to affect the result of a case depending or decided in the clerk's court, makes a false entry, fails to make an entry directed by law or makes an imperfect transcript of the proceedings had in the clerk's court, and being in the clerk's office;

- (15) Upon a charge of violating the laws pertaining to intoxicating liquors;
- (16) Upon a charge of violating the laws to suppress private banking;
- (17) Upon a charge of cutting, writing upon, defacing, disfiguring or damaging public buildings;
- (18) Upon a charge against a clerk of converting to the clerk's own use, investing, using or lending money, property or effects in the clerk's custody, to be paid or delivered, according to law or order of court, to any party, witness, officer or other person;
- (19) Upon an indictment for sedition, conspiracies and riots;
- (20) Upon an indictment for disturbing or obstructing a public officer in the discharge of the officer's official duties;
- (21) Upon a charge for violating the game and fish laws;
- (22) Upon an indictment against a sheriff for permitting a prisoner in the sheriff's custody to be put to death by violence;
- (23) Upon a charge of trespass upon lands or injury to or removal of property in violation of § 39-14-408;
- (24) Upon a charge of child abuse in violation of § 39-15-401 or any other offense against the person in which a child is the victim; and
- (25) Any other cases provided by law.

**§ 40-35-111 Authorized terms of imprisonment and fines for felonies and misdemeanors**

- (a) A sentence for a felony is a determinate sentence.
- (b) The authorized terms of imprisonment and fines for felonies are:
  - (1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;
  - (2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;
  - (3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;
  - (4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and
  - (5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.
- (c)
  - (1) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:
    - (A) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;
    - (B) Three hundred thousand dollars (\$300,000) for a Class B felony;
    - (C) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;
    - (D) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and
    - (E) Fifty thousand dollars (\$50,000) for a Class E felony.
  - (2) If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.
- (d) A sentence for a misdemeanor is a determinate sentence.
- (e) The authorized terms of imprisonment and fines for misdemeanors are:
  - (1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days



- or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;
- (2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and
  - (3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.
- (f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

**§ 41-1-102 Correctional Institutions – use of dogs to search personnel for contraband**

...

- (d)
- (1) Periodic routine searches for contraband shall be made of all employees of the department prior to the entrance of the persons inside the confines of a state correctional facility. The searches may be accomplished through the use of dogs trained to detect controlled substances and controlled substance analogues, by the use of a magnetometer or similar device, by a pat-down search by a person of the same sex and by an examination of the contents of pockets, bags, purses, packages or other containers. The searches shall be conducted uniformly or by systematic random selection.
- ...
- (5) One (1) dog trained to detect controlled substances and controlled substance analogues for each grand division and one (1) polygraph machine for each grand division shall be utilized by the department for the purposes of implementing this subsection (d).

...

(See full statute).

**§ 41-1-118 Dogs for detecting drugs**

- (a) The commissioner of correction may maintain at least one (1) dog trained to detect marijuana and other illicit substances at each correctional facility in the commissioner's charge; but where more than one (1) correctional facility is located within a county, the commissioner may maintain one (1) dog to serve in the several facilities if this appears to the commissioner to be adequate to locate and detect the substances.
- (b) These dogs may be used on a regular basis, or at irregular times and intervals, to survey inmates and areas inhabited or frequented by inmates in order to locate and detect marijuana and other illicit substances. The dogs may also be used to check persons entering into correctional facilities or their grounds to detect the introduction of marijuana and other illicit substances.

**§ 42-1-110 Intentionally killing or attempting to kill birds or animals -- Penalty**

Any aeronaut or passenger who, while in flight within this state, intentionally kills or attempts to kill any birds or animals commits a Class C misdemeanor.

**§ 43-1-108 Audiovisual recordation of animal inspection permitted**

Unless otherwise prohibited by federal law, the owner of any animal that is subject to an inspection in this state for the purpose of determining compliance with any statutory or regulatory requirement shall be permitted to personally record such inspection by audiovisual means or designate an agent to record such inspection by audiovisual means.

**§ 43-1-114 Definition of livestock – Applicability**

- (a) The definition of livestock as set forth in subsection (b) shall be applicable to the term wherever it appears in the code, unless a different definition is specifically made applicable to the part, chapter, or section in which the term appears or unless the context otherwise requires.
- (b) "Livestock" means all equine as well as animals that are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry.

**§ 43-8-102 Pesticides – definitions**

As used in this part and part 2 of this chapter, unless the context otherwise requires:

...

- (12) "Pesticide" means any substance or mixture of substances or chemical intended for defoliating or desiccating plants or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds or other forms of plant or animal life the commissioner shall declare to be a pest. This includes, but is not limited to, insecticides, fungicides, bactericides, herbicides, desiccants, defoliant, plant regulators, adjuvants or nematocides;

...

- (14) "Use in a manner inconsistent with labeling" as to a pesticide means any use of a registered pesticide in a manner not permitted by its labeling, except that "use in a manner inconsistent with labeling" does not include:
  - (A) Applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling;
  - (B) Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless federal requirements demand that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling;
  - (C) Employing any method of application not prohibited by the labeling;
  - (D) Mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited on the labeling; or
  - (E) Any other use otherwise inconsistent but specifically permitted under federal law.

...

(see full statute)

**§ 43-8-105 Pesticides – prohibitions**

It is unlawful:

- (1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this part and part 2 of this chapter or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purposes of this part and part 2 of this

chapter;

- (2) For any manufacturer, distributor, dealer, carrier, or other person to refuse, upon written request specifying the nature or kind of pesticide to which such request relates, to furnish to or permit any person designated by the commissioner to have access to and to copy such records of business transactions as may be essential in carrying out the purposes of this part and part 2 of this chapter;
- (3) For any person to give a guaranty or undertaking provided for in § 43-8-108 that is false in any particular, except that a person who receives and relies upon a guaranty authorized under § 43-8-108 may give a guaranty to the same effect, which guaranty shall contain, in addition to such person's own name and address, the name and address of the person residing in the United States from whom such person received the guaranty or undertaking;
- (4) For any person to use for the person's own advantage or to reveal, other than to the commissioner, or officials or employees of the state of Tennessee, or officials or employees of the United States department of agriculture, or other federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the commissioner may prescribe, any information relative to formulas of products acquired by authority of § 43-8-104;
- (5) For any person to oppose or interfere in any way with the commissioner or the commissioner's duly authorized agents in carrying out the duties imposed by this part and part 2 of this chapter;
- (6) For any person to handle, transport, store, display or distribute pesticides in such a manner as to endanger health and the environment or to endanger food, feed, or other products that may be transported, stored, displayed or distributed with such pesticides; or
- (7) For any person to dispose of, discard or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any water supply or waterways.

#### **§ 43-10-105 Seed label must warn if harmful to animals**

All seed named and treated as defined in this part (for which a separate label may be used) shall be labeled to show the following information:

- (1) A word or statement indicating that the seed has been treated;
- (2) The commonly accepted coined, chemical or abbreviated chemical (generic) name of the applied substance or description of the process used;
- (3) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil purposes." The caution for mercurials and similarly toxic substances shall be a poison statement or symbol; and
- (4) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

#### **§ 43-11-404 Prohibited sales – liming material toxic to animals**

- (a) No agricultural liming material shall be sold or offered for sale in this state unless it complies with this part and regulations pertaining to this part.
- (b) No agricultural liming material shall be sold or offered for sale in this state that contains toxic materials in quantities injurious to plants or animals.

#### **§ 43-33-126 Fish farming -- Hybrid striped bass**

- (a) Notwithstanding any other provision of law or proclamation to the contrary, any person, firm or corporation engaged in the business of fish farming may raise to maturity hybrid

striped bass for the specific purpose of making the hybrid striped bass available for purchase by wholesalers, restaurants and members of the public. The person, firm or corporation shall comply with the applicable rules of the Tennessee wildlife resources commission.

- (b) For the purposes of this section, "fish farming" means the rearing of artificially propagated, nonbait fish for the specific and bona fide purpose of making the fish available to persons wishing to procure the fish by purchase.

#### **§ 44-2-101 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Animal" or "animals" means all domestic animals including, but not limited to, cattle, bison, all equidae, sheep, goats, swine, dogs, cats, all avian species, and all Class III animals as established by § 70-4-403;
- (2) "Commissioner" means the commissioner of agriculture;\
- (3) "Department" means the Tennessee department of agriculture;
- (4) "Disease" means any communicable disease deemed appropriate for regulatory control measures by the state veterinarian;
- (5) "Person" means an individual, corporation, partnership and any association of two or more persons having a joint or common interest; and
- (6) "USDA" means the United States department of agriculture.

#### **§ 44-2-102 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- supervisory powers**

The commissioner and the state veterinarian have the general supervision of all animals within or that may be in transit through the state, and they are empowered to:

- (1) Establish a quarantine against any animal or animals within or entering the state;
- (2) Enter any premises in which animals are likely kept for the purpose of examining, inspecting or testing for the purpose of disease control;
- (3) Prohibit or regulate the importation of animals into this state whenever it is necessary to protect the health of animals in Tennessee;
- (4) Order tests or vaccinations of animals within the state or imported into the state for the purpose of protecting the health of animals in Tennessee;
- (5) Order the destruction and sanitary disposition of any animal, whenever, in the opinion of the state veterinarian, the interests of the state are best served by the destruction of that animal. This destruction may be ordered only for control of any animal disease for which the state has a control program, or for any animal disease not known to exist in the United States;
- (6) Order the sanitary disposition of any dead animal. The owner of such animal shall be liable for its disposition;
- (7) Stop and inspect or examine vehicles likely to be hauling animals for the purposes of disease control and determining compliance with this chapter;
- (8) Order the cleaning and disinfection of any premises, vehicle or equipment for the purpose of animal disease control;
- (9) Promulgate in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, all rules and regulations necessary to carry out this chapter;
- (10) Impose in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, civil penalties of up to one thousand dollars (\$1,000) for each violation of this chapter or the rules and regulations promulgated under this chapter;
- (11) Cooperate with the government of the United States and may designate

employees of USDA as agents of the department in carrying out the purposes of this chapter;

- (12) Call upon other law enforcement agencies for assistance when the public safety and welfare is threatened; and
- (13) File suit in a court of competent jurisdiction for the purpose of enjoining the further violation of this chapter.

#### **§ 44-2-103 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- prohibited acts**

It is unlawful for any person to:

- (1) Willfully hinder, obstruct, disregard or evade any quarantine or order the commissioner or state veterinarian may issue under this chapter;
- (2) Distribute, sell or use any veterinary vaccine, antiserum, or diagnostic antigen or other veterinary biologic products unless licensed by the USDA and permitted by the department;
- (3) Refuse to allow the commissioner or the state veterinarian or any person acting under the commissioner's or state veterinarian's authority to inspect or examine any animal reported or suspected to be infected with any communicable disease, or for the owner of such animals to fail to present them for testing or to fail to render reasonable assistance in testing of the animals;
- (4) Knowingly sell, trade or import into this state any animal or animals infected with a communicable disease; or
- (5) Violate any rule or regulation promulgated pursuant to this chapter.

#### **§ 44-2-104 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- penalties**

A violation of this chapter is a Class A misdemeanor.

#### **§ 44-2-105 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- Indemnity for destroyed animals**

The commissioner through rules and regulations may establish procedures for the payment of indemnities for animals destroyed under authority of this chapter. Indemnity under this section is not intended to be a full reimbursement but a partial compensation based on, but not limited to, the value of the animal and the availability of funds for that purpose. Indemnification may be disallowed in cases where the owner is in violation of this chapter.

#### **§ 44-2-106 Animals/Animal Husbandry -- Prevention and Treatment of Diseases -- federally accredited veterinarians -- inspections, vaccinations and tests**

Veterinarians accredited under Title 9 of the Code of Federal Regulations and licensed by the state board of veterinary medical examiners may be authorized to make necessary inspections, vaccinations, and tests required by this chapter or its regulations.

#### **§ 44-2-402 Tennessee Garbage Feeding Law - definitions**

As used in this part, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of agriculture;
- (2) "Garbage" means animal or plant waste resulting from the handling, preparation, cooking or consumption of foods, including animal and fowl carcasses or parts thereof, and all waste material and by-products of a kitchen, restaurant, hospital, hotel, motel, or slaughterhouse; except, however, bakery waste, whey, or other dairy waste from milk processing plants shall not be included in this definition; and
- (3) "Person" means any individual, partnership, corporation, association or other legal

entity or any organization, political subdivision or governmental agency.

**§ 44-2-403 Tennessee Garbage Feeding Law - enforcement**

This part shall be enforced and administered by the commissioner or the commissioner's designated representative.

**§ 44-2-404 Tennessee Garbage Feeding Law - when feeding garbage to swine allowed**

It is unlawful for any person to feed garbage to swine except:

- (1) Any individual who feeds only that person's own household garbage to that person's own swine; or
- (2) Garbage that has been processed in a manner prescribed and approved by the commissioner.

**§ 44-2-405 Tennessee Garbage Feeding Law - rules and regulations**

The commissioner may promulgate such rules and regulations as, in the commissioner's opinion, are necessary to implement this part.

**§ 44-2-406 Tennessee Garbage Feeding Law - inspection of premises**

The commissioner or the commissioner's designated representative may enter upon any premises, public or private, for the purpose of determining if a violation of this part has occurred.

**§ 44-2-407 Tennessee Garbage Feeding Law - penalty for violation**

- (a) A violation of this part by any person is a Class C misdemeanor.
- (b) Each illegal feeding of garbage is to be considered a separate offense.

**§ 44-2-408 Tennessee Garbage Feeding Law - enjoining violations**

The commissioner, upon determining that any person may have violated any provision of this part, may petition for injunctive relief from further violation. The petition shall be addressed to the chancery court in the county in which the offense occurred or in which the offender's principal place of business is located or where the offender is doing business or resides. The chancellor, on determining that probable cause of a violation of this part exists, shall issue appropriate injunctive relief.

**§ 44-6-104 Commercial feed -- license requirement**

- (a) Any person who manufactures a commercial feed within the state, who distributes a commercial feed in or into the state, or whose name appears on the label of a commercial feed as guarantor shall obtain a license for each facility from which commercial feed is distributed in or into the state authorizing the person to manufacture or distribute commercial feed before engaging in the activity. Any person who makes only retail sales of commercial feed that bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this chapter is not required to obtain a license.
- (b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the commissioner, accompanied by payment in the amount set by rule pursuant to § 43-1-703 for each facility. Each license shall expire on July 1 of the year for which it is issued.
- (c) The form and content of the commercial feed license application shall be established by rules promulgated by the commissioner.
- (d) The commissioner is empowered to refuse to issue a license to any person not in compliance with this chapter and to cancel the license of any licensee subsequently

found not to be in compliance with any provisions of this chapter; provided, that no license shall be refused or cancelled unless the applicant or licensee has been given an opportunity to be heard before the commissioner and to amend the applicant's or licensee's application in order to comply with the requirements of this chapter.

#### **§ 44-6-105 Labeling**

A commercial feed shall be labeled as follows:

- (1) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:
  - (A) The quantity statement;
  - (B) The product name and the brand name, if any, under which the commercial feed is distributed;
  - (C) The guaranteed analysis stated in such terms, as the commissioner by regulation determines, is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods published by the AOAC International, or other methods approved by regulation;
  - (D) The common or usual name of each ingredient used in the manufacture of the commercial feed; provided, that the commissioner by regulation may permit the use of a collective term for a group of ingredients that perform a similar function, or the commissioner may exempt commercial feeds, or any group thereof, from this requirement of an ingredient statement if the commissioner finds that this statement is not required in the interest of consumers;
  - (E) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed;
  - (F) For those commercial feeds containing drugs, and for such other feeds as the commissioner may require by regulation, adequate directions for their safe and effective use; and
  - (G) Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the commercial feed; and
- (2) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:
  - (A) Name and address of the manufacturer;
  - (B) Name and address of the purchaser;
  - (C) Date of delivery;
  - (D) The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used;
  - (E) For those customer-formula feeds containing drugs, and for such other feeds as the commissioner may require by regulation, adequate directions for their safe and effective use; and
  - (F) Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the customer-formula feed.

#### **§ 44-6-106 Commercial feed -- misbranding**

A commercial feed shall be deemed to be misbranded if:

- (1) Its labeling is false or misleading in any particular;
- (2) It is distributed under the name of another commercial feed;
- (3) It is not labeled as required in § 44-6-105;
- (4) It purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the

commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner; or

- (5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

#### **§ 44-6-107 Commercial feed -- adulteration**

A commercial feed shall be deemed to be adulterated if:

- (1)
- (A) It bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, the commercial feed shall not be considered adulterated under this subdivision (1)(A), if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;
  - (B) It bears or contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of § 406 of the federal Food, Drug, and Cosmetic Act, other than one that is:
    - (i) A pesticide chemical in or on a raw agricultural commodity; or
    - (ii) A food additive;
  - (C) It is, or it bears or contains any food additive that is unsafe within the meaning of § 409 of the federal Food, Drug, and Cosmetic Act;
  - (D) It is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of § 408(a) of the federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under § 408 of the federal Food, Drug, and Cosmetic Act, and the raw agricultural commodity has been subjected to processing, such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity, unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe within the meaning of § 408(a) of the federal Food, Drug, and Cosmetic Act;
  - (E) It is, or it bears or contains any color additive that is unsafe within the meaning of § 706 of the federal Food, Drug, and Cosmetic Act;
  - (F) It is, or it bears or contains any new animal drug that is unsafe within the meaning of § 512 of the federal Food, Drug & Cosmetic Act;
  - (G) It consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for feed;
  - (H) It has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
  - (I) It is, in whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe within the meaning of § 402 (a)(1) or (2) of the federal Food, Drug, and Cosmetic Act;
  - (J) Its container is composed, in whole or in part, of any poisonous or deleterious



- substance that may render the contents injurious to health; or
- (K) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulations or exemptions in effect pursuant to § 409 of the federal Food, Drug, and Cosmetic Act;
- (2) Any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;
- (3) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;
- (4) It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure that the drug meets the requirements of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess. In promulgating such regulations, the commissioner shall adopt the current good manufacturing practice regulations for Type A Medicated Articles and Type B and Type C Medicated Feeds established under authority of the federal Food, Drug, and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions that exist in this state; or
- (5) It contains viable weed seeds in amounts exceeding the limits that the commissioner establishes by rule or regulation.

#### **§ 44-6-108 Commercial feed -- prohibited acts**

The following acts and the causing of the following acts within this state are prohibited:

- (1) The manufacture or distribution of any commercial feed that is adulterated or misbranded;
- (2) The adulteration or misbranding of any commercial feed;
- (3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated within the meaning of § 44-6-107(1);
- (4) The removal or disposal of a commercial feed in violation of an order under § 44-6-112;
- (5) The failure or refusal to register in accordance with § 44-6-104; and
- (6) Failure to pay inspection fees and file reports as required by § 44-6-109 [repealed].

#### **§ 44-6-110 Commercial feed and pet food -- rules and regulations**

The commissioner is authorized to promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this chapter, and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this chapter. In the interest of uniformity, the commissioner shall by regulation adopt, unless the commissioner determines that they are inconsistent with this chapter or are not appropriate to conditions that exist in this state, the following:

- (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization; and
- (2) Any regulation promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.).

#### **§ 44-6-111 Commercial feed -- inspection; sampling; analysis**

- (a) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to the provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, are authorized to:

- (1) Enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold commercial feeds; and
- (2)
  - (A) Inspect at reasonable times and within reasonable limits and in a reasonable manner, such a factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.
  - (B) The inspection may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under § 44-6-107(4).
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.
- (c) If the officer or employee making such an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (d) If the owner of any factory, warehouse, or establishment described in subsection (a), or the owner's agent, refuses to admit the commissioner, or the commissioner's agent, to inspect in accordance with subsections (a) and (b), the commissioner is authorized to obtain from any state court a court order directing the owner or the owner's agent to submit the premises described in the warrant to inspection.
- (e) For the purpose of the enforcement of this chapter, the commissioner or the commissioner's duly designated agent is authorized to enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to, to obtain samples of, and to examine records relating to distribution of, commercial feeds.
- (f) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (g) The results of all analyses of official samples shall be forwarded by the commissioner to the person named on the label. When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded, the commissioner shall furnish to the registrant a portion of the sample concerned if the registrant requests it within thirty (30) days of notification.
- (h) The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in § 44-6-103 and obtained and analyzed as provided for in subsections (c), (e), and (f).

**§ 44-6-112 Commercial feed -- withdrawal, condemnation and confiscation orders**

- (a) When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, the commissioner or the commissioner's agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when the provisions and regulations have been complied with. If compliance is not obtained within thirty (30) days, the commissioner may begin, or

- upon request of the distributor or registrant shall begin, proceedings for condemnation.
- (b) Any lot of commercial feed not in compliance with any of the provisions of this chapter or of any of the prescribed regulations under this chapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

#### **§ 44-6-113 Commercial feed -- penalties**

- (a) Any person convicted of violating any of the provisions of this chapter or who impedes, hinders or otherwise prevents, or attempts to prevent, the commissioner or the commissioner's duly authorized agent in performance of that official's duty in connection with this chapter commits a Class C misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the commissioner or the commissioner's authorized agent shall be accepted as prima facie evidence of the composition.
- (b) Nothing in this chapter shall be construed as requiring the commissioner or the commissioner's representative to:
- (1) Report for prosecution;
  - (2) Institute seizure proceedings; or
  - (3) Issue a withdrawal from distribution order,
- as a result of minor violations of this chapter, or when that official believes the public interest will best be served by suitable notice of warning in writing.
- (c) The commissioner is authorized to apply for, and the court to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under this chapter, notwithstanding the existence of other remedies at law. The injunction is to be issued without bond.
- (d) Any person adversely affected by an act, order or ruling made pursuant to this chapter may within forty-five (45) days thereafter bring action in the chancery court of Davidson County, or the chancery court in the county of the residence or principal place of business of the party adversely affected, for judicial review of the act, order or ruling. The form of the proceeding shall be any that may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

#### **§ 44-6-114 Commercial feed -- cooperation with other entities**

The commissioner may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter.

#### **§ 44-6-115 Commercial feed -- publications**

The commissioner shall publish at least annually, in such forms as the commissioner may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the commissioner may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label;

provided, that the information concerning production and use of commercial feed shall not disclose the operations of any single person or company.

**§ 44-7-101 Marks and brands of animals running at large**

Any person owning any cattle, hogs, sheep or goats, horses or other animals, running at large, shall have an earmark or brand different from those of that person's neighbors.

**§ 44-7-102 Recording marks and brands**

Marks or brands shall be recorded in the office of the county clerk of the county in which the animals run; but the same brand or marks shall not be recorded to more than one (1) person in the same county.

**§ 44-7-103 Priority of marks and brands**

When a dispute occurs in regard to a brand or mark, the person first recording the same is entitled thereto.

**§ 44-7-104 Horses and cattle to be branded**

The owner shall brand all horses, from eighteen (18) months old and upwards, with the same brand, and earmark and brand all the owner's cattle from twelve (12) months old and upwards with the same mark or brand.

**§ 44-7-105 Deciding dispute as to marks and brands**

If any dispute arise about an earmark or brand, it shall be decided according to entries on the book of the county clerk.

**§ 44-7-106 Neat cattle purchased to be branded anew upon purchase**

Any person who buys branded neat cattle from another, or acquires same by other lawful means, shall, within eight (8) months, brand the cattle with the person's own proper brand, in the presence of two (2) credible witnesses, a certificate of which shall be signed by the witnesses.

**§ 44-7-107 Altering or defacing marks/brands results in forfeiture**

Any person who alters or defaces the mark or brand of another, forfeits for each animal on which the mark or brand is altered or defaced, twenty-five dollars (\$25.00) to the owner who sues therefor in six (6) months, and to the owner or any interested third person who sues after six (6) and within twelve (12) months.

**§ 44-7-108 Misbranding or mismarking results in forfeiture**

Any person who misbrands or mismarks any unbranded or unmarked animals not belonging to that person forfeits, as in § 44-7-107, twenty-five dollars (\$25.00) over and above the value of the animal, to be recovered in the same way.

**§ 44-7-109 Marks and Brands -- inspection of records; recording fee**

The county clerk shall allow all citizens of the county to inspect, without charge, the book in which the marks and brands are recorded; and is entitled to fifty cents (50¢) for each record of a mark or brand.

**§ 44-7-110 Record of livestock brands required**

(a) Every stockyard, slaughterhouse, and packing house licensed to do business under the laws of this state shall maintain for sixty (60) days on file a record of all visible brands on livestock handled or processed on their premises. The list shall be updated every sixty (60) days and inspection shall be made available to persons doing business with those establishments.

- (b) In the event brands are unreadable, the stockyard, slaughterhouse, or packing house will record the brand to the best of its ability with a statement declaring the condition of the brand.
- (c) Failure to comply with this section is a Class A misdemeanor.

#### **§ 44-7-201 Brands -- definitions**

As used in this part, unless the context otherwise requires:

- (1) "Brand" means any recorded identification mark applied to any position on the hide of a live animal by means of heat, acid or chemical, except tattoo marks in the ear or numbers used to keep production records or record of age;
- (2) "Commissioner" means the commissioner of agriculture;
- (3) "Department" means the department of agriculture;
- (4) "Livestock hide dealer" means any dealer or person who buys hides;
- (5) "Livestock market" means a place where a person assembles livestock for public sale if the person is required to procure a license or permit from the department to operate such market; and
- (6) "Person" means any individual, partnership, corporation or association.

#### **§ 44-7-202 Registration of brands by department of agriculture -- Fees -- Issuance of certificate**

- (a) Any owner who uses a brand to identify cattle, hogs, sheep, goats, horses, and other animals belonging to that owner must submit an application to the department to register the owner's brand.
- (b) The application shall be made on forms prescribed and furnished by the department and shall be accompanied by payment of a fee set by rule pursuant to § 43-1-703 and a facsimile of the brand to be registered. If the brand described in the application closely resembles another brand previously registered by another owner, the commissioner may reject the application for registration, but in the event the brand does not closely resemble another brand previously registered, the commissioner shall issue to the applicant a certificate of registration.
- (c) A person having a brand duly registered with the department may transfer the brand to another person by notifying the department of the transfer and giving the date of transfer and the name of the transferee. Upon receipt of the notice, the department shall note the brand transfer and the name of the transferee in its register of brands. The transferee shall not use the transferred brand until the department notifies the transferee that the brand transfer has been noted on the department's register.

#### **§ 44-7-203 Copy of certificate evidence of registration**

In all suits at law or in equity, or in any criminal proceedings involving the title or right of possession of branded cattle, hogs, sheep, goats, horses, and other animals, a copy of the certificate of the brand registration, verified by the affidavit of the commissioner, shall be received in evidence by the court as evidence of the registration of the brand in accordance with the requirements of this part.

#### **§ 44-7-204 Reregistration of brands periodically -- Fee -- Forfeiture upon failure**

Every five (5) years, all brands shall be reregistered with the department. At least ninety (90) days prior to the date for reregistration of all brands, the department shall notify all persons having brands registered as to the date by which the brand must be reregistered. On or before the reregistration date, the person in whose name the brand is registered shall furnish such additional information as the department may require on forms furnished by the department. If any person having a registered brand fails to reregister the brand in that person's name, the brand shall be forfeited and shall be

available for registration in the name of another person.

#### **§ 44-7-205 Register of brands -- Publication**

The department shall maintain a complete register of all brands, showing the name and address of the owner, and shall, in accordance with the rules, regulations, policies and procedures of the state publications committee, publish and distribute copies of the register in booklet form, and supplemental copies thereof, to every livestock market and county clerk in the state. Copies of the register of brands may be furnished to other persons requesting them at a price to be determined by the commissioner.

#### **§ 44-7-206 Copies of register to be available for inspection**

Every operator of a livestock market where cattle, hogs, sheep, goats, horses, and other animals are sold shall keep a copy of the register of brands in that person's place of business where it will be accessible for public inspection.

#### **§ 44-7-207 Rules and regulations promulgated by commissioner**

The commissioner has the authority to promulgate such rules and regulations as are reasonably necessary to carry out the intent and purpose of this part so as to facilitate the tracing and identification of cattle, hogs, sheep, goats, horses, and other animals, and afford protection against stealing and unlawful dealing in cattle, hogs, sheep, goats, horses, and other animals.

#### **§ 44-7-208 Unlawful to use unregistered brand or deface brand**

It is unlawful for:

- (1) Any person to use any brand for branding cattle, hogs, sheep, goats, horses, and other animals, unless the brand is registered with the department;
- (2) Any person to obliterate, alter or deface the brand of any animals; or
- (3) Any person operating or owning a livestock market to fail to keep a copy of the register of brands furnished to such person by the department in a place easily accessible to interested parties.

#### **§ 44-7-209 Violation of this part a misdemeanor**

A person who violates any of the provisions of this part commits a Class C misdemeanor.

#### **§ 44-7-301 Pedigreed jacks or bulls for breeding must be registered**

The pedigree of any jack or bull, claimed to be pedigreed livestock and used for public breeding, shall be filed and registered with the county clerk, under oath that the pedigree is genuine, and the county clerk shall record the pedigree in a well-bound book to be kept in county clerk's office for that purpose.

#### **§ 44-7-302 Pedigrees to be posted**

The owner of such pedigreed stock shall, during breeding seasons, have posted conspicuously in three (3) different places in the county in which the owner lives, or in which the animal is being used for breeding purposes, a certified copy of the pedigree recorded as provided in § 44-7-301.

#### **§ 44-7-303 False pedigree posted or recorded is a misdemeanor**

Any person who knowingly records or posts any false or fraudulent pedigree commits a Class C misdemeanor.

#### **§ 44-7-401 Certification of Livestock**

In order to promote and further develop livestock interests of this state, the

commissioner, or the commissioner's authorized agents, is authorized, when requested by parties financially interested in livestock or livestock products, to investigate and certify the quality, condition, grade or other classification of the livestock or livestock products. Such classification, including payment of such fees as the commissioner deems reasonable for the services rendered or performed by employees or licensed agents of the department, shall be established under such rules and regulations as the commissioner may prescribe.

#### **§ 44-7-402 Certification of Livestock -- disposition of collected fees**

All fees and moneys collected or received under § 44-7-401 shall be paid into the state treasury to the credit of the department, with the funds to be used solely and separately to defray the actual costs of the services rendered.

#### **§ 44-7-403 Certification of Livestock -- Animal diagnostic laboratory; fees**

- (a) Animal diagnostic laboratory service fees, including, but not limited to, biopsy, necropsy, cytology, parasitology, virology, bacteriology, toxicology, and immunology, shall be set by rule pursuant to § 43-1-703.
- (b) The commissioner shall establish grading fees for livestock graded by employees or agents of the department of agriculture by rule pursuant to § 43-1-703. The livestock market where the animal was graded and sold shall be responsible for payment of the fees to the department.

#### **§ 44-8-101 Land in cultivation must be sufficiently fenced**

Every planter shall make and keep a sufficient fence, of ordinarily sound and substantial material, around the planter's land in cultivation, and so close, for at least two and one-half feet (21/2') from the surface of the earth, as to prevent hogs large enough to do damage from passing through the fence.

#### **§ 44-8-102 Various materials constituting sufficient fencing -- rules**

- (a) The following types of fence are deemed sufficient:
  - (1) Stone. A substantial stone fence or wall, three and one-half feet (31/2') high;
  - (2) Plank and post and rail. A post and plank or post and rail fence four feet (4') high;
  - (3) Rail. A common worm or crooked rail fence five feet (5') high;
  - (4) Bank. Every bank or other means used as a fence, or part of a fence, equivalent, as an obstruction to stock, to either of the three (3) classes of fence above named;
  - (5) Planks and wire. Any enclosure made by nailing fast two (2) sound planks, each not less than six inches (6") wide, to posts set firmly in the ground not more than eight feet (8') apart, the bottom plank to be not more than three inches (3") from the ground, and the second plank from the ground not more than four inches (4") from the first; and then by stretching not less than four (4) strands of barbed wire tightly between the posts above the planks, the topmost wire to be not less than four and one-half feet (41/2') from the ground, and the bottom wire to be four inches (4") from the topmost plank; the next wire from the bottom one to be nine inches (9") from the topmost plank, and the third wire from the bottom to be twenty-one inches (21") from the topmost plank, the above distance as nearly as practicable;
  - (6) Osage orange. Bois d' arc or Osage orange fences, wholly of bois d' arc or Osage orange, or in part of bois d' arc or Osage orange, and in part of wire or other material, at least four feet (4') high, and at least eighteen inches (18") across the top and sufficiently close to prevent stock of all kinds from passing through; and
  - (7) Wire. Any enclosure made by nine (9) smooth, horizontal wires, the bottom and top or first and ninth of which are to be standard number nine (9), and the other seven (7) standard number eleven (11) wires; the first wire to be placed upon or very near

the ground; the second three and one-half inches (3 1/2") from the first; the third three and one-half inches (3 1/2") from the second; the fourth four inches (4") from the third; the fifth four inches (4") from the fourth; the sixth six inches (6") from the fifth; the seventh eight inches (8") from the sixth; the eighth ten inches (10") from the seventh; the ninth ten inches (10") from the eighth. The vertical stays or pickets are to be two feet (2') apart between the first or ground wire and the fifth, and from the fifth to the top or ninth wire four feet (4') apart. The posts are to be one (1) rod apart and well stayed at the ends of the fence, so as to keep the fence from sagging.

(b) In addition to subsection (a), sufficient fencing shall include:

- (1) A fence constructed from synthetic materials commonly sold for fencing, if such materials are installed pursuant to generally acceptable standards, to confine or restrict the movement of farm animals; and
- (2) Systems or devices based on technology generally accepted as appropriate for the confinement or restriction of farm animals.

(c) The commissioner of agriculture may adopt rules and regulations regarding sufficient fencing consistent with this part to provide greater specificity as to the requirements of sufficient fencing. The absence of any such rule or regulation shall not affect the validity or applicability of this section or any section of this part as such sections relate to what constitutes sufficient fencing.

#### **§ 44-8-103 Horses, cattle, and mules sufficiently fenced**

The following shall be sufficient and be deemed a lawful fence only as to horses, cattle, and mules: any enclosure made by stretching not less than five (5) strands of barbed wire tightly between posts firmly set in the ground, or between growing trees and posts firmly set in the ground, not more than twenty feet (20') apart; the topmost wire not less than four and one-half feet (4 1/2') from the ground, the bottom wire not less than six inches (6"), and the next to the bottom wire not less than fifteen inches (15") from the ground.

#### **§ 44-8-104 Paling and wire fence lawful**

The paling and wire fence is made a lawful fence; provided, that the fence is built upon good-sized, substantial posts, set firmly in the ground, not more than twelve feet (12') apart; and provided further, that there is firmly fastened upon these posts two (2) sets double-strand wire, one (1) near the top, the other near the bottom, into which there is woven substantial sawed or split palings, not less than three feet (3') long, with one (1) barbed wire one foot (1') above the paling, or four feet (4') without the wire, and not more than three inches (3") apart; but nothing in this section shall be construed as repealing any statute providing for lawful fences in this state.

#### **§ 44-8-105 Three-wire, plank, or slat fence a lawful fence**

In addition, the following shall also be a lawful fence: a fence built on good-sized, substantial posts, set firmly in the ground not more than nine feet (9') apart. The fence shall consist of three (3) barbed wires, or three (3) planks, or three (3) slats running horizontally and fastened firmly to the posts, the first to be eighteen inches (18") from the ground, and the second and third eighteen inches (18") from the first and second respectively, counting from the center of each. The fence may consist entirely of wire strands, or of planks or of slats; or it may be composed of a wire, plank, and slat.

#### **§ 44-8-106 Damages for trespass – determination; recovery**

(a) When any trespass has been committed by horses, cattle, hogs, goats, sheep, or other stock upon the cleared and cultivated ground of any person having the livestock



fenced, as is described in §§ 44-8-101 -- 44-8-105, the person may complain to a judge of the court of general sessions of the county, who shall cause two (2) discreet and impartial freeholders to be summoned, and with them shall view and examine, on oath of the freeholders to do justice, whether the complainant's fence is a lawful fence, and what damage, if any, the person has sustained by the trespass, and certify the result of this view and examination under the hands and seals of the judge and freeholders, which certificate the judge shall deliver to the complainant. The certificate shall be prima facie evidence of the plaintiff's demand.

- (b) The owner of the stock shall be entitled to a hearing, but, if not successful, shall make full satisfaction for the trespass and damages to the party injured, to be recovered as the damages and costs, subject to the right of appeal of either party. To secure the payment of any judgment, execution may be levied upon the stock committing the trespass; and after ten (10) days' notice the stock may be sold to satisfy the judgment so recovered.

#### **§ 44-8-107 Defense of insufficient of fence**

If it appears that the fence is insufficient, the owner of the animals shall not be liable to make satisfaction for the damages.

#### **§ 44-8-108 Injury to animals from insufficient fence**

If any person, whose fence is adjudged insufficient, maims, wounds, or kills any such animal, or causes or procures it to be done, that person shall make full satisfaction to the person injured for all damages sustained, to be recovered before any tribunal having cognizance thereof.

#### **§ 44-8-109 Notoriously mischievous stock to be confined**

All persons owning notoriously mischievous stock, known to be in the habit of throwing down or jumping fences, shall be required to keep the stock confined upon their own premises.

#### **§ 44-8-110 Liability of owners of notoriously mischievous stock**

The owners of notoriously mischievous stock shall be liable for all damages done by the stock to enclosure or crops of others.

#### **§ 44-8-111 Stock liable to execution**

- (a) To secure the payment of such damage and costs, executions may be levied upon the stock committing the trespass.
- (b) After ten (10) days' notice, the stock may be sold to pay such amount of damages and costs.

#### **§ 44-8-112 Pulling and leaving down fence, or opening and leaving open gate, a misdemeanor**

Any person who pulls down the fence of another and leaves the same down, without permission of the owner, or opens and leaves open the gate of another, without permission of the owner, commits a Class C misdemeanor.

#### **§ 44-8-201 Partition fence defined -- joining fences**

Partition fences, within the meaning of this part, are fences erected on the line between lands owned by different persons; but no owner of land is compelled to allow a neighbor to join a fence exclusively on that person's own land.

#### **§ 44-8-202 Fences to be erected and maintained at joint expense**

Partition fences may be erected and repaired at the expense, jointly, of the occupants or

owners; or if a person makes a fence a partition fence, by joining to it or using it as such, that person shall pay to the person erecting it that person's proportion of the expense.

#### **§ 44-8-203 Damages for failure to maintain fence**

If either of the persons having a joint or partition fence refuses or neglects to keep that person's part of the fence in good repair, that person shall be liable for all damages the other may sustain to enclosures or crops, by trespassing stock, in consequence of the refusal or neglect.

#### **§ 44-8-204 Amount to pay for fence**

If the parties cannot agree as to the amount to be paid to the owner erecting or repairing a partition fence as provided in §§ 44-8-202 and 44-8-206, on application by either to a judge of the court of general sessions, the judge shall issue an order to three (3) disinterested freeholders, not related to either of the parties, to examine such fence, and to ascertain the amount to be paid to the owner erecting or repairing it.

#### **§ 44-8-205 Judgment and execution**

The freeholders, first taking an oath before the judge to discharge their duty fairly and impartially, on a day to be by them appointed, of which both parties shall have notice, shall examine the fence, and report to the judge, in writing, the amount to be paid the person erecting it; whereupon, unless the money be paid within ten (10) days thereafter, the judge shall enter up judgment, subject to appeal, and issue execution for the judgment.

#### **§ 44-8-206 Rebuilding or repairing fences**

The like proceedings may be had in cases where partition fences are rebuilt or repaired by either of the joint proprietors, the jury of view being judges, in the first instance, of the necessity or advisability of the improvement.

#### **§ 44-8-207 Fees of court and fence reviewers**

The court is entitled to fifty cents (50¢) for issuing the order, and the fence reviewers to one dollar (\$1.00) each, one half (1/2) of which is to be paid by each party; and, if not paid within ten (10) days after the report, execution shall issue for such amount.

#### **§ 44-8-208 Fences not removed without six months' notice**

No partition fence, or any part of a partition fence, shall be removed without the mutual consent of the owners, unless the party desiring to remove the fence, or part of the fence, shall first give six (6) months' notice in writing to the other owner of the owner's intention to remove the fence. After the expiration of the time of the notice, the party may remove the fence, or part of the fence.

#### **§ 44-8-209 Removing fence without notice a misdemeanor -- damages**

Any person who removes a partition fence, or any part of a partition fence, without first giving the notice required by § 44-8-208, commits a Class C misdemeanor, and is also liable to the person injured for any damages sustained by reason of the removal.

#### **§ 44-8-210 Disclaiming responsibility for fence erection -- definitions**

(a) In cases when the property on one (1) side of an existing or proposed partition fence is agricultural land, and the property on the other side is non-agricultural land, the owner of the non-agricultural land may disclaim any responsibility for the erection or maintenance of a partition fence pursuant to § 44-8-202. Such disclaimer shall be in writing, executed by the non-agricultural land owner and mailed to the owner of the agricultural land by registered mail, return receipt requested, or sent by some other

means pursuant to which a written verification of receipt is obtained. The disclaimer shall be effective on the date of receipt by the owner of the agricultural land.

- (b) Delivery of the disclaimer as described in subsection (a) shall have the effect of:
  - (1) Relieving the owner of the non-agricultural land of any responsibility to erect or maintain a partition fence pursuant to § 44-8-202; and
  - (2) Releasing the owner of the agricultural land from any claims by the owner of the non-agricultural land arising out of the non-existence or condition of a partition fence.
- (c) As used in this section, unless the context otherwise requires:
  - (1) "Agricultural land" has the same meaning as set forth in § 67-5-1004; and
  - (2) "Non-agricultural land" means land:
    - (A) That is not agricultural land;
    - (B) That is the site of a residence; and
    - (C) On which the owner does not keep livestock.
- (d)
  - (1) If property that meets the definition of non-agricultural land at the time of delivery of a disclaimer as described in subsection (a) subsequently ceases to qualify as non-agricultural land, then the disclaimer, and all effects of the disclaimer as described in subsection (b), shall cease to be effective as of the date property ceases to be non-agricultural property.
  - (2) If a fence is erected by the owner of agricultural land during a period when a disclaimer as described in subsection (a) is in effect, and if the land owned by the disclaiming party subsequently ceases to be qualified as non-agricultural land, then the owner of the non-agricultural land shall reimburse the owner of the agricultural land a proportionate share of the cost of erecting the fence. If the parties cannot agree as to the amount to be paid to the owner of the agricultural land, the process described in § 44-8-204 shall be applicable.

#### **§ 44-8-301 Damages for failure to keep up fences, or for trespass**

It is lawful for two (2) or more owners of adjoining farms to enclose the same under one (1) common fence or enclosure, to be kept up to the standard of a lawful fence by each owner upon that owner's own land, or in such manner and proportion as the owners may agree upon in writing. In the absence of an agreement, the owner of any of the land embraced in the common fence shall be liable to the owners of the other lands and their tenants for all damages to their lands, pastures, fruit trees, crops, or vegetables, occasioned by the failure or neglect of the other owner to keep and maintain the common fence on that owner's land up to the standard of a lawful fence, or by the owner's own stock or that of the owner's tenants trespassing beyond the owner's own land within the common enclosure.

#### **§ 44-8-302 Common enclosure of lands under written agreements -- specifications**

It is lawful to prescribe, in such an agreement, the means and method by which the common enclosure shall be constructed and maintained, regulations for the use and enjoyment by each owner of the lands embraced in the enclosure, the penalties to be imposed upon each for violations and how the penalties shall be imposed, the mode of assessment of damages occasioned by trespassing stock of the parties to the agreement, and the length of time it shall continue in force. The agreement may also provide for impounding, feeding, and caring for trespassing stock of the parties to the agreement found within the common enclosure, and for a lien upon trespassing stock to secure the penalties and damages assessed against the owner on that account, and for the enforcement of the lien by sale. All such provisions, not in violation of any law, shall

be binding upon all parties to the agreement.

**§ 44-8-303 Enclosures - force and binding power of agreement**

Any such agreement shall continue in force and be binding upon all the parties to the agreement and their heirs and devisees, for the period prescribed in the agreement, unless rescinded by mutual consent. The agreement may be modified or amended in writing signed by all the parties, at any time. After the expiration of the period prescribed, the agreement shall be deemed continued by unanimous consent, unless between November 1 and January 1, some party to the agreement or the party's heir or devisee gives notice in writing to all the other parties to the agreement, resident in the county, of the party's intention to terminate the agreement, in which event the agreement shall terminate at the expiration of ninety (90) days from the service of the notice.

**§ 44-8-304 Enclosures - agreement if registered is binding on purchaser, his heirs and assigns**

- (a) The agreement may be acknowledged and registered in the county or counties in which the lands and any part of the lands are situated.
- (b) In case of registration, the agreement shall be binding upon any purchaser of any of the lands embraced in the common enclosure, and the purchaser's heirs and assigns, in the same manner and to the same extent as if the purchaser had been an original party to the agreement.

**§ 44-8-305 Liability of persons not parties to agreement for trespass by stock**

Any person not a party to the agreement whose stock trespasses upon the common enclosure shall be liable to the injured party for all damages that the person sustains, and the party so damaged has all the rights and liens given by law to persons damaged by stock trespassing upon enclosures that are not common; provided, the common enclosure is at the time a lawful enclosure or fence.

**§ 44-8-401 Livestock not to run at large -- punishment**

- (a) It is unlawful for the owners of any livestock, as defined in § 43-1-114, to willfully allow the livestock to run at large in this state.
- (b) A violation of this section is a Class C misdemeanor.

**§ 44-8-402 Lien for damages**

For any damages occasioned by stock running at large in violation of § 44-8-401, the person so damaged shall have a lien upon the stock, which lien shall be enforced by attachment before a judge of the court of general sessions in the same manner and to the same extent as other liens are enforced.

**§ 44-8-408 Dogs not allowed at large – exception; penalties**

- (a) As used in this section, unless the context otherwise requires, "owner" means a person who, at the time of the offense, regularly harbors, keeps or exercises control over the dog, but does not include a person who, at the time of the offense, is temporarily harboring, keeping or exercising control over the dog.
- (b) The owner of a dog commits an offense if that dog goes uncontrolled by the owner upon the premises of another without the consent of the owner of the premises or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street or any other place open to the public generally.
- (c) It is an exception to the application of this section that:
  - (1) The dog was on a hunt or chase;
  - (2) The dog was on the way to or from a hunt or chase;

- (3) The dog was guarding or driving stock or on the way to guard or drive stock;
- (4) The dog was being moved from one place to another by the owner of the dog;
- (5) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;
- (6) The violation of subsection (b) occurred while the injured person was on the private property of the dog's owner with the intent to engage in unlawful activity while on the property;
- (7) The violation of subsection (b) occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or an animal owned by the injured person;
- (8) The violation of subsection (b) occurred while the dog was securely confined in a kennel, crate or other enclosure; or
- (9) The violation of subsection (b) occurred as a result of the injured person disturbing, harassing, assaulting or otherwise provoking the dog.
- (d) The exception to the application of this section provided in subdivisions (c)(1)-(4) shall not apply unless the owner in violation of subsection (b) pays or tenders payment for all damages caused by the dog to the injured party within thirty (30) days of the damage being caused.
- (e) It is not a defense to prosecution for a violation of subsection (b) and punished pursuant to subdivision (g)(1), (g)(2) or (g)(3) that the dog owner exercised reasonable care in attempting to confine or control the dog.
- (f) It is an affirmative defense to prosecution for a violation of subsection (b) and punished pursuant to subdivision (g)(4) or (g)(5) that the dog owner exercised reasonable care in attempting to confine or control the dog.
- (g)
  - (1) A violation of this section is a Class C misdemeanor punishable by fine only.
  - (2) A violation of this section is a Class B misdemeanor punishable by fine only if the dog running at large causes damage to the property of another.
  - (3) A violation of this section is a Class A misdemeanor punishable by fine only if the dog running at large causes bodily injury, as defined by § 39-11-106, to another.
  - (4) A violation of this section is a Class E felony if the dog running at large causes serious bodily injury, as defined by § 39-11-106, to another.
  - (5) A violation of this section is a Class D felony if the dog running at large causes the death of another.
- (h) Notwithstanding subsection (g), a violation of this section shall be punished as provided in subsection (i) if the violation involves:
  - (1) A dog that was trained to fight, attack or kill or had been used to fight; or
  - (2) The owner of the dog violating this section knew of the dangerous nature of the dog and, prior to the violation of this section, the dog had bitten one (1) or more people that resulted in serious bodily injury or death.
- (i) A violation of this section, where one (1) or more of the factors set out in subsection are present, shall be punished as follows:
  - (1) A Class C misdemeanor if the dog running at large does not cause property damage, injury or death;
  - (2) A Class A misdemeanor if the dog running at large causes damage to the property of another;
  - (3) A Class E felony if the dog running at large causes bodily injury to another;
  - (4) A Class D felony if the dog running at large causes serious bodily injury to another; and
  - (5) A Class C felony if the dog running at large causes the death of another.

(j)

- (1) In addition to the authority granted by §§ 5-1-120, 6-2-201(30), 6-19-101(a)(31), 6-33-101, and 7-1-102, a local government may authorize by resolution or ordinance, as applicable, an animal control agency to seize and take into custody any dog found trespassing on the premises of another.
- (2) For purposes of this subsection (j):
  - (A) "Animal control agency" means a county or municipal animal shelter, dog pound, or animal control agency; private humane society; state, county, or municipal law enforcement agency; or any combination thereof, that temporarily houses stray, unwanted, or injured animals; and
  - (B) "Local government" means any county, municipality, city, or town.

#### **§ 44-8-410 Bitches to be confined while proud**

Every owner of a bitch is required to confine the same for twenty-four (24) days during the time the bitch is proud.

#### **§ 44-8-411 No liability for killing proud bitch at large**

Any person crippling, killing, or in any way destroying a proud bitch that is running at large shall not be held liable for the damages due to such killing or destruction.

#### **§ 44-8-412 Violation of § 44-8-410 a misdemeanor**

A violation of § 44-8-410 is a Class C misdemeanor.

#### **§ 44-8-413 Civil liability for injury caused by dogs**

(a)

- (1) The owner of a dog has a duty to keep that dog under reasonable control at all times, and to keep that dog from running at large. A person who breaches that duty is subject to civil liability for any damages suffered by a person who is injured by the dog while in a public place or lawfully in or on the private property of another.
  - (2) The owner may be held liable regardless of whether the dog has shown any dangerous propensities or whether the dog's owner knew or should have known of the dog's dangerous propensities.
- (b) Subsection (a) shall not be construed to impose liability upon the owner of the dog if:
- (1) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;
  - (2) The injured person was trespassing upon the private, nonresidential property of the dog's owner;
  - (3) The injury occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or a dog owned by the injured person;
  - (4) The injury occurred while the dog was securely confined in a kennel, crate or other enclosure; or
  - (5) The injury occurred as a result of the injured person enticing, disturbing, alarming, harassing, or otherwise provoking the dog.
- (c)
- (1) If a dog causes damage to a person while the person is on residential, farm or other noncommercial property, and the dog's owner is the owner of the property, or is on the property by permission of the owner or as a lawful tenant or lessee, in any civil action based upon such damages brought against the owner of the dog,

the claimant shall be required to establish that the dog's owner knew or should have known of the dog's dangerous propensities.

- (2) The element of proof required by subdivision (c)(1) shall be in addition to any other elements the claimant may be required to prove in order to establish a claim under the prevailing Tennessee law of premises liability or comparative fault.
- (d) The statute of limitations for an action brought pursuant to this section shall be the same as provided in § 28-3-104, for personal injury actions.
- (e) As used in this section, unless the context otherwise requires:
  - (1) "Owner" means a person who, at the time of the damage caused to another, regularly harbors, keeps, or exercises control over the dog, but does not include a person who, at the time of the damage, is temporarily harboring, keeping, or exercising control over the dog; provided, however, that land ownership alone is not enough to qualify a landowner as a regular harborer even if the landowner gave permission to a third person to keep the dog on the land; and
  - (2) "Running at large" means a dog goes uncontrolled by the dog's owner upon the premises of another without the consent of the owner of the premises, or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street or any other place open to the public generally.

#### **§ 44-10-202 Tennessee Livestock Dealer Act – part definitions**

As used in this part, unless the context otherwise requires:

- (1) "Alternative livestock" means non-traditional livestock that are hooved and captive-farmed for purposes of agricultural or recreational use, as defined by § 70-4-403(3);
- (2) "Commissioner" means the commissioner of agriculture or the commissioner's appointed agent;
- (3) "Livestock" means cattle, calves, horses, mules, poultry, swine, sheep, goats, and alternative livestock;
- (4) "Livestock dealer" means any person who buys, receives or assembles livestock for resale for that person's own account or that of another person more than nine (9) times in any consecutive three-month period;
- (5) "Livestock producer" means any person who sells only livestock such person has raised or such person has owned and had in possession for a minimum of sixty (60) days; and
- (6) "Person" means an individual, partnership, corporation, association, or other legal entity.

#### **§ 44-10-203 Tennessee Livestock Dealer Act -- license required; fee**

Any person doing business as a livestock dealer must procure from the commissioner an annual license. Application for the annual license or its renewal shall be made on forms provided by the commissioner and accompanied by payment of a license fee set by rule pursuant to § 43-1-703. Upon a determination that the applicant is qualified, the commissioner shall issue a license to the applicant, and all annual licenses shall terminate and become void on June 30 in the calendar year following issuance of the license or renewal.

#### **§ 44-10-204 Tennessee Livestock Dealer Act -- powers and duties of commissioner**

The commissioner has the power and duty to:

- (1) Promulgate such rules and regulations as the commissioner deems necessary to implement and supplement this part and provide for its orderly administration;
- (2) Prescribe necessary information to be provided by applicants for licenses to determine if the requirements of this part have been met;

- (3) Issue licenses to qualified applicants and collect appropriate fees;
- (4) Revoke or suspend the license of, or refuse to issue a license to, any person, licensee, or applicant who violates any provision of this part; and
- (5) Require the necessary record keeping by licensees and submission of written reports, as warranted, in order to carry out the provision and intent of this part.

**§ 44-10-205 Tennessee Livestock Dealer Act --license revocation or suspension; hearing; review**

- (a) In the event the commissioner has reason to believe a licensee has violated any of the provisions of this part, including the rules and regulations promulgated under this part, the commissioner shall conduct a hearing, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, to determine if the license shall be suspended or revoked.
- (b) The commissioner has the power to subpoena any persons or record incident to the hearing, and a charge of contumacy may be filed for those who refuse to comply; and the commissioner may administer oaths to those giving evidence. A court reporter shall be in attendance.
- (c) Following the hearing, the commissioner may:
  - (1) Permanently revoke the license;
  - (2) Temporarily revoke the license; or
  - (3) Suspend the license for a definite period of time.
- (d) The action of the commissioner may be reviewed by common law writ of certiorari to the chancery or circuit court of the county of the licensee who is the subject of the commissioner's action, and the petition shall be filed within ten (10) days from the date of the commissioner's order. Upon the grant of the writ of certiorari, the commissioner shall certify to the court a complete transcript of the proceedings instituted before the commissioner. This certified transcript shall constitute the whole record, and no additional proof or evidence shall be considered by the chancery court of Davidson County.
- (e) The decision of the commissioner shall remain final until modified by the commissioner or by the courts.

**§ 44-10-206 Tennessee Livestock Dealer Act -- prohibited acts**

The following actions are prohibited:

- (1) Any person acting as a livestock dealer without a valid license issued by the commissioner;
- (2) Failure to maintain records as required by the commissioner, including the names and addresses of sellers and buyers of livestock;
- (3) Failure to provide access to all records required of such licensee by the commissioner;
- (4) Buying or selling livestock under an assumed name or address. All livestock sales shall be evidenced by a written bona fide name and address of buyer and seller;
- (5) Violation of any valid rule, regulation or statute governing livestock disease control;
- (6) Failure to make payment to a buyer or seller, or making such payment with insufficient funds; and
- (7) Failure to keep current bond requirements pursuant to 9 C.F.R. § 201, et seq.

**§ 44-10-207 Tennessee Livestock Dealer Act – exemptions from law**

This part shall not apply to any livestock producer who may occasionally buy or sell livestock in connection with that person's farming operations.

**§ 44-10-208 Tennessee Livestock Dealer Act -- penalty for violations**

To operate as a livestock dealer without a valid license, or otherwise violate this part, is



a Class A misdemeanor.

#### **§ 44-10-209 Tennessee Livestock Dealer Act -- enjoining violations of law**

The commissioner, on determining that any person may have violated any provision of this part, may petition for injunctive relief from further violation. The petition should be addressed to the chancery court in the county in which the offense occurred or in which the offender's principal place of business is located or where the offender is doing business or resides. The chancellor, on determining that probable cause of a violation of this part exists, shall issue appropriate injunctive relief.

#### **§ 44-11-101 Livestock sales – chapter definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Alternative livestock" means non-traditional livestock that are hoofed and captive-farmed for purposes of agricultural or recreational use, as defined by § 70-4-403(3);
- (2) "Breed association" means a bona fide livestock breed association which conducts sales of livestock breeds recognized by the department in which such association assumes responsibility for conducting the sales, assumes title to any livestock sold, and accrues a majority of profits from the sales;
- (3) "Commissioner" means the commissioner of agriculture;
- (4) "Consignor" means any person consigning, shipping, or delivering livestock to a livestock market for sale, resale, or exchange;
- (5) "Department" means the department of agriculture;
- (6) "Livestock" means cattle, calves, horses, mules, poultry, swine, sheep, goats, and alternative livestock;
- (7) "Livestock market" means any location where livestock is assembled and sold at public auction, on a commission basis, or otherwise for the compensation of the owner or operator, during regularly scheduled or special sales;
- (8) "Livestock producer" means any person who sells only livestock such person has raised or such person has owned and had in possession for a minimum of sixty (60) days;
- (9) "Operator" means any person conducting business as a livestock market;
- (10) "Person" means any person, firm, or corporation; and
- (11) "Representative" means an employee or designee of the commissioner.

#### **§ 44-11-102 Livestock sales -- license required; application**

- (a) No person shall conduct the business of a livestock market without a valid license from the department.
  - (1) The application for a license shall be on forms prescribed and furnished by the department, and shall include:
    - (A) The name, address and phone number of the livestock market operator;
    - (B) The location and description of the establishment or property where the livestock market is to be conducted;
    - (C) A report of the types and volume of livestock to be handled, sold or exchanged;
    - (D) A copy of property and fire insurance for the livestock market;
    - (E) Proof the applicant has met the bonding requirements of 9 C.F.R. 201, et seq.; and
    - (F) Such other information as the commissioner may require.
  - (2) All applications shall be accompanied by the license fee required by § 44-11-104.
- (b) This chapter shall not be construed to include as a livestock market the following:
  - (1) Any operation where Future Farmers, 4-H Club groups, or fairs conduct sales of livestock; or
  - (2) Any livestock producer or breed association as defined by § 44-11-101.

#### **§ 44-11-103 Local regulation or prohibition of exhibition of livestock restricted**

(a) As used in this section:

(1) "Exhibition of livestock" means a show or sale of livestock at a fair or elsewhere that is sponsored by or under the control of a county or independent agricultural society, school, university, breed association, fair association, or similar organization; and

(2) "Local governing body" means the legislative body of a city, municipality, county, or other political subdivision of this state.

(b) No local governing body shall adopt or continue in effect any ordinance, resolution, rule, regulation, or other enactment regulating or prohibiting the exhibition of livestock in this state.

(c) Subsection (b) does not apply to any ordinance, resolution, rule, regulation, or other enactment regarding the exhibition of livestock in this state, when such enactment is otherwise authorized by state law or is related to reasonable restrictions regarding time, place, and manner consistent with other similar events or the protection of public health, safety, or welfare.

#### **§ 44-11-104 Livestock sales -- issuance of license; fee**

(a) The annual license fee to operate a livestock market shall be set by rule pursuant to §43-1-703.

(b) Upon receipt of an application for a license under this section, accompanied by the required bond and license fee, the department shall examine the application and if it finds the application to be in proper form and that the applicant has otherwise complied with this chapter, the department shall grant the license as applied for, subject to this chapter.

#### **§ 44-11-105 Livestock sales -- form of licenses; display; renewal**

(a) A separate license shall be required for each establishment or premises where a livestock market is operated or conducted. The original, or a certified copy of the license hereunder, shall be conspicuously displayed by the licensee in the sale ring or some other like prominent place in the establishment or premises licensed.

(b) Licenses shall expire on June 30 of each year and shall be renewed annually upon like application and procedure as in the case of the original license.

#### **§ 44-11-106 Livestock sales -- refusal to grant or renew license; suspension or revocation; grounds; notice and hearing; review**

(a) The commissioner may decline to grant or to renew a license, or may suspend or revoke a license upon the following grounds:

(1) The licensee has violated any provision of this chapter or any rule, order, or regulation issued under this chapter;

(2) The licensee has knowingly received on consignment or sold or exchanged stolen livestock or mortgaged livestock without authority from the owner or mortgagee;

(3) The licensee has been guilty of misrepresentation, deception, or fraud in any material particular in securing the license;

(4) The licensee has failed to keep records as required by this chapter;

(5) The licensee has failed to practice measures of sanitation and has failed to provide for the adequate yarding, housing, holding, and feeding of livestock;

(6) The licensee, in the case of livestock weighed on the licensee's scales and sold by weight, has knowingly quoted incorrect weights or has failed to have the scales regularly inspected and tested;

(7) [Deleted by 2010 amendment.]

(8) The licensee has engaged in any illegal activity on the premises where the

community sale is located, the business violates the zoning regulations of any county, municipal, or regional planning commission, or the licensee has failed to comply with such rules and regulations as have been duly adopted in accordance with this chapter;

- (9) The licensee has failed to comply with the Beef Promotion and Research Act of 1985, compiled in 7 U.S.C. §§ 2901-2911, or the Agriculture Commodities Promotion Act, compiled in § 43-29-101 et seq.;
  - (10) The licensee has failed to make payment after a sale or has made payment with insufficient funds to consigners for livestock sold through the market; or
  - (11) The licensee has been determined to be insolvent by the commissioner.
- (b) When any of the foregoing have not been fully complied with, or if there has been a violation of this chapter, the commissioner may give notice to the applicant for a license, or a holder of a license, that the commissioner will conduct a hearing for the purpose of determining whether the commissioner should decline to grant, renew, or suspend or revoke a license pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The findings of the commissioner shall be final, and may be reviewed in the chancery court of Davidson County, by the common law writ of certiorari. When zoning is the question involved, the commissioner shall notify the applicant or holder of the license of the violation, and the applicant or holder shall then have only the rights granted in the zoning ordinance or regulation relative to a hearing and appeal, and shall prosecute the application for a hearing and appeal solely under the particular local zoning ordinance or regulation.

#### **§ 44-11-107 Livestock sales – sale of livestock; regulations governing; inspection; diseased animals**

Each livestock market may be under the direct supervision of a representative of the department. Except as otherwise provided in this chapter, no livestock known to be infected with or known to have been exposed to any contagious, infectious or communicable animal disease or infestation shall be consigned to or sold through any livestock market. The representative may inspect all livestock that is offered for sale and may prohibit the movement of any animals that in the representative's opinion are diseased or that are likely to be carriers of disease, until final inspection is made by a qualified, accredited veterinarian, as to their condition. If, upon examination, an infectious, contagious or communicable disease or infestation is found, such animals may be sold only for immediate slaughter to a recognized slaughterer where veterinary inspection is maintained; or, the owner may, upon submission of an affidavit of ownership for at least sixty (60) days prior to sale date, return them to the original premises, where a strict quarantine must be maintained. The representative shall also issue or cause to be issued all necessary quarantines for such animals as are sold for immediate slaughter or are returned to the original premises. A copy of the quarantine shall be sent to the state veterinarian immediately following issuance, and instructions given the owner that the truck moving the quarantined animals to slaughter or returning them to the original premises must be cleaned and disinfected before being used again to transport livestock. The representative shall supervise the cleaning and disinfecting of the yards and pens at such time as may be necessary, using only those disinfectants approved by the animal disease eradication branch of the agricultural research service of the United States department of agriculture.

#### **§ 44-11-108 Livestock sales – records of operator**

- (a) Each operator of a livestock market shall keep the following records for each lot of livestock consigned to or sold through such livestock market, namely:
  - (1) The name and address of the consignor;

(2)

(A) A description of the livestock which shall include ear tag number or back tag number, or animal descriptors such as livestock sex, color, marking, or weight; and

(B) The date the livestock was received and sold;

(3) The name and address of the purchaser of the livestock; and

(4) The price for which the livestock was sold or exchanged and the commission or other fees charged by the livestock market, including such inspection fees as are required hereunder.

(b) These records shall be kept by the operator of a livestock market at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the department. They shall be open for inspection by all officers or inspectors charged with the enforcement of this law, and they shall be preserved and retained for a period of at least two (2) years.

**§ 44-11-109 Livestock sales – sale or traffic in livestock on public property near licensed premises unlawful**

It is unlawful to sell, or offer to sell, to buy, or offer to buy, livestock within two thousand (2,000) feet of a licensed livestock market property.

**§ 44-11-110 Livestock sales – administration; personnel**

(a) The state veterinarian shall administer this chapter.

(b) The state veterinarian is authorized to employ a chief inspector and shall have one (1) inspector assigned to work in each grand division of the state. In addition, the state veterinarian may employ part-time inspectors who may be assigned in particular localities or at particular community sales.

**§ 44-11-111 Livestock sales – license fees used in administration of chapter**

The license fees collected under this chapter shall be devoted exclusively to its administration and shall be kept in a separate account by the state treasurer, and no part of the fees collected under this chapter shall at any time become a part of the general fund of the state.

**§ 44-11-112 Livestock sales – rules and regulations**

The department may make reasonable rules and regulations for carrying out this chapter.

**§ 44-11-113 Livestock sales – inspections authorized**

For the purpose of carrying out this chapter and making inspections under this chapter, the commissioner or the commissioner's duly authorized representative has the right to enter the establishment or premises where any community sale is held and to inspect its records at all times.

**§ 44-11-114 Livestock sales – certain businesses excepted**

This chapter shall not apply to the business of buying or assembling livestock for the purpose of prompt shipment to or slaughter in any livestock market or packing house where veterinary inspection is regularly maintained under the animal disease eradication branch of the agricultural research services, United States department of agriculture.

**§ 44-11-115 Livestock sales – violations of chapter; penalty**

Any livestock operator, or any person who engages in business as a livestock market

without a license, as herein required, or who violates any of the provisions of this chapter, or any rules and regulations lawfully issued hereunder, commits a Class A misdemeanor.

#### **§ 44-11-116 Livestock sales – injunction**

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule hereunder, the commissioner may, in the commissioner's discretion, bring an action in the chancery court of any county in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule hereunder.

#### **§ 44-14-102 Sheep Producers' Indemnity Law – chapter definitions**

- (a) As used in this chapter, unless the context otherwise requires:
- (1) "Association" means any association or corporation organized under this chapter;
  - (2) "Member" includes bona fide sheep producers who meet the requirements of associations organized under this chapter; and
  - (3) "Person" includes an individual, firm, partnership, corporation and association.
- (b) Associations organized hereunder shall be deemed "nonprofit," inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.

#### **§ 44-14-103 Sheep Producers' Indemnity Law – who may organize**

Five (5) or more persons, a majority of whom are residents of this state, engaged in the production of sheep, may form a nonprofit cooperative protective association, without capital stock under this chapter.

#### **§ 44-14-104 Sheep Producers' Indemnity Law – powers and limitations of association**

Each association organized hereunder has the following powers and limitations:

- (1) Indemnity Limited. The indemnity allowed shall in no instance exceed the value of the animal;
- (2) Losses Prior to Membership. The association shall not protect the member from losses occurring prior to membership in the association;
- (3) Losses While Member in Arrears. The association shall not indemnify a member for losses sustained while the member is in arrears in payment of membership fees, but the member shall be considered to be suspended and without protection until the fees are paid, but shall continue to be liable for all fees due the association;
- (4) Loss Caused by Design of Assured. The association shall not be responsible for any loss caused by the design of the assured;
- (5) Liability for Assessment. No member shall be liable for assessments to pay losses and expenses accruing previous to the time of the member's membership in the association, nor for losses and expenses accruing after membership ceases;
- (6) Joint or Concurrent Indemnity. In all cases of other indemnity against loss by dogs upon the sheep protected in the association, whether prior or subsequent to the date of protection in the association, in the event of loss by dogs, the member will not be entitled to recover on the indemnity in the association any greater portion of the loss sustained than the indemnity in the association shall bear to the whole amount of indemnity on the sheep;
- (7) Must Cover All Sheep. The member shall schedule for indemnity all the sheep that the member owns within the territory of the association that are one (1) year of age and over. Lambs produced from ewes insured in the association shall be protected according to the schedule of indemnity payments until one (1) year of age, so long

as ownership does not change, without the payment of any fees;

- (8) Funds. If, at the end of the fiscal year, there are sufficient funds above and beyond those to be expended for indemnity claims, a reasonable reserve fund shall be set aside; then, if there are still additional funds, the remainder shall be credited to the members pro rata (on a basis as paid into the association) on the ensuing year's fees. If there are not sufficient funds from the fees collected that are available at the end of the fiscal year to pay the indemnity claims as approved in full, then all indemnity payments shall be reduced pro rata;
- (9) Term of Indemnity. All indemnity shall date from the date of issuance of certificate of membership. This indemnity ceases at midnight Central Standard Time (12:00 CST) of the last day of the fiscal year;
- (10) Renewal of Indemnity. Indemnity shall be renewed only when the member pays all protective fees and otherwise fulfills all requirements as stipulated in the bylaws;
- (11) Liability of the Association. The association shall in no instance be liable for loss from other causes than death of sheep caused by dogs;
- (12) Cancellation of Membership. A member may, at any time upon written request to the secretary and the payment of all valid claims against the member, have the member's membership in the association cancelled;
- (13) Cancellation of Indemnity. The association may, upon five (5) days' notice, for any cause deemed sufficient by the board of directors or its representatives, cancel the indemnity of any member or any part thereof; and
- (14) Additional Powers. The association has the power to:
  - (A) Do each and everything necessary, suitable or proper for the accomplishment of any one (1) of the purposes or the attainment of any one (1) of the subjects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly;
  - (B) Exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and
  - (C) Have any other rights, powers and privileges granted by the laws of this state to other corporations, except such as are inconsistent with the express provisions of this chapter.

#### **§ 44-14-105 Sheep Producers' Indemnity Law – members**

- (a) Under the terms and conditions prescribed in the bylaws adopted by it, the association may admit as members only persons engaged in the production of sheep, including the lessees and tenants of land used for the production of sheep, and any lessors and landlords who receive as rent all or any part of the sheep, or returns therefrom, raised on the leased premises.
- (b) If a member of the association is other than a natural person, the member may be represented by any individual, associate officer or manager or member thereof, duly authorized in writing.

#### **§ 44-14-106 Sheep Producers' Indemnity Law – articles of incorporation**

- (a) Each association formed under this chapter must prepare and file articles of incorporation setting forth:
  - (1) The name of the association;
  - (2) The purpose for which it is formed;
  - (3) The place where its principal business will be transacted;
  - (4) The term for which it is to exist, not exceeding fifty (50) years; and
  - (5)
    - (A) The number of directors of the association, which must be not less than five (5)

- and may be any number in excess of five (5);
  - (B) The term of office of such directors; and
  - (C) The names and addresses of those who are to serve as incorporating directors for the first term, and/or until the election and qualification of their successors.
- (b) The articles must be subscribed by the incorporators and acknowledged before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances, and shall be filed in accordance with the general incorporation laws of this state.

**§ 44-14-107 Sheep Producers' Indemnity Law –amendments to articles of incorporation**

The articles of incorporation may be altered or amended at any regular meeting or any special meeting called for that purpose. An amendment must first be approved by two thirds (2/3) of the directors and then be adopted by a vote representing a majority of all the members of the association. Amendments to the articles of incorporation, when so adopted, shall be filed in accordance with the general corporation laws of this state.

**§ 44-14-108 Sheep Producers' Indemnity Law – bylaws**

- (a) Each association incorporated under this chapter must, within thirty (30) days after its incorporation, adopt for its government and management, a code of bylaws not inconsistent with the powers granted under this chapter. A majority vote of the members, or their written assent, is necessary to adopt bylaws.
- (b) Each association, under its bylaws, may provide for any or all of the following matters:
- (1) The number of members constituting a quorum;
  - (2) The right of members to vote by proxy or by mail, or both; and the conditions, manner, form and effects of such votes;
  - (3) The number of directors constituting a quorum;
  - (4) The qualifications, compensation, duties, term of office of directors and officers; the time of their election and mode and manner of giving notice thereof;
  - (5) Penalties for violations of the bylaws;
  - (6) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same; and the purpose for which they may be used;
  - (7) The amount that each member shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member for service rendered by the association to that member and the time of payment and manner of collection; and
  - (8) The number and qualification of members of the association and the conditions precedent to membership; the method, time, and manner of permitting members to withdraw; the manner of assignment and transfer of the interest of members; the conditions upon which and the time when the membership of any member shall cease; the automatic suspension of the rights of a member when the member ceases to be eligible to membership in the association; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of the member, or upon the expulsion of a member for forfeiture of membership, or, at the option of the association, the purchase of the member's interest at a price fixed by conclusive appraisal of the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise the member's property and property interests in the association and fix the amount of the property and property interests in money, which shall be paid to the member within one (1) year after expulsion.

**§ 44-14-109 Sheep Producers' Indemnity Law – general and special meetings; calling notice**

In its bylaws, each association shall provide for one (1) or more regular meetings each year.

The board of directors shall have the right to call a special meeting at any time; and ten percent (10%) of the members may file a petition stating the specific business to be brought before the association and demand a special meeting at any time.

Such meetings must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten (10) days prior to the meeting; provided, that the bylaws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

**§ 44-14-110 Sheep Producers' Indemnity Law – directors; election; compensation; vacancies**

- (a) The affairs of the association shall be managed by a board of not less than five (5) directors elected by the members from their own number. The bylaws may provide that one (1) or more additional directors may be appointed by any public official or commission or by the other directors selected by the members or their delegates. The additional directors shall represent primarily the interest of the general public in such associations. The directors so appointed need not be members of the association, but shall have the same powers and rights as other directors. These directors shall not number more than one fifth (1/5) of the entire number of directors.
- (b) An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee.
- (c) The bylaws may provide that no director shall occupy any position in the association, except that of president and secretary at a regular salary or substantially full-time pay.
- (d) The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board, subject to the general direction and control of the board.
- (e) When a vacancy on the board occurs other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy.

**§ 44-14-111 Sheep Producers' Indemnity Law – election of officers**

The directors shall elect from their number a president and one (1) or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association; and they may combine the two (2) latter offices and designate the combined office as secretary-treasurer, or unite both functions and titles in one person. The treasurer may be a bank or any depository, and as such, shall not be considered as an officer, but as an agency of the board. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board.

**§ 44-14-112 Sheep Producers' Indemnity Law – bonding officers, employees, and agents**

Every officer, employee and agent handling funds or negotiable instruments or property of or for any association created under this chapter shall be required to execute and deliver a bond for the faithful performance of that person's duties and obligations.



**§ 44-14-113 Sheep Producers' Indemnity Law – membership certification; issuance; voting; liability**

- (a) When a member of an association has paid the membership fee in full, and has also paid the prescribed protective fees, the member shall receive a certificate of membership. The promissory notes of the members may be accepted by the association as full or partial payment of fees.
- (b) No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on the membership fee or the prescribed protective fees, including any unpaid balance on any promissory notes given in payment of such fees.
- (c) No member shall be entitled to more than one (1) vote, regardless of the number of sheep owned by such member.

**§ 44-14-114 Sheep Producers' Indemnity Law – removal of officer or director**

Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by five percent (5%) of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The officer or director, against whom such charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against the officer or director shall have the same opportunity.

**§ 44-14-115 Sheep Producers' Indemnity Law -- annual reports**

Each association formed under this chapter shall prepare and make out an annual report on forms to be furnished by the commissioner of commerce and insurance, containing:

- (1) The name of the association;
- (2) Its principal place of business;
- (3) A general statement of its business operations during the fiscal year, showing the number of members, amount of membership fees received, and the amount of prescribed protective fees received;
- (4) The total expenses of operations;
- (5) The amount of its indebtedness or liability;
- (6) Its balance sheets; and
- (7) Such other information as may be required by the commissioner.

**§ 44-14-116 Sheep Producers' Indemnity Law -- conflicting laws not to apply**

Any provisions of law that are in conflict with this chapter shall be construed as not applying to the associations provided for in this chapter.

**§ 44-14-117 Sheep Producers' Indemnity Law – application of general corporation laws**

- (a) The general corporation laws of this state, and the powers and rights under those laws, shall apply to the associations organized under this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter.
- (b) None of the provisions of the general insurance laws of the state shall apply to any association or corporation organized under this chapter, except that the department of commerce and insurance shall act in a supervisory capacity and shall be authorized to make an inspection and investigation of the associations' or corporations' books and

activities, and may require any reports from the associations or corporations that, in the judgment of the commissioner, are deemed to be in the best interest of the public.

#### **§ 44-14-118 Sheep Producers' Indemnity Law -- filing fees**

For filing articles of incorporation an association organized under this chapter shall pay five dollars (\$5.00); and for filing an amendment to the articles, two dollars (\$2.00).

#### **§ 44-15-101 Title – Purpose**

- (a) This chapter shall be known and may be cited as the "Tennessee Apiary Act of 1995."
- (b) Honeybees are kept in beehives by beekeepers throughout the state, and many colonies of feral honeybees have established nests in hollow trees and in walls of buildings. These honeybees perform a pollination function that is essential to the propagation of many species of flowering plants in Tennessee. These flowering plants include many agricultural crops, wildflowers, and forest plants that are of great importance to all Tennesseans, and the honeybees are the major pollinator for most of these plants. Therefore, the state should take appropriate actions to help assure the continued availability of an adequate population of honeybee pollinators. Honeybees, like other animal species, are afflicted by a variety of contagious diseases and pests that can cause serious population reductions. The natural behavior of honeybees cause them to be interactive with bees from other colonies and therefore vulnerable to transmission of some diseases and pests. Therefore, persons involved in the keeping of bees in a given area can engage in beekeeping practices that will have a real and direct impact on the honeybees and beekeeping in surrounding areas. This chapter enables and provides for the development of regulatory programs for beekeeping activities in the state as may be needed to help protect honeybees from diseases, pests, and other threats that could seriously reduce the availability of the honeybee pollinators.

#### **§ 44-15-102 Chapter definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Abandoned apiaries" means an apiary that has not been subjected to at least the minimal beekeeping practices necessary to maintain the bees in a healthy, productive, and safe condition so that the honeybees and beekeepers in surrounding areas will not be adversely affected;
- (2) "Advisory committee" or "ATAC" means the apicultural technical advisory committee that is established pursuant to this chapter;
- (3) "Apiary" means a collection of one (1) or more colonies of bees in beehives at a location. A building or room in a building is considered to be the location of an apiary only if one (1) or more beehives containing colonies of honeybees are housed within that building;
- (4) "Apiary inspectors" means those persons with relevant qualifications and beekeeping training who are employed by or working under contract with the department of agriculture for the purpose of implementing regulatory programs as directed by the state apiarist;
- (5) "Appliances" means any apparatus, tools, machines or other devices used in handling and manipulating bees, honey, and wax that may be used in an apiary, or in transporting bees and their products and apiary supplies;
- (6) "Bee disease or pest" means a condition in which a colony is infested/infected with a bacterial, fungal, viral, or parasitic condition or an organism that can or will affect the well-being of a colony;
- (7) "Beekeeper" means any individual, association, corporation, or other entity who deliberately provides nesting sites for colonies of honeybees and attempts to

- establish and maintain colonies of honeybees at any location;
- (8) "Bees" or "honeybees" means any developmental stage of any sub- species of the species *Apis mellifera*;
  - (9) "Certification" means a voluntary training program approved by the department that when successfully completed authorizes the beekeeper to detect, identify, and control regulated bee diseases and pests in colonies under the management of that beekeeper;
  - (10) "Certified beekeeper" means any person who has successfully met the requirements of a voluntary certification program for beekeepers as approved by the state apiarist;
  - (11) "Colony" means all of the bees living together as one (1) social unit and may include the bee equipment in which the bees are living;
  - (12) "Commissioner" means the commissioner of agriculture or the commissioner's designated agent;
  - (13) "Department" means the Tennessee department of agriculture;
  - (14) "Feral bees" means those honeybees not kept in a beehive provided by a beekeeper and whose nest sites are usually located in a cavity within a tree or a building;
  - (15) "Hive" or "beehive" means that container or structure used by a beekeeper to provide a cavity in which a colony of bees is expected to establish a permanent nest;
  - (16) "Registered apiary" means an apiary location that has been properly registered with the department as required by this chapter;
  - (17) "Registered beekeeper" means a beekeeper whose apiaries are properly registered with the department;
  - (18) "Regulated bee disease" or "regulated pest" means a bee disease or pest that presents a significant threat to the population of honeybees and for which regulatory actions can be taken to mitigate that threat; and
  - (19) "State apiarist" means that person employed by the department who has the qualifications prescribed by this chapter and has been designated as state apiarist by the commissioner.

#### **§ 44-15-103 State apiarist**

- (a)
  - (1) The commissioner shall appoint a state apiarist, subject to any applicable rules or qualifications established by the department of human resources. The state apiarist is responsible for the apiary work of the department of agriculture and, with the necessary assistants, is charged with the duty of enforcing this chapter. The person designated as state apiarist shall have, as a minimum, a college degree in one (1) of the biological sciences and a minimum of five (5) years apiary experience.
  - (2) The state apiarist is responsible for developing, implementing, and administering the apiary program needed to satisfy the objectives and provisions of this chapter, and shall have the duty of enforcing those rules and regulations promulgated pursuant to this chapter.
- (b) The commissioner may appoint, in accordance with any applicable personnel rules and regulations, such assistants, apiary inspectors, and other employees as may be required, and to prescribe their duties; to delegate to apiary inspectors and other employees such powers and authority as may be deemed proper within the limits of the power and authority conferred upon the commissioner by this chapter.
- (c) The state apiarist and the apiary inspectors may provide educational literature and may conduct training programs for beekeeping on topics related to prevention, detection, and control of bee diseases and pests and other topics that will help

beekeepers maintain needed populations of honeybees. The literature and training programs may be developed and conducted in cooperation with the extension apiculturist at the University of Tennessee.

- (d) The state apiarist and all apiary inspectors may own colonies of bees and engage in beekeeping activities on their own time, and their beekeeping activities will be subject to the same rules and regulations as applied to all other beekeepers. The department shall not prohibit such activities but may develop guidelines to avoid interference with work responsibilities and to prevent conflicts of interest.

#### **§ 44-15-104 Cooperative agreements**

The commissioner is authorized to enter into cooperative agreements and/or grants with any person, municipality, county and other departments of this state, and boards, officials and authorities of other states and the United States for inspection with reference to infectious and contagious diseases and regulated pests of honeybees, and for their control and eradication.

#### **§ 44-15-105 Registration of apiaries**

- (a) Every beekeeper owning one (1) or more colonies of bees shall register each apiary location by January 1, 1996, and every three (3) years thereafter. Upon establishment of a new apiary location, it is the duty of the owners or operators of the apiary to register the new locations within thirty (30) days. Any person, firm, or corporation moving bees into the state shall register all apiary locations within thirty (30) days from the date of the establishment of each apiary.
- (b) If an unregistered apiary is found, the state apiarist or any apiary inspector shall make a reasonable effort to locate the owner of the bees and notify the beekeeper by means of a registered letter of the registration requirements and the consequences of noncompliance.
- (c) The state apiarist shall issue to each beekeeper with one (1) or more registered apiaries a unique registration number that will be used for apiary identification purposes.

#### **§ 44-15-106 Moveable frames**

Each beekeeper is required to provide moveable frames in all hives used by that beekeeper to contain bees, so that any such frame can be removed from the hive and inspected for any regulated diseases and pests. Any beekeeper having a colony of bees living in any beehive or other container that does not have moveable frames may be ordered by the state apiarist to transfer the bees into a hive with moveable frames within a specified period of time. If the beekeeper does not make the transfer within the specified time period, the state apiarist shall have the authority to confiscate the bees and hive or hives.

#### **§ 44-15-107 Inspection program**

The state apiarist, assisted by the apiary inspectors identified in this chapter, has the authority and responsibility to establish and implement a program for inspection of apiaries throughout the state for the purpose of detecting regulated bee diseases and pests and for implementing control measures as needed to minimize the adverse impacts of those diseases and pests on the honeybee population in the state. The apiary inspection program will be conducted in accordance with standard procedures that are developed by the state apiarist. The state apiarist may require or supervise the treatment, destruction, or disposition of diseased bees or contaminated bee equipment or bee supplies in accordance with rules and regulations promulgated under the authority of this chapter. Any apiary inspector duly authorized by the state apiarist has the authority to go

upon any public or private property for the purpose of conducting an inspection of an apiary located on that property. The inspector shall make a reasonable effort to notify the beekeeper of a planned inspection prior to the actual inspection.

**§ 44-15-108 Sale or movement of bees**

- (a) No bees may be sold, offered for sale, moved, or transported, shipped or delivered within the state, unless they have been inspected by an appropriate official of the state and certified to be apparently free of infectious or contagious regulated bee diseases and pests in accordance with rules and regulations promulgated under this chapter.
- (b) All persons desiring to move bees, hives, slumgums, used beekeeping equipment or appliances into the state must apply to the department for a permit. The application shall be accompanied by a certificate of health certifying that all bees, hives, slumgums, used beekeeping equipment or appliances have been inspected by an authorized official within thirty (30) days prior to transportation into Tennessee, and that the bees, hives, slumgums, used beekeeping equipment or appliances were found apparently free from any regulated diseases or pest.

**§ 44-15-109 Duty to report disease or pest -- Authority to inspect**

- (a) If a beekeeper knows that a colony of bees has a regulated bee disease or pest, the beekeeper shall immediately report to a state apiary inspector all facts known about the bee's disease or bee's pests.
- (b) If any apiary inspector has substantial reason to believe that a feral colony of bees may be harboring any regulated bee disease or pest, the inspector has the authority to enter onto any property, public or private, to locate and examine that feral colony of bees. The examination of a feral colony and any subsequent regulatory activity must be conducted in accordance with rules established by the department.

**§ 44-15-110 Quarantine – Unlawful to expose free-flying honeybees to disease, pest, or any substance known to kill bees**

- (a) The state apiarist and the duly authorized apiary inspectors have the power and authority to declare a quarantine on any apiary found to be infected/infested with any regulated bee diseases or pests. Immediately after the apiary is declared to be infected/infested, a quarantine notice will be presented to the beekeeper and will include specific instructions as to required actions by the beekeeper. The appliances directly associated with that apiary shall be under quarantine and shall be subject to regulatory actions imposed by the department. The commissioner may declare a geographical area quarantine against any county, group of counties, region, or state where a regulated bee disease or pest is found in a sufficient number of apiaries that the infestation can be considered endemic. However, bees may not be moved from the quarantine area except by permission from the state apiarist or an apiary inspector.
- (b) It is unlawful for any person in the state to participate in or conduct a deliberate act that exposes free-flying honeybees to a known source of any regulated bee disease or pest or to any substance commonly known to kill bees. This section does not apply to farmers, gardeners, or others who are using legally registered pesticides in strict compliance with the label instructions. The deliberate acts that are prohibited include, but are not limited to, the following:
  - (1) Placing in a location that is accessible to free-flying honeybees any beeswax combs, beekeeping equipment, honey, or other substance known to be attractive to honeybees and capable of transmitting bee diseases or pests and known to have been in contact with or associated with sources of regulated bee diseases or pests;
  - (2) Placing in a location that is accessible to free-flying honeybees any honey, sugar

- syrup, corn syrup, or other substance known to be attractive to bees and to which some pesticide or other substance harmful to honeybees has been added; or
- (3) Producing, making, releasing, or otherwise causing any spray, smoke, fog, dust, or other substances to enter a beehive for the purpose of killing the bees therein except as requested by the owner of the bees or as required by a state regulatory order.

#### **§ 44-15-111 Certification program**

The department may authorize establishment of a certification program whereby beekeepers who successfully complete the requirements of the program will be certified to have demonstrated the knowledge and skills needed to effectively detect, identify, and control regulated bee diseases and pests. The state apiarist will develop and administer any regulatory certification program that is established.

The beekeeper certification program shall be a voluntary program, and any applicant must successfully complete the program requirements to become a certified beekeeper. Each person who becomes certified will be granted certain privileges with regard to regulatory requirements promulgated pursuant to this chapter.

#### **§ 44-15-112 Used beekeeping equipment**

No person shall sell or give to any other person any used beekeeping equipment until the equipment has been sanitized by a method approved by the state apiarist. This requirement will not apply to equipment that is occupied by live bees.

#### **§ 44-15-113 Entry permit -- Inspection certificates**

- (a) Any person wanting to move live bees in beehives or empty brood combs (combs that have been used for rearing bee brood) into the state must apply to the department for an entry permit. The application shall be accompanied by a certificate of health from the originating state's regulatory agency certifying that all bees and beehives and used brood combs have been inspected by an authorized official thirty (30) days prior to transportation into Tennessee. The certificate of health must show what diseases and pests were found as a result of the inspection. The state apiarist shall review the application and the health certificate and will determine whether or not an entry permit shall be granted and what conditions or requirements must be met prior to entry.
- (b) Any person, firm or corporation transporting colonies or used beekeeping equipment into, within, or through the state must secure the hives and equipment in such a manner as to prevent the escape of bees.
- (c) The state apiarist and all apiary inspectors shall be empowered to intercept any person or persons transporting colonies or appliances to determine if the person or persons have the required inspection certificates.
- (d) Colonies, beehives, slumgums, used bee equipment or appliances brought into this state in violation of this chapter or any applicable rules and regulations of the department shall be removed by the owner from this state and returned to their state of origin within five (5) days after notification by the department. Failure to comply may result in confiscation as provided in § 44-15-117 without any remuneration to the owner.

#### **§ 44-15-114 Penalty**

Any person violating any of the provisions of this chapter or the rules and regulations made under this chapter, or of any order or notice given pursuant thereto, or who shall forge, counterfeit, destroy, or wrongfully or fraudulently use, any certificate, permit, notice or other like document provided or who impedes, hinders or otherwise prevents, or attempts to prevent, the commissioner or the commissioner's duly authorized agent from

performing the official's duty in connection with this chapter, may, in a lawful proceeding pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, be assessed a civil penalty of not more than five hundred dollars (\$500) for each violation.

#### **§ 44-15-115 Disposition of funds**

All fees, fines, and proceeds resulting from the sale of seized properties collected under this chapter shall be paid into the general fund and the same are appropriated exclusively to the department to be used in carrying out this chapter.

#### **§ 44-15-116 Experimental apiaries**

The state apiarist is empowered to establish or to authorize establishment of apiaries for experimental purposes associated with research on or evaluation of conditions related to any bee disease or pest.

#### **§ 44-15-117 Disposition of confiscated bees and beehives**

All bees and beehives confiscated by the state apiarist as allowed by this chapter shall be destroyed by burning if the state apiarist determines that the confiscated property is infested with a regulated disease or pest to such an extent that it presents a significant and unacceptable threat to bees in the surrounding area. The state apiarist is allowed to use or to authorize use of confiscated property for experimental purposes. Otherwise the property may be donated to any college or university within the state that requests the property for research or educational purposes or disposed of at the discretion of the commissioner.

#### **§ 44-15-118 Preventive measures**

After inspection of infected/infested bees or fixtures, or handling diseased bees, the state apiarist or assistants, before leaving the premises on which disease is found, or proceeding to any other apiary, shall take such measures as to prevent the spread of the disease or pests by infected/infested material adhering to that person's or persons' body or clothing, or any tools or appliances used by the state apiarist or any assistants that have come in contact with infected/infested materials.

#### **§ 44-15-119 Unlawful activities**

It is unlawful for any person to knowingly give false or misleading information in any matter pertaining to the enforcement of this chapter, or to resist, impede, or hinder the state apiarist or any duly authorized apiary inspector in the discharge of duties as described in this chapter.

#### **§ 44-15-120 Honey storage and handling**

- (a) Honey can be contaminated with certain organisms that can cause disease in honeybees. Therefore, honey containers and beekeeping equipment that are wet with honey shall be stored, transported, and handled in such a way that free-flying honeybees will not be able to gain access to that honey.
- (b) No candy or other food containing honey shall be used in queen mailing cages.

#### **§ 44-15-121 Previous rules and regulations revoked -- Authority to promulgate new rules**

- (a) All rules and regulations previously promulgated on the subject matter of this chapter are revoked.
- (b) The department shall promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of this chapter.

#### **§ 44-15-122 Charges**

In order to recover departmental costs, the commissioner is authorized to charge for the use of equipment and materials in providing technical assistance to beekeepers.

#### **§ 44-15-123 Indemnity for destruction**

The commissioner may establish procedures for the payment of indemnities for honey bee colonies destroyed under the authority of this chapter. Indemnity under this section is not intended to be a full reimbursement but a partial compensation based on, but not limited to, the value of the colonies and the availability of funds for this purpose. Indemnification may be disallowed if the owner is in violation of this chapter.

#### **§ 44-15-124 Restrictions on keeping honeybees in hives**

No county, municipality, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance or resolution prohibiting the establishment or maintenance of honeybees in hives, provided that such establishment or maintenance is in compliance with this chapter. This section shall not be construed to restrict or otherwise limit the zoning authority of county or municipal governments; provided, however, that a honeybee hive being maintained at a location in compliance with applicable zoning requirements on June 10, 2011, shall not be adversely affected and may be maintained at the same location notwithstanding any subsequent zoning changes.

#### **§ 44-15-125 Liability for personal injury or property damage**

- (a) Any person who has registered an apiary pursuant to § 44-15-105, is otherwise in compliance with this part and operates such apiary in a reasonable manner shall not be liable for any personal injury or property damage that is caused by the keeping and maintaining of:
- (1) Bee equipment, queen breeding equipment, apiaries, affiliated appliances that are located on such apiary; or
  - (2) Bees that nest in a beehive that is located on such apiary.
- (b) The limitation of liability established by this section shall not apply to intentional tortious conduct or acts or omissions constituting gross negligence.

#### **§ 44-16-101 Hatchery and baby chick inspection service -- rules and regulations; trademarks; inspection fees**

The department of agriculture shall organize, under the division of animal disease control, a poultry hatchery and baby chick inspection service, and the commissioner of agriculture shall prescribe such rules and regulations in conformity with recognized standards and establish such trademarks as may be necessary or proper to effect this service, and fix reasonable inspection fees to provide for the expense of the service.

#### **§ 44-16-102 Certification as accredited flock and hatchery**

Each poultry flock inspected and meeting the standard requirements thus fixed shall be certified by the department as an accredited flock, and each hatchery using eggs from accredited flocks only, and otherwise meeting the standard requirements, shall be certified by the department as an accredited hatchery.

#### **§ 44-16-103 Inspector of poultry flocks, hatcheries, and baby chicks – assistants; compensation**

The commissioner of agriculture is authorized, for the carrying out of this part, to appoint a state poultry flock, hatchery, and baby chick inspector and necessary assistants, and to fix their compensation; provided, that no expense shall be incurred or paid on account



of this service in excess of the revenue derived from the service.

**§ 44-16-104 Inspection fees paid into state treasury for expenses -- surplus for poultry education and investigation**

The revenue derived from the inspection fees authorized in § 44-16-101 shall be paid into the state treasury by the commissioner and placed to the credit of a special poultry inspection account, which may be drawn on by the department of agriculture to meet the expenses of the service provided for in this part, and if there should be a surplus remaining, it may be expended by the commissioner for poultry educational and investigational purposes.

**§ 44-16-201 Hatchery -- license required**

Every person engaging in the business of custom hatching, producing baby chicks for sale or selling or offering baby chicks for sale either individually or by or through community sale, public pavilions or public auction shall obtain a license from the department for each establishment at which such business is conducted.

**§ 44-16-203 Hatchery -- duties of licensees**

Any person coming under this part shall:

- (1) Maintain sanitary measures such as will properly suppress and prevent the spread of contagious and infectious diseases of baby chicks;
- (2) Provide ample facilities for the proper care and handling of baby chicks on the premises;
- (3) Determine that all baby chicks are in a healthy condition before offering them for sale; and
- (4) Label all containers holding baby chicks, when offered for sale as a unit, with the following: number of baby chicks; breed and variety of baby chicks; date hatched; whether or not parent stock has been tested for pullorum disease; cockerels, pullets, or straight run; name and address of producer; and the name and address of the seller.

**§ 44-16-204 Hatchery -- access to premises; enforcement by commissioner**

- (a) The commissioner of agriculture or the commissioner's duly authorized agent has free access at all reasonable hours to any place of business coming under this part.
- (b) The commissioner shall enforce this part and has the authority to promulgate regulations for the efficient enforcement of its provisions.

**§ 44-16-205 Hatchery -- part definitions**

As used in this part, unless the context otherwise requires:

- (1) "Baby chicks" means all domestic fowl six (6) weeks of age or under;
- (2) "Department" means department of agriculture; and
- (3) "Person" includes every person, partnership, firm, company, association, society, public auction, community sale, sale pavilion, syndicate, and corporation.

**§ 44-16-206 Hatchery -- application of law**

This part shall not be construed to include any person who hatches for sale one thousand (1,000) or fewer baby chicks per year.

**§ 44-16-207 Hatchery -- violation a misdemeanor; revocation of license**

Any person who violates any of the provisions of this part commits a Class C misdemeanor, but if the violation occurs after a conviction has become final, the person's license shall be revoked.

#### **§ 44-17-101 Dog and Cat Dealers -- purpose of part**

The purpose of this part is to protect the owners of dogs and cats from the theft of their pets, to prevent the sale or use of dogs and cats that have been stolen, and to ensure the humane treatment of dogs and cats in commerce and those used in research facilities.

#### **§ 44-17-102 Dog and Cat Dealers – part definitions**

As used in this part, unless the context otherwise requires:

- (1) "Cat" means any live cat of the species *Felis catus*;
- (2) "Commerce" means buying or selling or transporting from one (1) place to another in this state;
- (3) "Commissioner" means the commissioner of agriculture;
- (4)
  - (A) "Dealer" means any person who, for compensation or profit, buys, sells, transports (except as a common carrier), delivers for transportation, or boards dogs or cats for research purposes, or any person who buys or sells twenty- five (25) or more dogs or cats in any one (1) calendar year for resale within the state or for transportation out of the state;
  - (B) "Dealer" also means any person who, for compensation or profit, buys from or sells to a private person at a flea market any dog or cat;
- (5) "Dog" means any live dog of the species *Canis familiaris*;
- (6) "Flea market" means any assemblage of twenty (20) or more persons gathered together at regular or irregular intervals, whether in open air or under cover, for the purpose of buying, selling, or trading merchandise to and from the general public, when this buying, selling, or trading is outside of the regular business or occupation of the majority of persons so gathered, and when the majority of the persons so gathered do not pay a business privilege tax for their activities at the flea market;
- (7) "Person" means any individual, firm, corporation, partnership, association, or other legal entity; and
- (8) "Research facility" means any school, hospital, laboratory, institution, organization or person that uses or intends to use dogs or cats in research, tests, or experiments and that purchases or transports dogs or cats in commerce.

#### **§ 44-17-103 Dog and Cat Dealers - Sale or transportation of dogs or cats to research facilities by dealers without license prohibited**

- (a) It is unlawful for any dealer to sell or offer to sell or transport or offer for transportation to any research facility any dog or cat, or to buy, sell, offer to buy or sell, transport or offer for transportation in commerce any dog or cat, unless the dealer has a currently valid license from the commissioner and has complied with the rules and regulations promulgated by the commissioner pursuant to this part.
- (b) A violation of this section is a Class C misdemeanor.

#### **§ 44-17-104 Dog and Cat Dealers -- applications for license; fee**

- (a) An application for a license as a dealer shall be made to the commissioner on a form provided by the commissioner, which shall contain space for such information as the commissioner may reasonably require, including evidence of ability to comply with such standards, rules and regulations as are lawfully prescribed by the commissioner.
- (b) Each application for a license shall be accompanied by a license fee based upon the following:
  - (1) Dealer license fee to sell dogs or cats to research facilities -- two hundred and fifty dollars (\$250);
  - (2) Dealer license fee (wholesale) to sell dogs or cats for resale -- one hundred and

- twenty-five dollars (\$125);
- (3) Dealer license fee (retail) to buy dogs or cats for resale to be assessed as follows:
  - (A) Transactions of up to 50 animals per year -- one hundred and twenty-five dollars (\$125);
  - (B) Transactions of 51 to 150 animals per year -- two hundred and fifty dollars (\$250);
  - (C) Transactions of 151 to 300 animals per year -- five hundred dollars (\$500);
  - (D) Transactions of 301 to 500 animals per year -- seven hundred and fifty dollars (\$750); and
  - (E) Transactions of more than 500 animals per year -- one thousand dollars (\$1,000); and
- (4) Dealer license fee to transport dogs or cats in commerce -- one hundred and twenty-five dollars (\$125).

**§ 44-17-105 Dog and Cat Dealers – issuance of dealer's license; requirements**

- (a) The commissioner shall issue a license to an applicant after determining:
  - (1) The applicant or the responsible officers of the applicant are of good moral character;
  - (2) The applicant or any responsible officer of the applicant has never been convicted of cruelty to animals or of a violation of this part;
  - (3) An inspection has been made of the premises and a finding that it conforms to this part and the rules and regulations of the commissioner, and is a suitable place in which to conduct the dealer's business; and
  - (4) The dealer's business is to be conducted in a permanent structure or building.
- (b) Each license shall be issued only for the premises and to the person or persons named in the application and shall not be transferable or assignable except with the written approval of the commissioner.
- (c) Licenses shall be posted in a conspicuous place on the licensed premises.

**§ 44-17-106 Dog and Cat Dealers -- annual renewal of license; fee**

A license, unless sooner suspended or revoked, shall be renewable annually upon filing by the licensee and approval by the commissioner, of an annual report upon such forms and containing such information as the commissioner may prescribe by regulation. The fee for renewal of licenses shall be based upon the following:

- (1) Dealer license fee to sell dogs or cats to research facilities -- one hundred and twenty-five dollars (\$125);
- (2) Dealer license fee (wholesale) to sell dogs or cats for resale -- one hundred and twenty-five dollars (\$125);
- (3) Dealer license fee (retail) to buy dogs or cats for resale to be assessed as follows:
  - (A) Transactions of up to 50 animals per year -- one hundred and twenty-five dollars (\$125);
  - (B) Transactions of 51 to 150 animals per year -- two hundred and fifty dollars (\$250);
  - (C) Transactions of 151 to 300 animals per year -- five hundred dollars (\$500);
  - (D) Transactions of 301 to 500 animals per year -- seven hundred and fifty dollars (\$750); and
  - (E) Transactions of more than 500 animals per year -- one thousand dollars (\$1,000); and
- (4) Dealer license fee to transport dogs or cats in commerce -- one hundred and twenty-five dollars (\$125).

**§ 44-17-107 Dog and Cat Dealers -- revocation or suspension of dealer's license; grounds; hearing; appeal**

- (a) The license of any dealer may be suspended or revoked by the commissioner for any of the following reasons:
- (1) The incompetence or untrustworthiness of the licensee;
  - (2) Willful falsification of any information contained in the application;
  - (3) The conviction of the licensee or any responsible officer of the licensee of cruelty to animals or a violation of this part; or
  - (4) The nonconformance by the licensee to this part or the rules and regulations of the commissioner.
- (b) If the commissioner has reason to believe that the license of any dealer should be suspended or revoked for any of the above reasons, the commissioner shall give the dealer ten (10) days' written notice of the commissioner's intention to suspend or revoke the license of the dealer and shall give the dealer an opportunity for a hearing on the issue. The dealer may produce evidence to show cause why the license should not be revoked or suspended. If the commissioner determines that conditions exist that warrant the suspension or revocation of the license, the commissioner may suspend the license for such period of time as the commissioner may specify or may revoke it, and where appropriate, may make an order that the dealer cease and desist from continuing any violation found to have been made of this part. If the license is suspended, the dealer may apply, after ninety (90) days, for reinstatement of the license.
- (c) Any dealer aggrieved by a final order of the commissioner issued under this section may, within sixty (60) days after entry of such an order, have the order reviewed upon petition of certiorari in the chancery or circuit court of the county in which the dealer's residence or place of business is located.

**§ 44-17-108 Dog and Cat Dealers -- semi-annual reports to commissioner**

Each dealer shall file, on forms and at such times as prescribed by the commissioner, semi-annual reports containing the following information:

- (1) The number of dogs or cats in the possession of the dealer on the date the report is filed;
- (2) The number of dogs and cats purchased during the reporting period and the names and addresses of the persons from whom they were purchased;
- (3) The number of dogs and cats sold during the reporting period and the names and addresses of the persons to whom they were sold; and
- (4) The number of dogs and cats received by the dealer during the reporting period under circumstances other than purchase and the names and addresses of the persons from whom they were obtained.

**§ 44-17-109 Dog and Cat Dealers -- registration of research facilities with commissioner**

Every research facility shall register with the commissioner in accordance with such rules and regulations as the commissioner may prescribe.

**§ 44-17-110 Dog and Cat Dealers -- identification of dogs and cats delivered to research facilities**

All dogs and cats delivered for transportation, transported, purchased, or sold to research facilities shall be marked or identified in such manner as the commissioner may prescribe.

**§ 44-17-111 Dog and Cat Dealers -- records of research facilities and dealers**

Research facilities and dealers shall make and keep such records with respect to their purchase, sale, transportation, and handling of dogs and cats as the commissioner may prescribe.

**§ 44-17-112 Dog and Cat Dealers -- sales of dogs and cats to research facilities; restrictions**

Dogs and cats shall not be offered for sale or sold to a research facility at public auction or by weight. No research facility shall purchase dogs or cats at public auction or by weight, nor shall any research facility purchase dogs or cats except from a licensed dealer, public pound, humane society, or from a person who breeds dogs or cats for sale to a research facility.

**§ 44-17-113 Dog and Cat Dealers -- bills of sale evidencing purchase of dogs or cats by dealers or research facilities**

- (a) The purchase of any dog or cat by a dealer or by a research facility shall be evidenced by a bill of sale signed by the seller. The bill of sale shall be in form approved by the commissioner and shall certify that the seller is the lawful owner of the dog or cat and that ownership is transferred to the dealer or research facility. The bill of sale shall make reference to the mark or identification required by § 44-17-110.
- (b) The bill of sale shall bear the name, telephone number, and address of the seller, and the driver license or social security number of the seller. At the time of sale, the dealer or research facility making the purchase shall verify from the seller the seller's driver license or social security number, whichever is appropriate. The bill of sale shall also contain a description of the dog or cat sold under that bill adequate to identify the animal. A bill of sale containing the same information shall be furnished by a dealer to any person purchasing a dog or cat at a flea market. Nothing in this subsection (b) shall be construed as enlarging the enforcement responsibilities of the commissioner beyond that existing prior to March 17, 1978.

**§ 44-17-114 Dog and Cat Dealers -- time dealers must hold dogs and cats after acquisition**

No dealer shall sell or otherwise dispose of any dog or cat within a period of five (5) business days after the acquisition of the animal or within such other period as may be specified by the commissioner.

**§ 44-17-115 Dog and Cat Dealers -- authority of commissioner to inspect premises of dealers or research facilities; inspection of conveyances; rules and regulations regarding inspection**

- (a) The premises of any dealer or research facility shall be made available to the commissioner or the commissioner's representative for inspection at all reasonable times. The commissioner or the commissioner's representative shall make or cause to be made such inspections or investigations of the premises as considered necessary.
- (b) The commissioner or the commissioner's representative, or any legally constituted law enforcement agency, may stop any motor vehicle or other conveyance transporting dogs or cats for inspections as to the humane treatment of animals and compliance with licensing requirements of this part or for investigations in search of lost or stolen animals.
- (c) The commissioner shall issue rules and regulations requiring licensed dealers and research facilities to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

- (d) Nothing in this part shall be construed as authorizing the commissioner to promulgate rules, regulations, or orders governing the handling, care, treatment or inspection of animals during actual research or experimentation by a research facility.

**§ 44-17-116 Dog and Cat Dealers -- violations of provisions a misdemeanor**

- (a) A person who violates any of the provisions of this part commits a Class C misdemeanor.
- (b) After notice of any violation received from the commissioner, each day of a continuing violation constitutes a separate offense.

**§ 44-17-117 Dog and Cat Dealers -- construction and enforcement of provisions**

When construing or enforcing §§ 44-17-101 -- 44-17-107, the act, omission, or failure of any individual acting for or employed by a dealer or research facility, within the scope of the individual's employment or office, shall be considered to be the act, omission, or failure of the dealer or research facility as well as of the individual.

**§ 44-17-118 Dog and Cat Dealers -- rules and regulations**

The commissioner may promulgate such rules and regulations as are reasonably necessary to implement this part.

**§ 44-17-119 Dog and Cat Dealers -- supplemental provisions**

This part is in addition to and supplementary of title 39, chapter 14, part 2.

**§ 44-17-120 Dog and Cat Dealers -- destruction of dog causing death or serious injury to human -- notice to dog's owner**

- (a) Any dog that attacks a human and causes death or serious bodily injury may be destroyed upon the order of the judge of the general sessions court of the county wherein the attack occurred. Such orders shall be granted on the petition of the district attorney general for the county. The petition shall name the owner of the dog, and the owner shall be given notice in accordance with Rule 4.01 of the Tennessee Rules of Civil Procedure, that if the owner does not appear before the court within five (5) days of the receipt thereof and show cause why the dog should not be destroyed, then the order shall issue and the dog shall be destroyed.
- (b) Notwithstanding subsection (a), in counties having a population in excess of eight hundred thousand (800,000), or having a metropolitan form of government and a population in excess of one hundred thousand (100,000), according to the 2000 federal census or any subsequent federal census, a municipality or county is authorized to adopt local ordinances authorizing the municipality or the county to appropriately petition in a general sessions court to provide for the disposition of dangerous dogs or dogs causing death or serious bodily injury to humans or other animals.

**§ 44-17-121 Dogs and Cat Dealers -- confiscation of animals**

Subject to this part, the commissioner has the authority to confiscate animals as may be necessary to provide for the humane treatment of such animals.

**§ 44-17-122 Dogs and Cat Dealers-- cooperation with local and federal authorities**

The commissioner may enter into cooperative agreements with local and/or federal agencies for purposes of implementing this part. When implementing the provisions for issuance of dealer licenses, the commissioner shall take into consideration other federal and/or local licensing regulations that may apply, it being the intent of the legislature not to impose duplicative licensing requirements and costs for dealers.

**§ 44-17-201 Dogs killing livestock -- owners of dogs are liable for livestock killed**

Where any dog shall kill, or in any manner damage, any livestock in this state, the owner or harbinger of such dog shall be liable, in an action for damage, to the owner of such livestock.

**§ 44-17-202 Dogs killing livestock -- ignorance of dog's habits is no defense**

Ignorance of the vicious habits or character of the dog on the part of its owner shall be no defense in actions arising under § 44-17-201.

**§ 44-17-203 Dog killing livestock -- no damages recoverable for killing or injuring such dog**

In an action for damages against a person for killing or injuring a dog, satisfactory proof that the dog had been or was killing or worrying livestock constitutes a good defense to such action.

**§ 44-17-301 Non-livestock Animal Human Death Act--Short title**

This part shall be known and may be cited as the "Non-livestock Animal Humane Death Act."

**§ 44-17-302 Non-livestock Animal Humane Death Act -- application**

- (a) This part shall be applicable only to public and private agencies, animal shelters and other facilities operated for the collection, care or euthanasia of stray, neglected, abandoned or unwanted non-livestock animals.
- (b) This part shall apply to any licensed veterinarian, Tennessee veterinarian medical technician, employee, volunteer, whether compensated or otherwise, or any other person acting as an agent on behalf of a public or private agency, animal shelter or other facility operated for the collection, care or euthanasia of stray, neglected, abandoned or unwanted non-livestock animals.

**§ 44-17-303 Non-livestock Animal Humane Death Act -- methods allowed**

- (a) Sodium pentobarbital and such other agents as may be specifically approved by the rules of the board of veterinary medicine shall be the only methods used for euthanasia of non-livestock animals by public and private agencies, animal shelters and other facilities operated for the collection, care or euthanasia of stray, neglected, abandoned or unwanted non-livestock animals. A lethal solution shall be used in the following order of preference:
  - (1) Intravenous injection by hypodermic needle;
  - (2) Intraperitoneal injection by hypodermic needle;
  - (3) Intracardial injection by hypodermic needle, but only if performed on heavily sedated, anesthetized or comatose animals; or
  - (4) Solution or powder added to food.
- (b) A non-livestock animal may be tranquilized with an approved and humane substance before any form of euthanasia involving a lethal injection is performed, but the animal must be tranquilized if the euthanasia is performed by the method described in subdivision (a)(3).
- (c) Succinylcholine chloride, curare, curariform mixtures, strychnine, nicotine, chloral hydrate, magnesium or potassium or any substance that acts as a neuromuscular blocking agent, or any chamber that causes a change in body oxygen may not be used on any non-livestock animal for the purpose of euthanasia. Any such chamber in use as of July 1, 2001, shall be phased out and shall not be used on or after July 1, 2002.
- (d) Euthanasia shall be performed only by a licensed veterinarian, Tennessee veterinarian

medical technician or an employee or agent of a public or private agency, animal shelter or other facility operated for the collection, care or euthanasia of stray, neglected, abandoned or unwanted non-livestock animals, provided that the Tennessee veterinarian medical technician, employee or agent has successfully completed a euthanasia-technician certification course. The curriculum for such course must be approved by the board of veterinary medical examiners and must include, at a minimum, knowledge of animal anatomy, behavior and physiology; animal restraint and handling as it pertains to euthanasia; the pharmacology, proper dosages, administration techniques of euthanasia solution, verification of death techniques, laws regulating the storage, security and accountability of euthanasia solutions; euthanasia technician stress management and the proper disposal of euthanized non-livestock animals.

- (e) An employee, agent or Tennessee veterinarian medical technician performing euthanasia prior to July 1, 2001, who previously passed an approved euthanasia-technician certification course will be accepted as qualified under this part to perform euthanasia on non-livestock animals. Any other employee, agent or Tennessee veterinarian medical technician seeking to perform euthanasia on non-livestock animals on or after July 1, 2001, must obtain certification prior to performing any such euthanasia.
- (f) A non-livestock animal may not be left unattended between the time euthanasia procedures are first begun and the time that death occurs, nor may its body be disposed of until a qualified person confirms death.
- (g) Notwithstanding this section or any other law to the contrary, whenever an emergency situation exists in the field that requires the immediate euthanasia of an injured, dangerous or severely diseased non-livestock animal, a law enforcement officer, a veterinarian, or agent of a local animal control unit or the designee of such an agent may humanely destroy the non-livestock animal.
- (h) For purposes of this part, "non-livestock animal" shall have the meaning set forth in § 39-14-201.
- (i) The attorney general and reporter may bring an action to enjoin any violation of this part.
- (j) Any person who violates this part is guilty of a Class A misdemeanor.
- (k) These provisions shall not apply to exotic animals being held under the authority of title 70, chapter 4, part 4, and Rule 1660-1-18-.05 of the Official Compilation of Rules and Regulations of the State of Tennessee.

**§ 44-17-304 Non-livestock Animal Humane Death Act -- minimum holding time before an animal may be euthanized - emergency exception**

- (a) Before any public or private agency, animal shelter or other facility operated for the collection, care or euthanasia of stray, neglected, abandoned or unwanted non-livestock animals euthanizes a non-livestock animal that the facility knows or should know, by identification or vaccination tags, personal knowledge or otherwise, has an owner, the facility shall be required to hold the animal for at least three (3) full business days from the time it is brought to the facility before the animal may be euthanized.
- (b) Subsection (a) shall not apply where an emergency situation exists that requires the immediate euthanasia of an injured, dangerous or severely diseased non-livestock animal.
- (c) A public or private agency, animal shelter, or other facility that knows or should know that a non-livestock animal has an owner under subsection (a) must make a reasonable effort to locate and notify the animal's owners within forty-eight (48) hours of the time that the public or private agency, animal shelter, or other facility takes custody of the animal or, if the animal is taken into custody on a Friday, within two (2)



business days of the date that the public or private agency, animal shelter, or other facility takes custody of the animal.

**§ 44-17-401 Electronic locating collars**

No agency or entity of state or local government shall enact, adopt, promulgate, or enforce any law, ordinance, rule, regulation, or other policy that restricts or prevents the owner of any dog from using an electronic locating collar to protect the dog from loss; except that the fish and wildlife commission may limit the use of electronic locating collars through the promulgation of rules and regulations when required for the proper management of wildlife species.

**§ 44-17-402 Retrieval of hunting dogs from federal property operated by wildlife resources agency**

If the owner or a person in control of a dog is hunting with either a firearm or a bow and arrow, and that person's dog strays onto property owned by the federal government and operated by the Tennessee wildlife resources agency, the owner or person may proceed onto the property without the person's firearm or bow and arrow. The person shall not be liable for any criminal sanction related to the pursuit of the dog. However, nothing in this section shall be construed to grant civil immunity to the owner or the person in control of the dog for any personal injury or property damage caused by the dog.

**§ 44-17-403 Death of pet caused by negligent act of another -- damages**

(a)

(1) If a person's pet is killed or sustains injuries that result in death caused by the unlawful and intentional, or negligent, act of another or the animal of another, the trier of fact may find the individual causing the death or the owner of the animal causing the death liable for up to five thousand dollars (\$5,000) in noneconomic damages; provided, that if the death is caused by the negligent act of another, the death or fatal injury must occur on the property of the deceased pet's owner or caretaker, or while under the control and supervision of the deceased pet's owner or caretaker.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(b) As used in this section, "pet" means any domesticated dog or cat normally maintained in or near the household of its owner.

(c) Limits for noneconomic damages set out in subsection (a) shall not apply to causes of action for intentional infliction of emotional distress or any other civil action other than the direct and sole loss of a pet.

(d) Noneconomic damages awarded pursuant to this section shall be limited to compensation for the loss of the reasonably expected society, companionship, love and affection of the pet.

(e) This section shall not apply to any not-for-profit entity or governmental agency, or its employees, negligently causing the death of a pet while acting on the behalf of public health or animal welfare; to any killing of a dog that has been or was killing or worrying livestock as in § 44-17-203; nor shall this section be construed to authorize any award of noneconomic damages in an action for professional negligence against a licensed veterinarian.

#### **§ 44-17-404 Recovery for death or injury to guide dogs**

If a person's guide dog is killed or sustains injuries that result in death or permanent disability caused by the unlawful and intentional, or negligent, act of another or the animal of another, then the trier of fact may find the individual causing the death or the owner of the animal causing the death liable for economic damages, which shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

#### **§ 44-17-501 Tennessee Spay/Neuter Law—Short title**

This part shall be known and may be cited as “The Tennessee Spay/Neuter Law.”

#### **§ 44-17-502 Tennessee Spay/Neuter Law – requirement for adoption**

- (a) No person shall adopt a dog or cat from an agency, including, but not limited to, an animal shelter, dog pound, animal control agency or humane shelter operated by a municipality, county, or other governmental agency within the state, or a private organization operating a shelter from which animals are adopted or reclaimed, unless:
- (1) The dog or cat has already been spayed or neutered;
  - (2) The dog or cat has been spayed or neutered by a licensed veterinarian while in the custody of the agency; or
  - (3) The new owner signs a written agreement with the agency stating that the new owner will have the dog or cat spayed or neutered by a licensed veterinarian:
    - (A) Within thirty (30) days of the date of the adoption, if such dog or cat is sexually mature; or
    - (B) Within thirty (30) days after the dog or cat reaches six (6) months of age, if the dog or cat is not sexually mature at the time of the adoption.
- (b) Nothing in this section shall preclude the spaying or neutering of a sexually immature dog or cat at the discretion of a licensed veterinarian with the consent of the new owner.

#### **§ 44-17-503 Tennessee Spay/Neuter Law – deposit; forfeiture of deposit; use of forfeited deposit**

- (a) If the dog or cat being adopted has not been spayed or neutered, the agency shall require a deposit of not less than twenty-five dollars (\$25.00) from the new owner prior to the adoption in order to ensure that the dog or cat is spayed or neutered. The new owner may request and shall receive a refund of the deposit from the agency upon providing confirmation of the spaying or neutering.
- (b)
- (1) If the new owner fails to have the dog or cat spayed or neutered within the time frame established by Section 44-17-502, or if the spaying or neutering is timely performed, but the new owner fails to request the return of the deposit within an additional ten (10) days after the date by which the spaying or neutering is required to be performed, the deposit shall be forfeited to the agency holding the deposit and shall be used by the agency to conduct programs to spay or neuter dogs and cats in the community where the agency is located.
  - (2) The forfeited deposit may also be used to defray operational expenses of the programs, including, but not limited to, costs for purchasing food, medications, tests, upgrades for the animal housing areas, or any other supplies or products which would improve the quality of life for dogs or cats in such programs.
  - (3) No forfeited deposit may be used to pay salaries of persons employed by any agency located within the county.
  - (4) Before the forfeited deposits may be used by an agency for the purposes set out in this subsection (b), the agency shall maintain a minimum balance in the forfeited

deposit fund of no less than the total amount of unclaimed deposits collected during the previous six (6) month period.

**§ 44-17-504 Tennessee Spay/Neuter Law – petition for compliance**

If a person fails to comply with this part, the agency may file a petition with a court of competent jurisdiction seeking compliance and/or requesting return of the dog or cat to the agency from which it was adopted.

**§ 44-17-505 Spay/Neuter Law – dogs or cats claimed by owner**

Nothing in this part shall be construed to authorize an agency to spay or neuter a dog or cat, if the dog or cat is being claimed by and returned to its lawful owner within seven (7) days of the dog or cat being taken into custody by the agency.

**§ 44-17-601 Dogs and cats -- "chemical capture" defined; authorized drugs; administration of drugs**

- (a) As used in this part, unless the context otherwise requires, "chemical capture" means the capture of a dog or cat by means of sedation using approved drugs as provided in this part and appropriate drug administering equipment.
- (b) Chemical capture by certified animal chemical capture technicians shall only be effected by use of Telazol or such other drugs as may be determined by the board of veterinary medical examiners.
- (c) Drugs used for chemical capture shall only be administered by a licensed veterinarian, a licensed veterinary technician employed by and functioning under the direct supervision of a licensed veterinarian, or such other individuals qualified as certified animal chemical capture technicians as determined by the board of veterinary medical examiners pursuant to § 63-12-144.
- (d) With respect to certified animal chemical capture technicians, chemical capture shall be effected only in accordance with a written protocol and only when all other methods of capture have failed.

**§ 44-18-101 Feedlots, Dairy Farms and Poultry Production -- definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Dairy farm" means any place or premises where one (1) or more cows are kept and from which a part or all of the milk or milk products is provided, sold or offered for sale to a milk plant, transfer station or receiving station;
- (2) "Department" means the department of environment and conservation, and includes any officer, agency or designee of that department;
- (3) "Established date of operation" means the date on which a feedlot, dairy farm or poultry production house commenced operating. If the physical facilities of the feedlot, dairy farm or poultry production house are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent "established date of operation" established as of this date of commencement of the expanded operations, and the commencement of expanded operations shall not divest the feedlot, dairy farm or poultry production house of a previously established date of operation;
- (4) "Established date of ownership" means the date of the recording of an appropriate muniment of title establishing the ownership of realty;
- (5) "Feedlot" means a lot, yard, corral or other area in which livestock are confined, primarily for the purposes of feeding, growing, raising, or birthing prior to slaughter. "Feedlot" does not include areas that are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed;
- (6) "Livestock" means all equine as well as animals that are being raised primarily for

use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;

- (7) "Materially affects" means prohibits or regulates with respect to the location, or the emission of noise, effluent, odors, sewage, waste or similar products resulting from the operation or the location or use of buildings, machinery, vehicles, equipment or other real or personal property used in the operation of a livestock feedlot, dairy farm or poultry production house;
- (8) "Nuisance" means and includes public or private nuisance as defined either by statute or by the common law;
- (9) "Nuisance action or proceeding" means and includes every action, claim or proceeding, whether brought at law, in equity or as an administrative proceeding, that is based on nuisance;
- (10) "Owner or operator" means any person who owns, leases, operates, controls or supervises a feedlot;
- (11) "Poultry production house" means any place or premises where chickens are kept for the production of eggs or broilers for resale to processors, wholesalers or retailers;
- (12) "Regulations" means a resolution by the county legislative body or an ordinance by the governing body of any municipality regulating or prohibiting the normal noises of animals or fowls, the noises in the operation of the equipment, the odors normally associated with any feedlot, dairy farm, or poultry production house, or the preclusion of any animals or fowls from within the city or from within a defined area of the county;
- (13) "Rule of the department" means a rule as defined in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that materially affects the operation of a feedlot, dairy farm, or poultry production house and that has been adopted by the department. Nothing in this chapter shall be deemed to empower the department to make any rule; and
- (14) "Zoning requirement" means a regulation or ordinance that has been adopted by a city, county, township, school district, or any special-purpose district or authority, that materially affects the operation of a feedlot, dairy farm or poultry production house. Nothing in this chapter shall be deemed to empower any agency described in this definition to make any regulation or ordinance.

#### **§ 44-18-102 Nuisance action or proceeding against feedlot, dairy farm or poultry production house**

- (a) In any nuisance action or proceeding against a feedlot, dairy farm, or poultry production house brought by or on behalf of a person whose date of ownership of realty is subsequent to the established date of operation of the feedlot, dairy farm or poultry production house, proof of compliance with §§ 44-18-103 and 44-18-104 shall be an absolute defense; provided, that the conditions or circumstances alleged to constitute a nuisance are subject to regulatory jurisdiction in accordance with § 44-18-103 or § 44-18-104.
- (b) In any nuisance action or proceeding against a feedlot, dairy farm or poultry production house brought by or on behalf of a person whose date of ownership of realty precedes the established date of operation of the feedlot, dairy farm or poultry production house, but whose actual or proposed use of the realty for residential or commercial purposes is subsequent to the established date of operation of the feedlot, dairy farm or poultry production house, proof of compliance with §§ 44-18-103 and 44-18-104 shall be an absolute defense; provided, that the conditions or circumstances alleged to constitute a nuisance are subject to regulatory jurisdiction in accordance with § 44-18-103 or § 44-18-104.
- (c) The normal noises and appearance of the animals or fowls, the noises in the operation

of the equipment or the appearance of the equipment, the odors normally associated with any feedlot, dairy farm or poultry production house, the appearance of a feedlot, dairy farm or poultry production house, or litter and/or manure additive that is designed to bind soluble phosphorous in conformity with the Tennessee Natural Resources Conservation Service (NRCS) interim conservation practice standard if used by any feedlot, dairy farm or poultry production house, shall not constitute grounds for any nuisance action or proceeding against a feedlot, dairy farm or poultry production house brought by or on behalf of a person whose date of ownership of realty is subsequent to the established date of operation of the feedlot, dairy farm or poultry production house.

**§ 44-18-103 Applicability of rules of department to feedlots, dairy farms, and poultry houses**

- (a) This section shall apply to the department's rules except for rules required for delegation of the national pollutant discharge elimination system permit program pursuant to the Federal Water Pollution Control Act, Section 402, Public Law 92- 500, 33 U.S.C. 1342, as amended.
- (b) The applicability of rules of the department, other than those issued under the Tennessee Air Quality Act, compiled in title 68, chapter 201, part 1, shall be as follows:
  - (1) A rule of the department in effect before April 12, 1979, shall apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to April 12, 1979;
  - (2) A rule of the department shall apply to a feedlot, dairy farm or poultry production house with an established date of operation subsequent to the effective date of the rule;
  - (3) A rule of the department adopted after April 12, 1979, shall not apply to a feedlot, dairy farm or poultry production house holding any department permit and having an established date of operation prior to the effective date of the rule; and
  - (4) A rule of the department adopted after April 12, 1979, shall not apply to a feedlot, dairy farm or poultry production house not previously required to hold a department permit and having an established date of operation prior to the effective date of the rule.
- (c) The applicability of rules promulgated under the "Tennessee Air Quality Act," compiled in title 68, chapter 201, part 1, shall be as follows:
  - (1) A rule of the department or the air pollution control board in effect on April 12, 1979, shall apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to April 12, 1979;
  - (2) A rule of the department or the air pollution control board shall apply to a feedlot, dairy farm or poultry production house with an established date of operation subsequent to the effective date of the rule; and
  - (3) A rule of the department or the air pollution control board pertaining to a feedlot, dairy farm or poultry production house adopted after April 12, 1979, shall not apply to any feedlot, dairy farm or poultry production house having an established date of operation prior to the effective date of the rule.

**§ 44-18-104 Feedlots, dairy farms, and poultry houses -- applicability of zoning requirements and regulations**

- (a) The applicability of zoning requirements is as follows:
  - (1) A zoning requirement shall apply to a feedlot, dairy farm or poultry production house with an established date of operation subsequent to the effective date of the zoning requirements;
  - (2) A zoning requirement shall not apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to the effective date of the zoning

- requirement;
- (3) A zoning requirement that is in effect on April 12, 1979, shall apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to April 12, 1979; and
  - (4) A zoning requirement adopted by a city shall not apply to a feedlot, dairy farm or poultry production house that becomes located within an incorporated or unincorporated area subject to regulation by that city by virtue of an incorporation or annexation that takes effect after April 12, 1979.
- (b) A person shall comply with this section as a matter of law where no zoning requirement exists.
  - (c) The applicability of regulations shall be as follows:
    - (1) A regulation shall apply to a feedlot, dairy farm or poultry production house with an established date of operation subsequent to the effective date of such regulation;
    - (2) A regulation shall not apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to the effective date of the regulation;
    - (3) A regulation that is in effect on April 12, 1979, shall apply to a feedlot, dairy farm or poultry production house with an established date of operation prior to April 12, 1979; and
    - (4) A regulation adopted by a city shall not apply to a feedlot, dairy farm or poultry production house that becomes located within an incorporated or unincorporated area subject to regulation by such city by virtue of an incorporation or annexation that takes effect after April 12, 1979.
  - (d) A person shall comply with this section as a matter of law where no regulation exists.

#### **§ 44-19-102 Legislative declaration**

It is declared that the general assembly finds that it is in the interest of the public welfare that Tennessee farmers who are producers of milk and milk products be permitted and encouraged to act jointly and in cooperation with other producers, handlers, dealers and processors of milk products in promoting and stimulating, by advertising, research, nutrition education and other methods, the increased consumption, use and sale of all domestic milk and milk products without identification by brand or trade name.

#### **§ 44-19-103 Chapter definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of agriculture;
- (2) "Department" means the department of agriculture;
- (3) "Handler" or "dealer" means any person, including any distributor, processor, bulk handler, or operator of a store, who purchases or receives on consignment or otherwise, milk or milk products of every kind and description, within the state, for sale, shipment, storage, processing or manufacture;
- (4) "Milk" means milk from cows and all of its natural components, sweet cream, sour cream, skim milk, flavored milk, buttermilk, condensed or concentrated, whole, low fat, or skim milk for use in milk products of every kind and description;
- (5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity;
- (6) "Processor" means any person engaged in the business of processing milk and other materials into milk products of every kind and description;
- (7) "Producer" means every person in the state of Tennessee who produces milk or cream from cows and thereafter causes the same to be marketed as milk, cream or other milk and dairy products who has been issued and possesses a valid current producer's permit or certification, issued by the department;
- (8) "Purchaser" means any handler, dealer or processor who purchases or receives milk

- and milk products from producers on a commercial basis;
- (9) "Referendum" means any voting procedure under which affected producers may, by secret ballot, vote for or against an assessment authorized by this chapter;
  - (10) "Tennessee dairy promotion committee" means a statewide committee appointed by the commissioner established pursuant to this chapter; and
  - (11) "Vote" means to cast a ballot in a referendum.

#### **§ 44-19-104 Actions not illegal or in restraint of trade**

No association, meeting or activity undertaken pursuant to this chapter and intended to benefit all of the producers, handlers and processors of milk products shall be illegal or in restraint of trade.

#### **§ 44-19-105 Referendum on assessment authorized**

Producers of milk and milk products on a commercial basis may, by referendum of producers held in accordance with this chapter, levy upon themselves an assessment on milk products for the purpose of financing or contributing to the financing of a program of promoting, advertising, researching and other methods designed to increase the consumption, use and sale of domestic milk and milk products.

#### **§ 44-19-106 Petition for assessment**

Whenever the commissioner has received a petition signed by fifteen percent (15%) of the producers of milk in the state of Tennessee, the commissioner shall publish the filing of the petition through the medium of the public press in the state within fifteen (15) days of the receipt thereof. The petition shall include, but not be limited to, the following:

- (1) Date;
- (2) Amount of assessment sought, subject to the limits set forth in this chapter, and any change in assessment sought or the termination of an existing assessment;
- (3) The date when, if approved, the assessment, change in assessment or termination of an existing assessment will take effect; and
- (4) A statement that the persons signing the petition are producers in Tennessee holding a valid producer permit or certification issued by the department.

#### **§ 44-19-107 Consideration and certification of petition**

Upon the filing with the commissioner of a petition for referendum, the commissioner shall, within fifteen (15) days thereafter, convene the Tennessee dairy promotion committee, established by § 44-19-114, to consider the petition; and if upon such consideration the committee finds the petition for referendum to meet the requirements of this chapter, then, and in such an event, it shall be the duty of the commissioner to certify the petition for referendum as provided in this chapter.

#### **§ 44-19-108 Filing of petition -- Effect of referendum**

The commissioner shall, within sixty (60) days after the filing of a petition for referendum, and subject to a finding by the Tennessee dairy promotion committee that the petition is properly filed, determine by referendum whether the producers assent to the proposed assessment, change in assessment or termination of an existing assessment. The producers shall be deemed to have assented to the assessment, change in assessment or termination of an existing assessment if a simple majority of those voting assent to the assessment, change in assessment or termination of an existing assessment by affirmative vote.

#### **§ 44-19-109 Conducting of referendum -- Voting -- Qualifications**

- (a) Any referendum conducted under this chapter shall be held on a statewide basis.

- (b) Persons eligible to participate in the referendum shall include all producers engaged in the production of milk products on a commercial basis, who have been issued and possess a valid current producer's permit, or certification, issued by the department.
- (c) In the referendum, individuals so eligible for participation shall have one (1) vote per permit or certificate.

#### **§ 44-19-110 Supervision and cost of referendum**

The manner, conduct, and management of any referendum held under this chapter shall be under the supervision and direction of the commissioner. The expense of the referendum shall be paid by the department if there is no assessment currently in effect; otherwise, the Tennessee dairy promotion committee shall bear the cost of the referendum as part of its regular budget.

#### **§ 44-19-111 Notice of referendum and assessment -- Ballots**

With respect to any referendum conducted under this chapter, the commissioner shall, before calling and announcing such referendum, give notice of the effective date of the assessment, if adopted, and the amount and basis of the assessment proposed to be collected; provided, that no assessment levied under this chapter shall exceed ten cents (10¢) per hundred weight. Voting in the referendum shall be by mail ballots returned to an address determined and announced by the commissioner who shall mail a ballot to all qualified producers eligible to vote in the referendum.

#### **§ 44-19-112 Distribution of ballots -- Declaration of results**

The commissioner shall prepare and distribute to all eligible voters, by mail, in advance of the referendum, all necessary ballots for the purpose thereof; and following the referendum and within ten (10) days following the return date for such ballots, the commissioner shall canvass and publicly declare the result of the referendum.

#### **§ 44-19-113 Implementation of results -- Imposition, notice and disposition of assessment**

Upon the approval of an assessment or a change in assessment in accordance with this chapter, the commissioner shall notify forthwith, by certified mail, all persons engaged either in the business of purchasing milk directly from producers or marketing milk in this state, either individually or on behalf of producers, that on and after the date specified in such letter, the specified assessment shall be deducted from the producer's payment for the sale or marketing of milk. The assessment so deducted shall, on or before the twenty-fifth day of the month following the end of the month in which milk is sold or marketed, be remitted to the Tennessee dairy promotion committee established in this chapter. These funds, including donations from individuals, concerns, corporations and grants from state or governmental agencies, shall be used for the purpose of promoting and stimulating by advertising, research, nutrition education and other methods, the increased consumption, use and sale, of milk. The books and records relating to the payment of the assessment of all persons who purchase or market milk shall at all times during regular business hours be open for inspection by the commissioner or the commissioner's duly authorized agents.

#### **§ 44-19-114 Tennessee dairy promotion committee**

- (a) A Tennessee dairy promotion committee shall be established, which shall consist of an odd number of members with no fewer than five (5) and no more than eleven (11) members. The commissioner shall be an ex officio member with nonvoting status.
- (b) The committee shall be organized as a statewide committee appointed by the commissioner from nominations received from agricultural dairy cooperatives and



individual producers who are not members of agricultural dairy cooperatives in the state of Tennessee, and shall be known as the Tennessee dairy promotion committee. Nominating procedures, qualifications, representation, and term of office shall be prescribed by the commissioner. The committee shall be composed of producers directly affected by the assessments in proportional representation by method of marketing either through agricultural dairy cooperatives or by direct sale, as the program shall prescribe.

- (c) A member of the committee shall be entitled to reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter, and fifty dollars (\$50.00) per diem while attending meetings of the committee or engaged in the performance of official responsibilities delegated by the committee.
- (d) The duties and responsibilities of the committee shall be prescribed by the commissioner and, to the extent applicable, shall include the following duties and responsibilities:
  - (1) Developing and recommending to the commissioner administrative rules and procedures relating to the assessment;
  - (2) Recommending to the commissioner such amendments to the administrative procedures as may be deemed advisable;
  - (3) Preparing and effectuating the estimated budget required for the proper operation of the committee;
  - (4) Developing methods for assessing producers, and methods for collecting the necessary funds;
  - (5) Collecting and assembling information and data necessary for the proper administration of the assessment program;
  - (6) Contracting with existing non-brand dairy promotion organizations; and
  - (7) Performing any other duties necessary for the operation of the dairy industry promotion program in coordination with the commissioner.

#### **§ 44-19-115 Refund of promotion money**

If and when the national program pursuant to the Dairy and Tobacco Adjustment Act of 1983 (Public Law 98-180) establishes a procedure for the return of promotion moneys to the producer, at the producer's request, then and only then shall the Tennessee dairy promotion committee, upon written request of any producer, refund from the funds collected from that producer pursuant to this chapter the same proportion of moneys as the national program. The refund request by affidavit of the individual producers shall provide for the refund of moneys collected from that producer during the immediately preceding three-month period, except producers may request a partial refund. Refund forms shall be provided to producers at the producers' request by the committee, and producers desiring refunds shall file refund forms before the end of the month immediately following the three-month period for which the refund is being requested. Producers shall establish their right to a refund by providing copies of vouchers or sales receipts from processors or buyers showing contributions withheld from the producer pursuant to this chapter.

#### **§ 44-19-116 Deposits -- Disbursements**

Any moneys collected pursuant to this chapter shall not be state funds, and shall be deposited in a bank or other depository in this state, as from time to time determined by the Tennessee dairy promotion committee, allocated to the dairy industry promotion program under which they are collected, and disbursed by the committee only for necessary expenses incurred with respect to the program, including expenses and per

diem of the committee, in accordance with the rules and regulations established under the program by the commissioner.

#### **§ 44-19-117 Investments -- Use of funds**

The Tennessee dairy promotion committee may invest all assessments, gifts or grants that are collected or received by the committee. The committee may not use funds received, collected or accrued for any purpose other than program operations including the purposes designated for those funds in this chapter, and the reasonable costs or expenses necessary to the operation of the committee. No such funds may be used to influence either state or federal legislation or rule making.

#### **§ 44-19-118 Change or termination of assessment -- Petition -- Referendum**

Upon written petition duly signed by fifteen percent (15%) of the producers affected by the assessment, the commissioner shall, in accordance with the procedure established in §§ 44-19-109 -- 44-19-112, conduct a referendum to determine whether the producers assent to a change of the assessment or to terminate the assessment. The producers shall be deemed to have assented to a change of the assessment or termination of assessment if a majority of those voting vote in favor of the change or termination.

#### **§ 44-19-119 Reports -- Information -- Audits**

- (a) The commissioner may require purchasers to file such information and reports as may be reasonably necessary to assist in carrying out the purposes of this chapter.
- (b) The Tennessee dairy promotion committee shall prepare an annual report of its activities through June 30 of each year, and submit this report to the commissioner.
- (c) The annual report and all books of accounts and financial records of all funds received by assessment shall be subject to audit annually by the comptroller of the treasury. The audit may be performed by a licensed independent public accountant selected by the committee and approved by the comptroller of the treasury. The cost of any audit shall be paid by the committee. The comptroller of the treasury shall ensure that audits are prepared in accordance with generally accepted governmental auditing standards and determine if the audits meet minimum audit standards prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until approved by the comptroller of the treasury.

#### **§ 44-19-120 Promulgation of rules and regulations**

The commissioner may make and promulgate such rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as may be necessary to effectuate the provisions and intent of this chapter.

#### **§ 44-19-121 Orders and injunctions restraining violations -- Unpaid assessments**

- (a) Whenever in the judgment of the commissioner or the Tennessee dairy promotion committee on recommendation to the commissioner, a purchaser is engaged in or is about to engage in any acts or practices that constitute a violation of any of the sections of this chapter, the commissioner may make application to a court of appropriate jurisdiction for an order enjoining the act or acts or practices and obtain a restraining order and preliminary injunction against the violation.
- (b) Any due and payable assessment shall constitute a personal debt of every person who is liable and the same sum shall be due and payable to the committee. In the event any person fails to pay the full amount of the person's assessment before the due date, the commissioner may add to the unpaid assessment an amount not exceeding ten percent (10%) of the amount due to defray the cost of enforcing collection. In the

event any person fails to pay any due and payable assessment, the commissioner may bring a civil action against that person for collection, together with the above specified ten percent (10%).

#### **§ 44-19-122 Termination of assessments and chapter**

If there is a termination of assessments pursuant to the Dairy and Tobacco Adjustment Act of 1983 (Public Law 98-180), this chapter shall be null and void.

#### **§ 44-20-101 Equine activities -- legislative findings and intent**

The general assembly recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from these activities. It is, therefore, the intent of the general assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

#### **§ 44-20-102 Equine activities -- definitions**

As used in this chapter, unless the context otherwise requires:

- (a)
  - (1)
    - (A) "Engages in an equine activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management.
    - (B) "Engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator places the spectator's person in an unauthorized area and in immediate proximity to the equine activity;
  - (2) "Equine" means a horse, pony, mule, donkey, or hinny;
  - (3) "Equine activity" means:
    - (A) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;
    - (B) Equine training or teaching activities, or both;
    - (C) Boarding equines;
    - (D) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;
    - (E) Rides, trips, hunts, or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor; and
    - (F) Placing or replacing horseshoes on an equine;
      - (1) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, that sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college- sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held;
      - (2) "Equine professional" means a person engaged for compensation:

- (A) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or
- (B) In renting equipment or tack to a participant;
- (3) "Inherent risks of equine activities" means those dangers or conditions that are an integral part of equine activities, including, but not limited to:
  - (A) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them;
  - (B) The unpredictability of an equine's reaction to such things as sounds, sudden movements, and unfamiliar objects, persons, or other animals;
  - (C) Certain hazards such as surface and subsurface conditions;
  - (D) Collisions with other equines or objects; and
  - (E) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability; and
- (4) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

**§ 44-20-103 Equine activities -- limitation on liability for injury or death of participant**

Except as provided in § 44-20-104, an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities. Except as provided in § 44-20-104, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

**§ 44-20-104 Equine activities – applicability; where liability not prevented or limited**

- (a) This chapter shall not apply to the horse racing industry as regulated in title 4, chapter 36.
- (b) Nothing in § 44-20-103 shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:
  - (1)
    - (A) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury; or
    - (B) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of the participant's ability;
  - (2) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition that was known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;
  - (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or
  - (4) Intentionally injures the participant.
- (c) Nothing in § 44-20-103 shall prevent or limit the liability of an equine activity sponsor or an equine professional:

- (1) Under product liability provisions in title 29, chapter 28; or
- (2) Under trespass provisions in chapter 8 of this title.
- (d) Title 70, chapter 7 does not apply to an equine activity sponsor or an equine professional. It is the legislative intent that equine activity sponsors and equine professionals be held to a higher standard of care.

#### **§ 44-20-105 Equine activities – warning signs and notice required**

- (a) Every equine professional shall post and maintain signs that contain the warning notice specified in subsection (b). The signs shall be placed in clearly visible locations on or near stables, corrals, or arenas where the equine professional conducts equine activities if the stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in subsection (b) shall appear on the sign in black letters, with each letter to be a minimum of one inch (1") in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in subsection (b).
- (b) The signs and contracts described in subsection (a) shall contain the following warning notice: WARNING Under Tennessee Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to Tennessee Code Annotated, title 44, chapter 20.

#### **§ 44-21-101 Definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Bovine activity" means any activity involving one (1) or more bovine, including, but not limited to:
  - (A) Grazing, herding, feeding, branding, milking or any other activity that involves the care or maintenance of bovine;
  - (B) Bovine shows, fairs, competitions or auctions;
  - (C) Bovine training or teaching activities;
  - (D) Boarding bovine; or
  - (E) Riding, inspecting, or evaluating bovine;
- (2) "Bovine owner" means any person with ownership rights to bovine;
- (3) "Inherent risks of bovine activities" means dangers or conditions that are an integral part of bovine activities, including, but not limited to:
  - (A) The propensity of a bovine to behave in ways that may result in injury, loss, damage or death to persons on or around the bovine;
  - (B) The unpredictability of a bovine's reaction to sounds, sudden movements, and unfamiliar objects, persons, or other animals;
  - (C) Certain hazards on the property, such as surface and subsurface conditions; or
  - (D) Collisions with other bovine or objects; and
- (4) "Person" means an individual, corporation or any other legal entity.

#### **§ 44-21-102 No liability for inherent risks of bovine activities**

- (a) A bovine owner shall not be liable for any injury, loss, damage, or death of a person resulting from the inherent risks of bovine activities.
- (b) Except as provided in § 44-21-103, no person shall make any claim against, maintain an action against, or recover from a bovine owner for injury, loss, damage, or death of the person resulting from the inherent risks of bovine activities.

#### **§ 44-21-103 Bovine owner activities that preclude limitations on liability**

- (a) Nothing in § 44-21-102 shall prevent or limit the liability of a bovine owner if the owner:
  - (1) Fails to post and maintain warning signs pursuant to § 44-21-104(a);
  - (2) Fails to maintain proper fences and enclosures pursuant to chapter 8 of this title; or
  - (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the person, and that act or omission caused the injury, loss, damage, or death.
- (b) Title 70, chapter 7 shall not apply to a bovine owner if the injury, loss, damage or death resulted from a bovine activity.

#### **§ 44-21-104 Warning Signs**

- (a) A bovine owner shall post and maintain signs that contain the warning notice specified in subsection (b). The signs shall be placed in clearly visible locations on or near stables, corrals, fences, enclosures or arenas where the owner conducts bovine activities. The warning notice specified in subsection (b) shall appear on the sign in black letters, with each letter to be a minimum of one inch (1") in height.
- (b) The signs described in subsection (a) shall contain the following warning notice:  
WARNING  
Under Tennessee Law, a bovine owner is not liable for any injury, loss, damage, or death of a person resulting from the inherent risks of bovine activities, pursuant to Tennessee Code Annotated, title 44, chapter 21.

#### **§ 49-6-4208 School Security Act of 1981 -- use of animals**

To facilitate a search that is found to be necessary, dogs or other animals trained to detect drugs or dangerous weapons by odor or otherwise may be used in conducting searches, but the animals shall be used only to pinpoint areas needed to be searched and shall not be used to search the persons of students or visitors.

#### **§ 49-8-106 Reserve officer training**

- (a) The state university and community college system is authorized and empowered to establish reserve officers training corps units in any public college or university under its jurisdiction, to execute and deliver bond, with or without surety, in such manner and on such terms and conditions as may be required by the United States, for the care and safekeeping of the transportation animals, arms, ammunition, supplies, tentage and equipment that may be necessary or desirable for the operation, conduct and training of any reserve officers training corps units of the armed forces of the United States authorized by law at any time, to be conducted in conjunction with any public college or university under its jurisdiction.
- (b) The authority delegated in subsection (a) to the state university and community college system may, at its discretion, be redelegated by the system to the presidents of the several universities, colleges and institutions, now or hereafter under control of the system.
- (c) Nothing in § 49-3-1106 shall limit the authority conferred in this section.
- (d) Under authority of this section, suits may be brought by the United States against the state university and community college system of this state.

#### **§ 53-3-119 Use of milk from hoofed mammal for owner's personal consumption or use – Safe milk-handling course – Cooperative agricultural extension funding – Records – Penalty.**

Nothing in this part or any other law shall be construed as prohibiting the independent or partial owner of any hoofed mammal from using the milk from the animal for the owner's personal consumption or other personal use.

### **§ 53-7-302 Part definitions**

As used in this part, unless the context otherwise requires:

- (1) "Animal" means any member of the animal kingdom whether domesticated or wild, but not including humans;
- (2) "Animal product" means any product derived from any animal or animals that is or could be suitable for human consumption;
- (3) "Biological residue" means any substance, including metabolites, remaining in or on any animal prior to or at the time of slaughter, in or on any of its tissues after slaughter, or in or on any animal product as the result of treatment with or exposure of the animal or animal product to any pesticide, organic or inorganic compound, hormone-like substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent;
- (4) "Commissioner" means the commissioner of agriculture or the commissioner's designated representative; and
- (5) "Person" means any individual, partnership, corporation, association or other business unit.

### **§ 53-7-303 Administration -- Detention, quarantine and destruction of affected animals and animal products**

- (a) This part shall be administered by the commissioner.
- (b) Whenever any animal or animal product is found within the state to bear or contain any biological residue that has been found to be hazardous to human health, as well as any other animal or animal product that the commissioner has reason to believe contains a biological residue, it may be detained or quarantined by order of the commissioner. The animal or animal product shall remain under detention or quarantine until such time as:
  - (1) The commissioner determines that the animal or animal product is within established tolerances; or
  - (2) The animal or animal product is destroyed or otherwise disposed of in accordance with regulations that the commissioner shall prescribe.

### **§ 53-7-304 Right of entry for examination purposes**

The commissioner may enter at normal business hours every place where animals or animal products are kept within the state, to examine the facilities, inventory and records pertaining to the animals or animal products, to copy all records, and to take reasonable samples of any animals or animal products, and to make additional investigations as to the source and use of substances contributing to biological residues.

### **§ 53-7-305 Authority of commissioner to promulgate tolerance regulations**

- (a) The commissioner shall promulgate regulations setting forth tolerances for biological residues in or on animals or animal products that are consistent with tolerances adopted under authority of the Tennessee Food, Drug and Cosmetic Act, compiled in chapter 1 of this title and the Tennessee Meat and Poultry Inspection Act, compiled in part 2 of this chapter.
- (b) No tolerances may be adopted that are in excess of or that are more restrictive than those adopted by the United States department of agriculture or the federal food and drug administration for biological residues.

### **§ 53-7-306 Violation of provisions -- Penalties**

A violation of this part is a Class C misdemeanor.

### **§ 53-7-307 Injunctive relief**

In addition to the remedies provided in this part, the commissioner may apply to any chancery court, and the chancery court shall have jurisdiction, for a temporary or permanent injunction restraining any person from violating this part, regardless of whether or not there exists an adequate remedy at law.

### **§ 55-4-317 Animal friendly license plates**

- (a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an "Animal Friendly" new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).
- (b) The new specialty earmarked plates provided for in this section shall contain an appropriate image, design or logo that depicts an animal or animals and indicates support for animal welfare.
- (c)
  - (1)
    - (A) The funds produced from the sale of "Animal Friendly" new specialty earmarked license plates, pursuant to § 55-4-215 shall be deposited in a special fund in the general fund to be used exclusively for grants to non-profit organizations or governmental agencies to provide low-cost spaying and neutering of unsterilized animals to prevent and/or reduce animal overpopulation as well as funding to defray costs incurred by the department of agriculture associated with the licensing of dog and cat dealers pursuant to title 44, chapter 17, part 1, not to exceed eighty thousand dollars (\$80,000) per year and not to be available to the department for such purposes after July 1, 2004. It is the intent of the general assembly that the department sustain a grant program to spay and neuter clinics in fiscal years 2003 and 2004 that at least approximates the level of grant allocations in fiscal year 2002 subject to satisfactory qualifications of the respective applicants.
    - (B) During the first fiscal year in which revenues derived from the fees collected pursuant to title 44, chapter 17, part 1, exceed one hundred thirty thousand dollars (\$130,000), the department of agriculture shall allocate all the revenues in excess of one hundred thirty thousand dollars (\$130,000) to the animal population control endowment fund. The department of agriculture shall continue the procedure outlined in the preceding sentence during subsequent fiscal years until such time as the department has made reimbursements to the animal population control endowment fund in a total amount of one hundred sixty thousand dollars (\$160,000). The commissioner of agriculture is authorized to make grants to eligible organizations to operate animal sterilization programs from moneys available in the special fund.
  - (2) There is established a general fund reserve to be allocated by the general appropriations act which shall be known as the "animal population control endowment fund." Moneys from the fund may be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by the revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from this reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.
  - (3) All revenues produced from the sale and renewal of the new specialty earmarked



plates authorized by this section shall be allocated in accordance with the provisions of § 55-4-215.

- (d) "Animal Friendly" new specialty earmarked license plates shall bear the legend "Spay/Neuter"; provided that plates bearing the legend "Spay/Neuter" shall only be issued after existing supplies of animal friendly plates are exhausted through routine issuance or reissuance.

#### **§ 55-8-101 Rules of the Road -- definitions**

As used in this chapter and chapter 10, parts 1-5, of this title, unless the context otherwise requires:

...

- (18) "Department" means the department of safety;
- (19) "Driver" means:
  - (A) For purposes of a conventionally operated vehicle, every person who drives or is in actual physical control of a vehicle; and
  - (B) For purposes of an ADS-operated vehicle and when the context requires, the ADS when the ADS is engaged;
- (68) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, "roadway" refers to any such roadway separately but not to all such roadways collectively;
- (91) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(see full statute)

#### **§ 55-8-105 Persons riding animals or driving animal-drawn vehicles**

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter and chapter 10, parts 1-5 of this title, except those provisions of this chapter and chapter 10, parts 1-5 of this title that by their very nature can have no application.

#### **§ 55-8-178 Regulations governing nonmotor vehicles and animals -- Penalty**

- (a) Every driver or person having charge of any nonmotor vehicle, on any of the public roads in or of this state, on meeting and passing another vehicle, shall give one-half (1/2) of the road by turning to the right, so as not to interfere in passing.
- (b) When nonmotor vehicles on public roads are traveling in the same direction, and the driver of the hindmost desires to pass the foremost, each driver shall give one-half (1/2) of the road, the foremost by turning to the right, and the hindmost to the left.
- (c)
  - (1) No driver shall stop a nonmotor vehicle on any of the public roads, for any cause or pretense whatever, without turning so far to the right as to leave at least one-half (1/2) of the road free, open, and unobstructed for other travelers and vehicles.
  - (2) Subdivision (c)(1) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control.
- (d) Drivers of nonmotor vehicles on public roads shall pass each other in a quiet, orderly, and peaceable manner, and shall not make any noise intended to disturb or frighten the driver or the animals drawing nonmotor vehicles.
- (e) No person shall willfully, by noise, gesture or by other means, on or near public roads, disturb or frighten the driver or rider or the animals ridden or drawing vehicles thereon.

- (f)
  - (1) An intentional or careless violation of this section is a Class C misdemeanor.
  - (2) A willful or malicious violation of this section, whereby the death of any person is occasioned, is a Class E felony.
- (g)
  - (1) All horse-drawn vehicles and/or equipment, whether farm or passenger, shall be equipped with a self-luminous white lamp which shall be visible from the front from a distance of at least five hundred feet (500') and with a self-luminous red lamp on the rear which shall be visible from a distance of at least five hundred feet (500') to the rear.
  - (2) This subsection (g) applies only if the horse-drawn vehicle is used as the owner's primary mode of personal or farm transportation and is regularly driven upon public roads or highways or the rights-of-way thereof.
  - (3) This subsection (g) does not apply in any county having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) or of not less than eighty-eight thousand seven hundred (88,700) nor more than eighty-eight thousand eight hundred (88,800), according to the 1980 federal census or any subsequent federal census.

**§ 55-8-179 Use of raised identifying cane or blaze orange dog leash restricted to blind or deaf persons**

- (a) No person, unless totally or partially blind or otherwise incapacitated, while on any public street or thoroughfare shall carry in any raised or extended position any cane or similar walking stick colored white or white tipped with red.
- (b) No person, unless totally or partially deaf, shall carry, hold, or use on any street, highway, or in any other public place, a leash blaze orange in color on any dog accompanying that person.
- (c) A violation of this section is a Class C misdemeanor.

**§ 55-8-180 Pedestrians led by guide dog or carrying identifying cane given right of way; penalty**

- (a) Whenever any pedestrian guided by a guide dog or dog on a blaze orange leash, or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red, shall undertake to cross any public street or thoroughfare in this state, the driver of each and every vehicle approaching that pedestrian carrying the cane or stick or conducted by such dog shall bring such vehicle to a complete stop and before proceeding shall take all precautions necessary to avoid injuring the pedestrian; provided, that nothing in this section shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type specified in subsection (a).
- (b) A violation of this section is a Class C misdemeanor.

**§ 56-2-201 Definitions of kinds of insurance**

Kinds of insurance are defined as follows:

...

- (2) "Casualty insurance" includes vehicle insurance, disability insurance, and in addition is:

...

- (G) "Liability insurance," which is insurance against legal liability for the death, injury, or disability of any person, or for damage to property; and insurance of

medical, hospital, surgical and funeral benefits to persons injured, regardless of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance;

- (H) "Livestock insurance," which is insurance against loss of or damage to any domesticated or wild animal resulting from any cause;

(see full statute)

#### **§ 56-7-2101 Pet Insurance -- "Pet" defined**

As used in this part, "pet" means any domesticated animal normally maintained in or near the household of its owner.

#### **§ 56-7-2102 Pet Insurance -- policies or contracts**

Any insurer writing any coverage to which this title applies may offer group or individual policies or contracts that provide benefits for hospital and medical services for pets; provided, that these services are provided by a veterinarian licensed pursuant to title 63, chapter 12, or by the laws of any other state. The policy or contract may provide for exclusions or deductibles, or both.

#### **§ 56-7-2103 Pet Insurance -- disclosure**

All policies issued pursuant to this part shall clearly disclose on the face of the policy:

- (1) The annual premium for the policy; and
- (2) The benefits provided by the policy.

#### **§ 62-3-132 Animals permitted in barbershops**

No animals, except service animals, fish for decorative purposes, and birds in cages, shall be permitted in any barber shop. Bird cages in barber shops shall be cleaned daily. Departmental inspectors shall ensure bird cages are cleaned sufficiently to prevent any hazard to human health or well-being.

#### **§ 62-7-112 Dog guide to be admitted; penalties**

(a)

- (1) No proprietor, employee or other person in charge of any place of public accommodation, amusement or recreation, including, but not limited to, any inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public educational institution or elevator, shall refuse to permit a blind, physically disabled or deaf or hard of hearing person to enter the place or to make use of the accommodations provided when the accommodations are available, for the reason that the blind, physically disabled or deaf or hard of hearing person is being led or accompanied by a dog guide. A dog guide shall be under the control of its handler. A place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained or licensed as a dog guide.

(2)

- (A) No proprietor, employee or other person in charge of any place of public accommodation, amusement or recreation, including, but not limited to, any inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public educational institution or elevator, shall refuse to permit a dog guide trainer to enter such place or to make use of the accommodations provided in those places, when the accommodations are available, for the reason that the dog guide trainer is being led or accompanied by a dog guide in training; provided, that the dog guide in

training, when led or accompanied by a dog guide trainer, is wearing a harness and is held on a leash by the dog guide trainer or, when led or accompanied by a dog guide trainer, is held on a leash by the dog guide trainer; and provided, further, that the dog guide trainer shall first have presented for inspection credentials issued by an accredited school for training dog guides.

(B)

(i) For purposes of this section, "dog guide in training" includes dogs being raised for an accredited school for training dog guides; provided, however, that a dog being raised for that purpose is:

(a) Being held on a leash and is under the control of its raiser or trainer, who shall have available for inspection credentials from the accredited school for which the dog is being raised; and

(b) Wearing a collar, leash or other appropriate apparel or device that identifies the dog with the accredited school for which it is being raised.

(ii) "Dog guide in training" also includes the socialization process that occurs with the dog's trainer or raiser prior to the dog's advanced training; provided, that the socialization process is under the authorization of an accredited school.

(3) A place of public accommodation may ask a person to remove a dog guide or dog guide in training from the premises if:

(A) The dog guide or dog guide in training is out of control and its handler does not take effective action to control it; or

(B) The dog guide or dog guide in training is not housebroken.

(b) A violation of this section is a Class C misdemeanor.

### **§ 62-19-103 Requirements for Auctioneers -- exemptions**

The provisions of this chapter do not apply to:

...

(6) An auction conducted for the sale of livestock sponsored through or in cooperation with the state department of agriculture or the University of Tennessee extension, or both;

(8) A livestock auction sale regulated by the United States department of agriculture packers and stockyards administration, if the sale uses:

(A) The shipper's proceeds account required by federal regulations; and

(B) An auctioneer licensed under this chapter;

(9) Any fixed price or timed listings that allow bidding on an internet web site, but do not constitute a simulcast of a live auction;

(see full statute)

### **§ 62-19-111 Auctioneers -- general licensing provisions**

...

(o) Auctions for the sale of registered livestock must be conducted by a licensed auctioneer. The auctioneer is exempt from issuing closing statements and disbursing funds if such responsibilities are performed by a duly chartered livestock association or livestock breed association.

(see full statute)

### **§ 63-12-102 Tennessee Veterinary Practice Act of 1967 -- purpose**

It is hereby declared that the practice of veterinary medicine is a privilege that is granted by legislative authority in the interest of the public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, this chapter is enacted in the interest of the health, safety and

welfare of the animal population and the citizens of Tennessee.

### **§ 63-12-103 Tennessee Veterinary Practice Act of 1967 – definitions**

As used in this chapter:

- (1) “Animal” means any animal other than man and includes fowl, birds, reptiles and fish, wild or domestic, living or dead;
- (2) “Board” means the board of veterinary medical examiners;
- (3) “Certified animal control agency” means a county or municipal animal shelter, dog pound or animal control agency, private humane society, state, county or municipal law enforcement agency, or any combination thereof, that temporarily houses stray, unwanted or injured animals and that is certified pursuant to this chapter;
- (4) “Certified animal euthanasia technician” means a person employed by a certified animal control agency who is authorized by the board to humanely euthanize animals by administering such drugs as are designated by the board for such use;
- (5) “Complainant” means the board or any other person who initiates a proceeding;
- (6) “Consultation” means when a licensed veterinarian receives advice in person, telephonically, electronically, or by any other method of communication, from a veterinarian licensed in this or any other state, or other person whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. Under all circumstances, the responsibility for the welfare of the patient remains with the licensed veterinarian receiving consultation;
- (7) “License” means any permit, approval, registration or certificate issued by the board;
- (8) “Licensed veterinarian” means a person who is validly and currently licensed to practice veterinary medicine in this state;
- (9) “Licensed veterinary technician” means a person who has successfully completed the examination requirements prescribed by the board and has been issued a license;
- (10)
  - (A) “Practice of veterinary medicine” means to:
    - (i) Diagnose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode, including:
      - (a) The prescription, dispensing, administration or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance or medical or surgical, including cosmetic, technique;
      - (b) The use of complementary, alternative, and integrative therapies;
      - (c) The use of any manual, mechanical, biological, or chemical procedure for the testing of pregnancy, or for the management or treatment of sterility or infertility;
      - (d) The rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to subdivisions (10)(A)(i)(a)-(c); and
      - (e) The collection of blood or other samples for the purpose of diagnosing disease or other conditions. This shall not apply to:
        - (1) Any unlicensed personnel employed by the United States department of agriculture or the Tennessee department of agriculture who are engaged in animal disease control programs, or who perform laboratory examinations. This section does not prohibit extension personnel or vocational agriculture teachers from doing educational work that is considered normal to their profession in their government

- positions; or
- (2) The removal of an embryo from livestock or companion animal for the purpose of transplanting such embryo into another female animal or for the purpose of cryopreserving such embryo;
- (ii) Represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subdivision (10)(A); and
- (iii) Use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subdivision (10)(A)(i). Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine;
- (B) The practice of veterinary medicine occurs wherever the patient is at the time services are rendered;
- (11) "Preceptor" means a person who is a last year student duly enrolled and in good standing in a recognized college of veterinary medicine. Such person's presence in a practice may be as part of a formal preceptorship program of the person's college or as an informal arrangement between the person and a veterinarian licensed by the board. The preceptor must be under direct supervision of such licensed veterinarian;
- (12) "Responsible supervision" or words of similar purport mean the control, direction and regulation by a licensed veterinarian of the duties involving veterinary services that such veterinarian delegates to such veterinarian's personnel;
- (13) "School of veterinary medicine" means any veterinary school or college, department of a university or college, legally organized, whose course of study in the art and science of veterinary medicine conforms to the standards required for accreditation by the American Veterinary Medical Association and approved by the board;
- (14) "Temporary license" means temporary permission to practice veterinary medicine issued pursuant to this chapter;
- (15) "Unprofessional or unethical conduct," among other things, means any conduct of a character likely to deceive or defraud the public, objectionable advertising, obtaining any fee or compensation by fraud or misrepresentation, sharing office space with any person illegally practicing veterinary medicine, employing either directly or indirectly any unlicensed person to practice veterinary medicine or render any veterinary service except as provided in this chapter or the violation of any rule adopted by the board, which shall provide a code of professional ethics to be followed and carried out by persons licensed under this chapter;
- (16) "Veterinarian" means a person who has received a doctor of veterinary medicine degree or its equivalent from an approved school or college of veterinary medicine;
- (17) "Veterinarian-client-patient relationship" means:
  - (A) The veterinarian has assumed responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, has obtained informed consent, and the client has agreed to follow the veterinarian's instructions;
  - (B) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal;
  - (C) The veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal, either by virtue of an examination of the animal or by medically appropriate visits to the premises where the animal is maintained within the last twelve (12) months;
  - (D) The veterinarian is readily available or has arranged for emergency coverage for

- follow-up evaluation in the event of adverse reactions or the failure of the treatment regimen;
- (E) The veterinarian must maintain medical records as required by the board of veterinary medical examiners; and
  - (F) The veterinarian-client-patient relationship cannot be established or maintained solely by telephone or other electronic means;
- (18) “Veterinary facility” means:
- (A) Animal medical center — A veterinary or animal medical center means a facility in which consultative, clinical and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs;
  - (B) Clinics — A veterinary or animal clinic means a facility in which the practice conducted is essentially an outpatient type of practice;
  - (C) Hospital — A veterinary or animal hospital means a facility in which the practice conducted includes the confinement, as well as the treatment, of patients;
  - (D) Mobile facility — A practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls. Regardless of mode of transportation, such practice shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations; and
  - (E) Office — A veterinary facility where a limited or consultative practice is conducted and that provides no facilities for the housing of patients;
- (19) “Veterinary medicine” includes veterinary surgery, obstetrics, dentistry and all other branches or specialties of veterinary medicine; and
- (20) “Veterinary technician” means a person who is a graduate of a veterinary technology program accredited by the American Veterinary Medical Association.

#### **§ 63-12-112 Tennessee Veterinary Practice –qualifications or applicants**

- (a) Any person wishing to practice veterinary medicine in this state shall obtain a license from the board. It is unlawful for such person to practice veterinary medicine as defined in § 63-12-103 unless the person obtains a license; and if the person so practices, the person shall be considered to have violated the provisions of this chapter.
- (b) The board may admit to examination any applicant who submits satisfactory evidence that the applicant:
  - (1) Is a graduate of a school or college of veterinary medicine approved by the board;
  - (2) Is in good physical and mental health;
  - (3) Is of good moral character;
  - (4) Is a citizen of the United States or Canada or legally entitled to live within the United States;
  - (5) Subscribes to and will uphold the principles incorporated in the Constitution of the United States; and
  - (6) Has paid the required fee.
- (c) Any person holding a license to practice veterinary medicine in this state that is valid on September 1, 1967, is considered to be licensed to practice veterinary medicine under this chapter and is subject to all the provisions thereof.

#### **§ 63-12-113 Tennessee Veterinary Practice – temporary licenses**

The board may issue a temporary license to practice veterinary medicine, to be used only under the direct supervision of a licensed veterinarian, upon payment of a fee as set by the board, to

- (1) A veterinarian who meets all qualifications and requirements pursuant to this chapter and who has applied to take the examination as provided in § 63-12-115. Such license shall remain valid until the results of the examinations are made known to the applicant;
  - (A) Failure on both examinations will result in immediate termination of the license;
    - (i) If the applicant fails one (1) of the examinations, the applicant may be issued a second temporary license but must continue under direct supervision of a licensed veterinarian and only until the results of the next regularly scheduled examination are known;
    - (ii) If an applicant fails the same examination on two (2) separate testing dates, the applicant may, in the discretion of the board, and upon agreeing to meet any additional requirements of the board, be issued a third temporary license for up to one (1) year, plus the time until the results of the second regularly scheduled examination after issuance of the temporary license are made known;
    - (iii) No applicant shall be allowed to take the same examination more than three (3) times;
  - (B) During the validity of the temporary license, the applicant must be under the direct supervision of a licensed veterinarian;
  - (C) New graduates applying for such temporary license must provide the name and address of practice of the supervising veterinarian and any other requirements specified by the board in rules and regulations;
- (2)
  - (A) A veterinarian duly licensed according to the laws of another state and who has made application for permanent licensure in Tennessee;
    - (i) A temporary license issued under the provisions of this section shall be valid until the board rules on the applicant's request;
    - (ii) If the board's decision is to issue a license without examination, the temporary license expires on receipt of the permanent license;
    - (iii) If the board's decision is for examination, the law applies as stated in subdivision (1);
  - (B) An applicant who holds a license in another state or states must provide the name or names of such states, meet all qualifications and requirements pursuant to this chapter, provide the name and address of practice of the supervising veterinarian, and meet such other requirements as specified by the board in rules and regulations. All information submitted by an applicant will be subject to verification by the board;
- (3) A graduate of a nonaccredited or nonapproved college of veterinary medicine who has satisfactorily completed the fourth year of clinical study at an accredited or approved college of veterinary medicine, successfully passed the examination as provided in § 63-12-115 and is enrolled in the Educational Commission for Foreign Veterinary Graduates (ECFVG) program of the American Veterinary Medical Association or other certification program deemed by the board to be equivalent to the ECFVG program may be granted a temporary license. The holder of a temporary license issued under this section must practice under the direct supervision of a veterinarian licensed in Tennessee. The temporary license is valid until the candidate obtains the ECFVG or equivalent certification; provided, that a temporary license issued pursuant to this section shall not be valid for more than a maximum of eighteen (18) months from the date the temporary license is issued.



### **§ 63-12-118 Veterinary wellness committees**

- (a) As used in this section, “veterinary wellness committee” or “committee” means any committee, board, commission, or other entity established by any state-wide veterinary medical association or local veterinary medical association for the purpose of providing immediate and continuing help to veterinary professionals licensed to practice veterinary medicine or veterinary technology, students of veterinary medicine and veterinary technology, certified animal euthanasia technicians, and employees of veterinary practices in this state who suffer from physical or mental conditions that result from disease, disorder, trauma, or age and that impair their ability to perform their duties in veterinary medicine with reasonable skill and safety.
- (b) Veterinary wellness committee members, employees, and agents, including volunteers, taking any action authorized by this chapter, engaging in the performance of any duties on behalf of the committee, or participating in any administrative or judicial proceeding resulting from their participation on the committee, shall be immune from civil or criminal liability with respect to any action taken in good faith and without malice.
- (c) All information, interviews, reports, statements, memoranda, or other data furnished to or produced by a veterinary wellness committee and any findings, conclusions, reports, or recommendations resulting from the proceedings of the committee are privileged and confidential. Information and actions taken by the committee shall be privileged and held in strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of the committee, unless such disclosure is authorized by the member of the veterinary profession to whom it relates. Nothing contained in this subsection (c) applies to records, documents, or information otherwise available from original sources, and such records, documents, or information are not immune from discovery or use in any civil proceedings solely due to having been presented to the committee.

### **§ 63-12-119 Penalty for unlicensed practice**

Any person who practices or attempts to practice veterinary medicine in this state and makes a charge for the practice without having complied with the provisions of this chapter commits a Class B misdemeanor for each instance of such practice.

### **§ 63-12-124 Denial, suspension or revocation of veterinary license; investigation; immunity of informants**

- (a) The board, pursuant to the procedure prescribed in this section, has the power to deny, suspend or revoke any license or to otherwise discipline an applicant or licensee who is found guilty by the board of one (1) or more of the following:
  - (1) Willful or repeated violation of any provisions of this chapter or any rules of the board;
  - (2) Fraud or deceit in procuring or attempting to procure a license to practice veterinary medicine, or presenting to the board dishonest or fraudulent evidence of qualification or fraud or deception in the process of examination for the purpose of securing a license;
  - (3) The willful failure to display a license;
  - (4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of veterinary medicine in any of its branches;
  - (5) Willfully making any misrepresentation in the inspection of food for human consumption;
  - (6) Fraudulently issuing or using any health certificate, vaccination certificate, inspection certificate, test chart or other blank form used in the practice of veterinary medicine to the dissemination of animal disease, transportation of

- diseased animals or the sale of inedible products of animal origin for human consumption;
- (7) Fraud or dishonesty in applying, treating or reporting on tuberculin, diagnostic or other biological test;
  - (8) Failure to keep the equipment and premises of the business establishment in a clean and sanitary condition;
  - (9) Refusing to permit the board or any legal representative of the board to inspect the business premises of the licensee during regular business hours;
  - (10) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;
  - (11) Gross malpractice or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of veterinary medical practice;
  - (12) Unprofessional or unethical conduct or engaging in practices in connection with the practice of veterinary medicine that are in violation of the standards of professional conduct as defined in this section or prescribed by the rules of the board;
  - (13) Conduct reflecting unfavorably upon the profession of veterinary medicine;
  - (14) The willful making of any false statement as to a material matter in any oath or affidavit that is required by this chapter;
  - (15) Revocation by another state of a license to practice veterinary medicine in that state, in which case the record of such revocation shall be conclusive evidence;
  - (16) Conviction on a charge of cruelty to animals;
  - (17) Conviction of a felony under federal or state law involving use, misuse, possession or sale of any controlled substance or controlled substance analogue;
  - (18) Conviction of a felony in the courts of this state, or of any other state, territory or country that, if committed in this state, would be a felony;
    - (A) The record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be considered proper by the board. (20) For the purpose of this chapter, a conviction shall be considered to be a conviction that has been upheld by the highest appellate court having jurisdiction or a conviction upon which the time for filing an appeal has passed; and
    - (B) A record of conviction upon charges that involve the unlawful practice of veterinary medicine; and based upon such record of conviction, without any other testimony, the board may take temporary disciplinary action even though an appeal for review by a higher court may be pending;
  - (19) Permitting or allowing another to use the licensee's license for the purpose of treating or offering to treat sick, injured or affected animals;
  - (20) Engaging in the practice of veterinary medicine under a false or assumed name or the impersonation of another practitioner of a like, similar or different name;
  - (21) Has been guilty of employing or permitting any person who does not hold a license to practice veterinary medicine in this state to perform work that, under this chapter, can lawfully be done only by persons holding such license and permitted by law to practice veterinary medicine in this state. It shall be conclusively presumed that any unlicensed person, if employed by a licensed person, was employed for such purpose if the unlicensed person has attended any school of veterinary medicine or surgery, accredited or otherwise, for a period of over thirty (30) days;
  - (22) Addiction to the habitual use of intoxicating liquors, narcotics or other stimulants to such an extent as to incapacitate the applicant or licensee from the performance of the applicant's or the licensee's professional obligations and duties;
  - (23) Professional incompetence;
  - (24) Having been adjudged mentally incompetent by a court of competent jurisdiction

and the disabilities of such person not having been restored or the voluntary commitment or admission to a state hospital or other mental institution. The record of adjudication, judgment, order or voluntary commitment is conclusive evidence of such mental illness; and upon receipt of a certified copy of any such adjudication, judgment, order or record of voluntary commitment by the board, it may suspend the license of the person so adjudicated or committed;

- (25) Failure to report, as required by law, or making false report of, any contagious or infectious disease as referred to under the United States department of agriculture (U.S.D.A.) standards for accreditation of veterinarians in Tennessee and other states;
  - (26) Has been found guilty of using biologicals or other drugs that have deteriorated or after the expiration date of that particular lot or serial number;
  - (27) Has been convicted of any crime involving moral turpitude; or
  - (28) Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of the accepted practice of veterinary medicine;
  - (29) Practicing veterinary medicine without establishing and maintaining a valid veterinarian-client-patient relationship.
- (b) The board may, on its own motion, cause to be investigated any report indicating that a veterinarian is or may be in violation of the provisions of this chapter.
  - (c) Any person who in good faith shall report to the board any information that an veterinarian is or may be in violation of any provisions of this chapter shall not be subject to suit for civil damages as a result thereof.
  - (d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

#### **§ 63-12-128 Disciplinary orders against violators; judicial review**

- (a) The board has the authority to enter an order to discipline any person, corporation or other similar organization, public or private, for-profit or not-for-profit, who or which, after proper hearing, has been found guilty by the board of a violation of one (1) or more provisions of this chapter or any rule of the board. The board, based upon the evidence and its findings of fact, may enter its final order, which may include one (1) or more of the following provisions:
- (b) Immediately upon entry of the final order by the board, a copy thereof shall be delivered to the respondent and the respondent's counsel, if any, either personally or by registered or certified mail.
- (c) Judicial review of orders of the board may be had by writ of certiorari or as otherwise provided by the laws of this state.

#### **§ 63-12-129 Tennessee Veterinary Practice Act of 1967 -- enforcement**

- (a) The enforcement of the laws and rules of the board regulating the practicing of veterinary medicine in this state is primarily vested in the board, who may have the following powers and duties:
  - (1) To employ investigators, counsel and clerical assistance or any other necessary personnel;
  - (2) To inspect all veterinary facilities to determine sanitary conditions, physical equipment, methods of operation, keeping of records, etc. This inspection shall be by a member of the board or a licensed veterinarian representing the board;
  - (3) To inspect licenses; and
  - (4) To conduct investigations of all alleged violations.
- (b) The powers granted to the board shall not curtail or in any manner affect or eliminate the duties, efforts and assistance of the department of health in the enforcement of this chapter.

- (c) All expenses, compensation or fees incurred in connection with enforcement duties and powers shall be paid from the funds of the board and in all respects treated as other expenses of the board, subject to the provisions of this chapter.

**§ 63-12-130 Tennessee Veterinary Practice Act -- prosecution of violators**

- (a) The state and county prosecuting attorneys shall prosecute all persons charged with the violation of any of the provisions of this chapter or rules of the board.
- (b) The secretary-treasurer of the board, or other person employed or designated by the board, shall assist the prosecuting attorneys by furnishing them evidence of such violations whenever the board comes into possession of same.

**§ 63-12-131 Criminal law and procedure; false personation**

Any person filing or attempting to file as the person's own the diploma or license of another, a forged or fictitious license or diploma or certificate or forged affidavit or identification commits a Class E felony.

**§ 63-12-132 Tennessee Veterinary Practice Act -- enjoining violations**

In addition to the penalties herein provided in this chapter, the board may institute legal proceedings to enjoin the violation of the provisions of this chapter or rules of the board in any court of competent jurisdiction; and such court may grant a temporary or permanent injunction restraining the violation thereof.

**§ 63-12-133 Tennessee Veterinary Practice Act of 1967 -- exemptions**

- (a) This chapter shall not be construed as applying to:
  - (1) Students in schools or colleges of veterinary medicine when in performance of duties or actions assigned by their instructors or when working under the immediate supervision of a licensed veterinarian;
  - (2) Any lawfully qualified veterinarian residing in another state or country, when meeting in consultation with a licensed veterinarian of this state, who:
    - (A) Does not open an office or appoint a place to do business within this state;
    - (B) Does not print or use letterhead or business cards reflecting addresses in this state;
    - (C) Does not establish answering services or advertise the existence of a practice's address within this state; and
    - (D) Practices veterinary medicine as a consultant while rendering services directly to the public, under the direction of and in consultation with licensees of this state, for less than twelve (12) days per calendar year.
  - (3) Any veterinarian in the employ of a state agency or the United States government while actually engaged in the performance of the veterinarian's official duties; however, this exemption shall not apply to such person when the person is not engaged in carrying out the person's official duties or is not working at the installations for which the person's services were engaged;
  - (4) Prevent any person or the person's regular employee from administering to the ills and injuries of the person's own animals, including, but not limited to, castration of animals and dehorning of cattle, unless title has been transferred or employment provided for the purpose of circumventing this law;
  - (5) State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine or persons under the direct supervision thereof, who or which conduct experiments and scientific research on animals in the development of pharmaceuticals,

biologicals, serums or methods of treatment or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine;

- (6) Veterinary aides, nurses, laboratory technicians or other employees of a licensed veterinarian who administer medication or render auxiliary or supporting assistance under the responsible supervision of such licensed veterinarian;
- (7) Any person gratuitously treating animals in cases of emergency; provided, that the person does not claim to be a veterinarian or use any title or degree appertaining to the practice thereof;
- (8) Any merchant or manufacturer selling at the merchant's or manufacturer's regular place of business medicines, feed, appliances or other products used in the prevention or treatment of animal diseases. This shall not be construed to authorize the sale of medicines or biologicals that must be obtained by a prescription from a veterinarian, but shall only include the right to sell those medicines that are classified as proprietary and that are commonly known as over-the-counter medicines;
- (9) Any person advising with respect to or performing acts that the board by rule has prescribed as accepted livestock management practice;
- (10) Any person or such person's employees when removing an embryo from the person's own food animal for the purpose of transplanting or cryopreserving such embryo; and
- (11) The use of any manual procedure for the testing of pregnancy in bovine animals when performed by a farmer as defined in § 67-6-207(e)(1), (3), (4) and (5), only if:
  - (A) Such farmer testing for pregnancy is not compensated by the person who owns such animals, other than by the exchange of services for or the use of equipment by such farmer performing the pregnancy test; and
  - (B) The results of such testing are for the owner's use only and not to affect commerce.
- (b) The operations known as castrating and dehorning are not regarded as practicing veterinary surgery, and nothing in this chapter shall be construed to prohibit anyone from castrating or dehorning any wild or domestic animal.
- (c) For the purposes of this chapter, the practice of veterinary medicine shall not include the artificial insemination of livestock, as the term livestock is defined in § 39-14-201. The practice of artificial insemination shall be considered an accepted livestock management practice.
- (d) [Deleted by 2018 amendment.]

#### **§ 63-12-134 Lien for services**

- (a) Every licensed veterinarian has a lien on each animal or pet treated, boarded or cared for by the veterinarian while in the veterinarian's custody and under contract with the owner of such animal or pet for payment of charges for treatment, board or care of such animal or pet. Such veterinarian has the right to retain such animal or pet until such charges are paid.
- (b)
  - (1) If the charges due for the services named in this section are not paid within ten (10) days after demand for the charges due on the owner of such animal or pet, in person, or by registered or certified mail with return receipt requested, addressed to the owner at the address given when such animal or pet is delivered, and the receipt has been returned by the United States postal authorities, such animal or pet shall be deemed to be abandoned and the licensed veterinarian is authorized

to sell the animal or pet either at public or private sale and if the veterinarian does not succeed in selling such animal or pet within ten (10) days, then the veterinarian is authorized to dispose of such animal or pet in any manner that the veterinarian deems proper or turn the animal or pet over to the nearest humane society or dog pound in the area for disposal as such custodian deems proper.

- (2) An animal shall also be considered abandoned by its owner if the owner gives a licensed veterinarian a false address and telephone number and the demand mailed by the licensed veterinarian by registered or certified mail, return receipt requested, is returned undelivered. Under the circumstances provided in this subdivision (b)(2), the licensed veterinarian may consider the animal abandoned when the veterinarian receives notice that the mailed demand is undeliverable; and the licensed veterinarian may dispose of the animal as provided in subdivision (b)(1). As an alternative, the licensed veterinarian may turn the animal or pet over to the nearest humane society or animal control shelter in the area for disposition of the animal as such custodian deems proper without first offering the animal or pet for sale.
- (c) The giving of notice to the owners as provided in subsection (b) relieves the licensed veterinarian or any custodian to whom such animal or pet may be given of any further liability for disposal.
- (d) Failure of the owner of any such animal or pet to receive the demand by registered or certified mail provided for in this section does not render the licensed veterinarian liable to the owner of such animal or pet for the disposal thereof in any manner provided in this section.
- (e) When any animal or pet is sold as authorized in this section to satisfy a lien for any of the services enumerated, any moneys realized from the sale, less such charges and any expenses incurred in making the demand for payment thereof in connection with the sale, shall be paid to the owner of the animal or pet.
- (f) No legal proceeding for the enforcement of the lien created by this law is necessary concerning abandoned animals as defined in subsection (b), other than compliance with the requirements provided in this section.

#### **§ 63-12-135 Licensed veterinary technicians -- unauthorized practice**

- (a) The board shall examine and license veterinary technicians and has the same authority in the regulation, examination and qualification of licensed veterinary technicians as it has under the provisions of this chapter for the practice of veterinary medicine and veterinarians.
- (b) Any licensed veterinarian may assign to a licensed veterinary technician regularly employed by the veterinarian any task or procedure to be performed for which the veterinarian exercises responsible supervision and full responsibility except those procedures requiring professional judgment or skill as prescribed by board rule.
- (c) The fees provided in this chapter pertaining to applications, licensing and renewal for veterinarians also apply to licensed veterinary technicians.
- (d) It is a Class B misdemeanor for any person to use in connection with the person's name any designation intending to imply that the person is a veterinary technician or a licensed veterinary technician unless the person meets the requirements contained in this chapter.
- (e) The board may, on its own motion, cause to be investigated any report indicating that a licensed veterinary technician is or may be in violation of the provisions of this chapter. Any person who in good faith reports to the board any information that a licensed veterinary technician is or may be in violation of any provisions of this chapter is not subject to suit for civil damages as a result thereof.

**§ 63-12-137 Veterinary practice must be owned by veterinarian; exemptions**

- (a) It is unlawful for any licensed veterinarian to practice veterinary medicine as an employee of any person other than a veterinarian duly licensed in this state or a veterinary facility operated at all times under the direct medical supervision of a veterinarian duly licensed in this state.
- (b) No person, corporation or other similar organization, public or private, for-profit or not-for-profit, other than a veterinarian duly licensed in this state, shall own or operate a veterinary facility within this state, except as follows:
  - (1) Any person, corporation or other similar organization, public or private, for-profit or not-for-profit, shall apply for and receive a premises permit before the commencement of operations at the veterinary facility; and
  - (2) The owner of the veterinary facility shall not restrict or interfere with medically appropriate veterinary diagnostic or treatment decisions by the licensed veterinarians employed at the veterinary facility.
- (c) The following are exempt from this section:
  - (1) A veterinarian employed by a person, corporation or other similar organization, public or private, for-profit or not-for-profit, to treat such employer's animals;
  - (2) A veterinarian employed by an official agency of the federal or state government or any subdivision thereof; and
  - (3) A veterinarian employed by any licensed research facility.

**§ 63-12-138 Veterinary Practice -- peer review; committees; immunity; confidentiality of information**

- (a) As used in this section, "peer review committee" or "committee" means any committee, board, commission or other entity constituted by any statewide veterinary medical association, or local veterinary medical association or local veterinary association for the purpose of receiving and evaluating veterinary acts of other veterinarians or veterinary auxiliary personnel.
- (b) Any veterinarian who serves on any peer review committee or on any other committee shall be immune from liability with respect to any action taken by the veterinarian in good faith and without malice as a member of such committee, board, commission or other entity.
- (c) Veterinarians, licensed veterinary technicians and members of boards of directors of any publicly supported or privately supported animal health care facility, or any other individual appointed to any committee, as described in subsection (a), shall be immune from liability to any client, patient, individual or organization for furnishing information, data, reports or records to any such committee or for damages resulting from any decision, opinions, actions and proceedings rendered, entered or acted upon by such committees undertaken or performed within the scope or functions of the duties of such committees, if made or taken in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.
- (d) All information, interviews, reports, statements, memoranda or other data furnished to any such peer review committee or other entity and any findings, conclusions or recommendations resulting from the proceedings of such committee or other entity are privileged. The records and proceedings of any such committee or other entity are confidential and shall be used by such committee or other entity and the members thereof only in the exercise of the proper functions of the committee or other entity and shall not become public record nor be available for court subpoena or discovery proceedings. Nothing contained in this subsection (d) applies to records, documents or information otherwise available from original sources, such records, documents or information not to be construed as immune from discovery or use in any civil

proceedings solely due to presentation to the committee.

**§ 63-12-139 Veterinary Practice – premises permits**

- (a) Any person who owns or operates any veterinary facility, including mobile clinics, or any other premises where a licensed veterinarian practices or where the practice of veterinary medicine occurs shall apply for and secure a premises permit from the board prior to the commencement of any services that would subject the provider of those services to licensure under this chapter. Any premises in operation on January 1, 1997, shall register with the board by filling out an application as required by the board.
- (b) Any premises at which veterinary services are provided and not owned or leased by a licensed veterinarian on January 1, 1997, shall be inspected prior to the opening of such premises. Upon receipt of the application and payment of the application and inspection fee established by the board, the board shall cause such premises to be inspected by an authorized agent of the board within thirty (30) days of receipt of the application. Any premises in which a licensed veterinarian operates a practice on January 1, 1997, shall be granted a temporary permit upon submission of the registration required by subsection (a), which temporary permit shall remain in effect until the premises are inspected by the board. Any premises for which a permit has been granted on or after January 1, 1997, shall be inspected by the board within sixty (60) days of any change of ownership or legal responsibility for the premises. If the board is unable to complete any inspection of the premises within the thirty- or sixty-day time periods prescribed in this subsection (b), it shall issue a temporary premises permit, which shall remain in effect until the inspection required by this section is completed.
- (c) A premises permit shall be issued if the premises meet minimum standards established by board rules and regulations as to sanitary conditions and physical plant. In lieu of the above procedures, the board may issue a premises permit upon certification by the applicant that the premises have been inspected and accredited by a recognized organization, the standards of which are found by the board to meet or exceed the minimum standards established by board rules and regulations. All veterinary facilities located in retail establishments shall have an entrance into the permitted premises that is directly on a public street or public parking area, and such entrance shall be separate from the entrance used by regular retail customers. For purposes of this chapter, "retail establishment" means any retail store in excess of two thousand five hundred (2,500) square feet that primarily sells goods not related to the practice of veterinary medicine or any veterinary facility located in an enclosed shopping mall or enclosed shopping center. The costs of any inspection undertaken by the board shall be set by the board and paid in advance by the applicant, in addition to the fee established by the board for the premises permit.
- (d) Each application for a premises permit submitted by a person not licensed under this chapter shall state the name and address of the licensed veterinarian who will be responsible for the practice of veterinary medicine on the premises. The supervising veterinarian shall be licensed in Tennessee. The applicant shall also include the name or names and address or addresses of the licensee or licensees who will be on-site when the practice of veterinary medicine occurs. The applicant shall affirm that the practice of veterinary medicine shall not be provided on the premises without the physical presence of a veterinarian licensed in Tennessee. An application for a premises permit submitted pursuant to this subsection (d) may be denied if any veterinarian submitted by the applicant has been previously disciplined by the board. The holder of a premises permit shall notify the board of any change of ownership or legal responsibility for premises for which a permit has been issued, any change as to



the supervising veterinarian for the premises and any change as to the licensed veterinarian or veterinarians who will be employed to provide veterinary medical services at the premises at least thirty (30) days prior to the effective date of the change unless the change arises from unforeseen circumstances, in which case notice shall be given within five (5) days of the effective date of the change.

- (e) The board shall deny any application for a premises permit if the inspection reveals that the premises do not meet the minimum standards established by the board. The applicant shall pay the inspection fee for each additional reinspection required to determine whether any deficiencies found by the board have been brought into compliance with the minimum standards established by board rules and regulations as to sanitary conditions and physical plant.
- (f) Any practitioner who provides veterinary services on a house-call basis and does not maintain a veterinary facility for the receipt of patients shall not be required to secure a premises permit, but must provide for appropriate equipment and facilities as established by the board.
- (g) Any practitioner who provides veterinary services solely to agricultural animals and does not maintain a veterinary facility for the receipt of patients shall not be required to obtain a premises permit, but must provide for appropriate equipment and facilities as established by the board.
- (h) Mobile large and small animal veterinary clinics operating in more than one (1) location and examining and/or treating animals belonging to multiple clients whose animals are not permanently housed or boarded at that location shall have a premises permit for the mobile facilities that are utilized unless exempted by state or local public health officials. Such mobile clinics shall also specify the locations at which such mobile clinics will operate. Such information shall be considered as part of the application for a premises permit. Any change in the locations at which the mobile clinics will operate shall be reported to the board at least thirty (30) days in advance of the effective date of the change.
- (i) The following are exempt from this section:
  - (1) A veterinary facility owned by a person, corporation or other similar organization, public or private, for-profit or not-for-profit, to treat such employer's animals;
  - (2) A veterinary facility operated by an official agency of the federal or state government; and
  - (3) A licensed research facility.
- (j) The board shall be authorized to employ such persons who may be required, in its discretion, to inspect premises under the jurisdiction of the board. The board shall establish a fee schedule for inspections required under this chapter. An applicant for a premises permit shall remit to the board an application fee, which shall be equal to the license fee required of licensed veterinarians. A licensed veterinarian or an applicant for licensure as a veterinarian shall not be required to submit an additional fee for a premises permit but shall be required to submit the required inspection fee, if such licensed veterinarian or applicant also submits an application for a premises permit.
- (k) The board of veterinary examiners is authorized to issue a limited waiver to the requirement for a premises permit under this section to a veterinarian who meets the following requirements:
  - (1) The waiver is granted for one (1) day, once in a calendar year;
  - (2) The waiver is applicable to only one (1) county and only one (1) waiver shall be granted in each county in a calendar year;
  - (3) The waiver is only for livestock testing; and
  - (4) The waiver is only for one location, which shall be a farm.

**§ 63-12-140 Veterinary Practice – penalty for operation without permit prohibited; penalty**

- (a) It is an offense to knowingly operate a veterinary facility in this state without a premises permit.
- (b) A violation of this section is a Class B misdemeanor and each violation constitutes a separate offense.

**§ 63-12-141 Veterinary Practice – euthanasia of animals; certificate; fees; penalty**

- (a) The board of veterinary medical examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any animal control agency that it determines to be qualified a certificate authorizing the agency to apply to the federal drug enforcement agency, including any successor entity, for a restricted controlled substance registration certificate for the purchase, possession and use of sodium pentobarbital or other drugs as authorized by the board for administration by a certified animal euthanasia technician to euthanize injured, sick or abandoned animals. It is a Class B misdemeanor for any person or entity to use or imply that such person or entity has been granted a certificate as a certified animal control agency unless a certificate has been granted under the provisions of this title.
- (b) The board, upon submission of a complete application and payment of a fee established by the board, shall issue to any person who it determines to be qualified a certificate for such person to function as a certified animal euthanasia technician. It is a Class B misdemeanor for any person or entity to use or imply that such person or entity has been granted a certificate as a certified animal euthanasia technician unless a certificate has been granted under the provisions of this title.
- (c) Euthanasia of animals. Euthanasia of animals in a certified animal control agency may only be performed by a licensed veterinarian, including a licensed veterinary technician employed by and functioning under the direct supervision of a licensed veterinarian or a certified animal euthanasia technician as provided by law. A certified animal control agency that employs a certified animal euthanasia technician may purchase, possess and administer sodium pentobarbital or such other drug that the board may approve for the euthanasia of animals. Sodium pentobarbital and such other drugs approved by the board shall be the only drugs used for the euthanasia of animals in a certified animal control agency.
- (d) Renewal of Certification. Certified animal control agencies and certified animal euthanasia technicians shall be required to renew their certificates at such intervals, upon such conditions and upon the payment of such fees as may be established by the board.

**§ 63-12-142 Immunity for certain emergency treatment**

Any licensed veterinarian or ancillary veterinary personnel employed by and working under the direct supervision of a licensed veterinarian who, in good faith, at such person's own initiative, renders emergency treatment to an ill or injured animal gratuitously and without making charge for such treatment is not liable to the owner of the animal for any civil damages arising from the treatment provided to the animal except in cases of gross negligence. If the licensed veterinarian or ancillary veterinary personnel acting under the direct supervision of a licensed veterinarian performs euthanasia on an animal, it is presumed that it was a humane act necessary to relieve pain and suffering.

**§ 63-12-144 Certificate authorizing chemical capture of animals by certified animal chemical capture technicians – protocol; offense; certification course**

(a)

- (1) The board of veterinary medical examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any governmental animal control agency that the board determines to be qualified and that has a valid premises permit issued by the board a certificate authorizing chemical capture of animals under this section by certified animal chemical capture technicians.
- (2) The agencies shall submit, as part of the application, a written protocol for chemical capture of animals by certified animal chemical capture technicians to the board for approval. The protocol shall include, at a minimum:
  - (A) The procedure for removing the dart from a captured animal;
  - (B) First aid care of the dart wound;
  - (C) The procedure for providing veterinary care to the animal immediately upon capture;
  - (D) The appropriate location and handling of the animal during recovery from anesthesia; and
  - (E) The supervisory structure regarding who makes the final decision to proceed with the chemical capture of an animal.
- (3) It is a Class B misdemeanor for any person or entity to engage in the chemical capture of animals or imply that the person or entity has been granted a certificate as a certified animal control agency with a premises permit unless the certificate and permit have been granted under this title.

(b)

- (1) The board, upon submission of a complete application and payment of a fee established by the board, shall issue to any person who the board determines to be qualified a certificate for the person to function as a certified animal chemical capture technician. Applicants shall be required to have successfully completed a sixteen-hour chemical immobilization certification course. The course must be approved by the board, and the curriculum of the course shall include pharmacology, proper administration, recordkeeping, chemical capture technology, animal behavior, post immobilization procedures, proper public and personnel safety, and marksmanship training.
  - (2) It is a Class B misdemeanor for any person to chemically capture animals or imply that the person has been granted a certificate as a certified animal chemical capture technician unless a certificate has been granted under this title.
- (c) The chemical capture of dogs and cats, as defined in § 44-17-601, shall only be performed by a licensed veterinarian, a licensed veterinary technician employed by and functioning under the direct supervision of a licensed veterinarian or a certified animal chemical capture technician as provided by law. Telazol and such other drugs that the board may approve shall be the only drugs used for the chemical capture of dogs and cats by a certified animal chemical capture technician.
  - (d) Tranquilizer guns shall be used for the humane chemical capture of dogs and cats. Any such tranquilizer gun shall have the capability to track the darts it shoots and shall be well maintained and kept in a high state of repair at all times.
  - (e) Certified animal control agencies and certified animal chemical capture technicians shall be required to renew their certificates at such intervals, upon such conditions and upon the payment of such fees as may be established by the board.
  - (f) Nothing in this part shall be construed to limit in any way the practice of a licensed veterinarian as provided by law.

**§ 65-6-301 Railroads – cattle guards on unfenced track**

Each railroad company whose unfenced track passes through a field or enclosure is required to place a good and sufficient cattle guard or stops at the points of entering such field or enclosure, and keep the same in good repair.

**§ 65-6-302 Railroads – enlargement of unfenced area**

In case a field or enclosure through which unfenced railroad track passes shall be enlarged or extended, or the owner of the land over which such unfenced track passes shall open a field so as to embrace the track of such railroad, such railroad company is required to place good and sufficient cattle guards or stops at the margin of such enclosure or fields, and keep the same in repair; provided, that such owner shall give the nearest or most accessible agent of such company thirty (30) days' notice of such change.

**§ 65-6-303 Railroads – penalty for noncompliance**

Any railroad company neglecting or refusing to comply with the provisions of this part shall be liable for all damages sustained by anyone by reason of such neglect or refusal; and, in order for the injured party to recover all damages such person sustained, it shall be only necessary for such person to prove such neglect or refusal, and the amount of such damages; provided, that such company shall not be liable if it shall be shown that the opening of such field was made capriciously and with intent to annoy and molest such company.

**§ 65-12-108 Railroads –precautions required for prevention of accidents**

In order to prevent accidents upon railroads, the following precautions shall be observed:

- (1) The officials having jurisdiction over every public road crossed by a railroad shall place at each crossing a sign, marked as provided by § 65-11-105. The county legislative body shall appropriate money to defray the expenses of the signs. The failure of any engine driver to blow the whistle or ring the bell at any public crossing so designated by either the railroad company or the public official shall constitute negligence with the effect and all as set forth in § 65-12-109;
- (2) On approaching every crossing so distinguished, the whistle or bell of the locomotive shall be sounded at the distance of one fourth (1/4) of a mile from the crossing, and at short intervals until the train has passed the crossing;
- (3) Every railroad company shall keep the engineer, fireman, or some other person upon the locomotive, always upon the lookout ahead; and when any person, animal, or other obstruction appears upon the road, the alarm whistle shall be sounded, the brakes put down, and every possible means employed to stop the train and prevent an accident; and
- (4) It is unlawful for any person operating a railroad to use road engines without having them equipped with an electric light placed on the rear of the engine, tank, or tender, which light shall be a bull's eye lens of not less than four inches (4") in diameter with a bulb of not less than sixty (60) watts power, so that such road engine can be operated with safety when backing and the light so placed shall be burning while any such engine may be used in any backing movement. Such lights shall be operated at night; and any person violating any of these provisions shall be fined the sum of not less than twenty-five dollars (\$25.00), and not more than one hundred dollars (\$100), for each offense.

**§ 65-12-109 Railroads -- violation of § 65-12-108 is negligence per se**

A violation of any of the provisions of § 65-12-108 by any railroad company constitutes

negligence per se and in the trial of any causes involving § 65-12-108, the burden of proof, the issue of proximate cause, and the issue of contributory negligence shall be tried and be applied in the same manner and with the same effect as in the trial of other negligence actions under the common law in Tennessee.

**§ 65-12-114 Railroads -- standard of care required when livestock on tracks**

Whenever livestock appears on the tracks as an obstruction ahead of a railroad train, it shall be the duty of the engineer, or the person in charge of the operation of the train, to blow the alarm whistle and apply the brakes, in order to prevent, if reasonably possible, the striking of the livestock.

**§ 65-15-309 Nondiscrimination policy -- Accommodation of service animals -- Wheelchair accessible service**

- (a) The transportation network company shall adopt a policy of nondiscrimination with respect to passengers and potential passengers and notify transportation network company drivers of the policy.
- (b) Drivers shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers.
- (c) Drivers shall comply with all applicable laws relating to accommodation of service animals.
- (d) A transportation network company shall not impose additional charges for providing a prearranged ride to persons with physical disabilities because of those disabilities.
- (e) A transportation network company shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange wheelchair-accessible service in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

**§ 66-7-104 Physically disabled persons' access to housing accommodations**

- (d) Every totally blind or partially blind person who has a guide dog, or who obtains a guide dog, shall be entitled to full and equal access to all housing accommodations included within subsection (a) or any accommodations provided for in §§ 71-4-201, 71-4-202 and this section, and such person shall not be required to pay extra compensation for such guide dog, but shall be liable for any damages done to the premises by such animal.

**§ 66-7-106 Leasing to blind persons**

- (a) Any legally blind person in this state whose loss of sight necessitates a guide dog for mobility purposes, which has been obtained from a recognized school of training for such purposes, may not be denied the right to lease an apartment or other types of dwellings as a consequence of having a guide dog.
- (b) Because the guide dog is essential to the mobility of its master, no deposit may be required to be paid, with respect to the dog, by the legally blind person to the owner, manager, landlord or agent of any such attendance.
- (c) No restrictions may be imposed upon the legally blind person regarding the whereabouts of the animal so long as its master is in attendance.
- (d) Any owner, manager, landlord or agent who refuses to lease living space to any legally blind person because of a guide dog, or violates a provision of this section, commits a Class C misdemeanor.

**§ 66-7-111 Exception to policy prohibiting or limiting, or requiring payment for, animals or pets for tenant or prospective tenant with disability who requires use of service animal or support animal**

- (a) As used in this section:

- (1) "Disability" means:
  - (A) A physical or mental impairment that substantially limits one (1) or more major life activities;
  - (B) A record of an impairment described in subdivision (a)(1)(A); or
  - (C) Being regarded as having an impairment described in subdivision (a)(1)(A);
- (2) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition;
- (3) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized or permitted by the laws of any state to administer health care in the ordinary course of business or practice of a profession;
- (4) "Reliable documentation" means written documentation provided by:
  - (A) A healthcare provider with actual knowledge of an individual's disability;
  - (B) An individual or entity with a valid, unrestricted license, certification, or registration to serve persons with disabilities with actual knowledge of an individual's disability; or
  - (C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual's disability;
- (5) "Service animal" means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and
- (6) "Support animal" means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual's disability.
- (b) A tenant or prospective tenant with a disability who requires the use of a service animal or support animal may request an exception to a landlord's policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.
- (c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service animal or support animal. If the disability is readily apparent or known but the disability-related need for the service animal or support animal is not, then the landlord may ask the individual to submit reliable documentation of the disability-related need for a service animal or support animal.
- (d) A landlord who receives reliable documentation under subsection (c) may verify the reliable documentation. However, nothing in this subsection (d) authorizes a landlord to obtain confidential or protected medical records or confidential or protected medical information concerning a tenant's or prospective tenant's disability.
- (e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.
- (f)
  - (1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:
    - (A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or
    - (B) Provides documentation under subsection (c) that falsely states an animal is a service animal or support animal.
  - (2) In the event of any violation under subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.

- (g) Notwithstanding any other law to the contrary, a landlord is not liable for injuries by a person's service animal or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701); or any other federal, state, or local law.
- (h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

**§ 66-20-101 Liens on animals -- pasturage lien**

When any horse or other animal is received to pasture for a consideration, the farmer shall have a lien upon the animal for the farmer's proper charges, the same as the innkeeper's lien at common law; and in addition the farmer shall have a statutory lien for six (6) months.

**§ 66-20-102 Liens on animals -- lien on female for service of male**

Where the lien for pasturage shall occur in virtue of § 66-20-101, the charges shall include also those for the service of any jack, bull, ram, or boar; provided, that the charge for the service of such animal to the female shall have been agreed upon between the parties. The provisions of this section shall likewise include the service of any stud or stallion.

**§ 66-20-103 Liens on animals -- livery stable keeper's lien**

Livery stable keepers shall be entitled to the same lien provided for in § 66-20-101 on all stock received by them for board and feed, or vehicle kept and/or conditioned, until all reasonable charges are paid.

**§ 66-20-104 Liens on animals -- lien on offspring for service of male**

- (a) Any person keeping a jack, bull, ram, or boar, for public use, shall have a lien on the offspring of the same for the season charge to be paid.
- (b) The provisions of this section shall likewise include the service of any stud or stallion.

**§ 66-20-105 Duration of lien on offspring**

- (a) The lien provided for in § 66-20-104, so far as it affects the offspring of jacks and bulls shall exist for two (2) years from the birth of such offspring and so far as it affects rams and boars shall continue for twelve (12) months from the birth of such offspring.
- (b) The provisions of this section shall likewise include the service of any stud or stallion.

**§ 66-20-106 Commercial feed lot proprietors' and operators' lien**

Commercial feed lot proprietors and operators shall be entitled to the same lien provided for in § 66-20-101 on all livestock received by them covering all reasonable charges in caring for, boarding, feeding, or pasturing such livestock, until the same have been paid.

**§ 66-20-107 Lien on female and offspring for artificial insemination**

When any female animal is inseminated by artificial means for a fee, the person providing the service shall have for a charge a lien on the female and on any offspring resulting from such service.

The duration of the lien on offspring shall be for twelve (12) months from the date of birth of such offspring.

**§ 66-28-406 Exception to policy prohibiting or limiting, or requiring payment for, animals or pets for tenant or prospective tenant with disability who requires use of service animal or support animal**

(a) As used in this section:

(1) "Disability" means:

(A) A physical or mental impairment that substantially limits one (1) or more major life activities;

(B) A record of an impairment described in subdivision (a)(1)(A); or

(C) Being regarded as having an impairment described in subdivision (a)(1)(A);

(2) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition;

(3) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized or permitted by the laws of any state to administer health care in the ordinary course of business or practice of a profession;

(4) "Reliable documentation" means written documentation provided by:

(A) A healthcare provider with actual knowledge of an individual's disability;

(B) An individual or entity with a valid, unrestricted license, certification, or registration to serve persons with disabilities with actual knowledge of an individual's disability; or

(C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual's disability;

(5) "Service animal" means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and

(6) "Support animal" means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual's disability.

(b) A tenant or prospective tenant with a disability who requires the use of a service animal or support animal may request an exception to a landlord's policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.

(c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service animal or support animal. If the disability is readily apparent or known but the disability-related need for the service animal or support animal is not, then the landlord may ask the individual to submit reliable documentation of the disability-related need for a service animal or support animal.

(d) A landlord who receives reliable documentation under subsection (c) may verify the reliable documentation. However, nothing in this subsection (d) authorizes a landlord to obtain confidential or protected medical records or confidential or protected medical information concerning a tenant's or prospective tenant's disability.

(e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.

(f)

(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or



- (B) Provides documentation under subsection (c) that falsely states an animal is a service animal or support animal.
- (2) In the event of any violation of subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.
- (g) Notwithstanding any other law to the contrary, a landlord is not liable for injuries by a person's service animal or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701); or any other federal, state, or local law.
- (h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

**§ 66-28-505 Noncompliance by tenant — Failure to pay rent (relevant subsection)**

- (f)
  - (1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:
    - (A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or
    - (B) Provides documentation under § 66-28-406(c) that falsely states an animal is a service animal or support animal.
  - (2) As used in this subsection (f), “service animal” and “support animal” have the same meanings as the terms are defined in § 66-28-406(a).

**§ 67-4-409 Recordation tax**

- (a) Transfers of Realty. On all transfers of realty, whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, there shall be paid for the privilege of having the same recorded a tax, for state purposes only, of thirty-seven cents (37¢) per one hundred dollars (\$100), as follows:
  - (1) On the transfer of a freehold estate, the tax shall be based on the consideration for the transfer, or the value of the property, whichever is greater. “Value of the property,” as used in this section, means the amount that the property transferred would command at a fair and voluntary sale, and no other value;
  - (2) No transfer tax shall be due or paid on the transfer of a leasehold estate;
  - (3) No such tax shall be levied on the transfer of any real estate where such:
    - (A) Is creation or dissolution of a tenancy by the entirety:
      - (i) By the conveyance from one (1) spouse to the other;
      - (ii) By the conveyance from one (1) spouse or both spouses to the original grantor or grantors in the instrument and the original grantor's spouse; or
      - (iii) By the conveyance from one (1) spouse or both spouses to a trustee and immediate reconveyance by the trustee in the same instrument as tenants in common, tenants in common with right of survivorship, joint tenants or joint tenants with right of survivorship;
    - (B) Are deeds of division in kind of realty formerly held by tenants in common;
    - (C) Is release of a life estate to the beneficiaries of the remainder interest;
    - (D) Are deeds executed by an executor to implement a testamentary devise;
    - (E) Are domestic settlement decrees and/or domestic decrees and/or deeds that are an adjustment of property rights between divorcing parties;
    - (F) Are transfers by a transferor of real estate to a revocable living trust created by the same transferor or by a spouse of the transferor, or transfers by the trustee

- of a revocable living trust back to the same transferor or to the transferor's spouse;
- (G) Are deeds executed by the trustee of a revocable living trust to implement a testamentary devise by the trustor of the trust; or
  - (H) Are deeds executed by the trustee of a testamentary trust or revocable living trust to implement the distribution of the real property to a trust beneficiary or beneficiaries;
- (4) In the case of quitclaim deeds, the tax shall be based only on the actual consideration given for that conveyance;
  - (5) No oath of value shall be required in any transaction that is exempt from tax;
  - (6) This tax shall be paid by the grantee or transferee of the interest in real estate, as shown on the instrument evidencing the transfer of such interest; and it shall be collected by the register of the county in which the instrument is offered for recordation;
    - (A) The grantee, the grantee's agent, or a trustee acting for the grantee shall be required to state under oath upon the face of the instrument offered for record in the presence of the register, or before an officer authorized to administer oaths, the actual consideration or value, whichever is greater, for the transfer of a freehold estate;
    - (B) The making under oath of any false statement known to be false respecting the consideration or value of property transferred shall be punishable as perjury;
    - (C) A person who obtains several deeds or other instruments of conveyance for the same transfer of one and the same tract or parcel of real estate shall pay only one (1) state tax with respect to such transfer;
    - (D) The register is forbidden to record the transfer until this tax has been paid; and
  - (7) No tax is due under this subsection (a) until the title to the property is transferred by deed.
- (b) Mortgages, Deeds of Trust and Other Instruments. Prior to the public recordation of any instrument evidencing an indebtedness, including, but not limited to, mortgages, deeds of trust, conditional sales contracts, financing statements contemplated by the Uniform Commercial Code, compiled in title 47, and liens on personalty, other than on motor vehicles, there shall be paid a tax, for state purposes only, of eleven and one half cents (11.5¢) on each one hundred dollars (\$100) of the indebtedness so evidenced.
- (1) The tax shall not be required for the recordation of judgment liens, contractors' liens, subcontractors' liens, furnishers' liens, laborers' liens, mechanics' and materialmen's liens, financing statements filed pursuant to the Uniform Commercial Code, compiled in title 47, that secure an interest solely in investment property, as defined in § 47-9-102(a) as amended by chapter 846, § 1 of the Acts of 2000, and mortgages or deeds of trust issued under the Home Equity Conversion Mortgage Act, as compiled in title 47, chapter 30, and that are labeled on the face under such chapter.
  - (2) In any case where the consideration or stipulation of indebtedness does not appear on the face of the instrument being offered for record, the recording official shall require a separate statement, to be made under oath, indicating the amount of the indebtedness so secured.
  - (3) This tax shall be paid to and collected by county registers, the secretary of state, and any other official who may receive any instrument other than for liens on motor vehicles in accordance with the motor vehicle title law of this state, for recordation in accordance with the laws of this state, and registration is forbidden until such tax has been paid.
  - (4) The incidence of the tax provided by this section is declared to be upon the

mortgagor, grantor or debtor, evidenced by the instrument offered for recordation. It shall not, however, apply with respect to the first two thousand dollars (\$2,000) of the indebtedness.

(5)

(A) As used in this section, "indebtedness" means the principal debt or obligation which is reasonably contemplated by the parties to be included within the terms of the agreement. "Indebtedness" does not include any amount of interest, collection expense including, but not limited to, attorney's fees and expenses incurred in preserving, protecting, improving, or insuring property which serves as collateral for the indebtedness, or any other amount, other than the principal debt or obligation, for which a debtor becomes liable unless such amount is added to the principal debt or obligation, and is used to calculate additional interest pursuant to refinancing, reamortization, amendment or similar transaction or occurrence.

(B) If the instrument is given to secure the performance by the mortgagor, grantor, debtor or any other person of an obligation other than the payment of a specific sum of money, and a maximum amount secured is not expressed in the instrument, such instrument shall be taxable upon the value of the property covered by the instrument, which value shall be deemed to be the indebtedness secured by such instrument for such purposes. Such instrument shall not be recorded, unless, at the time of presenting the instrument, there is filed a sworn statement by the owner of the property covered thereby of the value of the property. Such amount shall be the basis of assessing the tax imposed under this subsection (b). No subsequent change in the value of the property shall result in the imposition of additional tax.

(C)

(i) Every recorded instrument evidencing an indebtedness must contain, either on the face of the instrument or in an attached sworn statement, the following language: "Maximum principal indebtedness for Tennessee recording tax purposes is \$." The holder of the indebtedness shall state the amount of the indebtedness, and that amount shall be the basis of assessing the tax imposed by this subsection (b). Such statement may be relied upon only by the department of revenue and by the receiving official charged with the duty of recordation and collection of tax, and such statement shall not constitute notice of any kind to any other party of the amount of indebtedness secured by the instrument.

(ii) Notwithstanding subdivision (b)(5)(C)(i), an instrument described in subdivision (b)(5)(B) shall instead contain, either on the face of the instrument or in an attached sworn statement, the following language: "Secures obligation other than payment of specific sum — valuation statement submitted herewith."

(iii) Notwithstanding any other law to the contrary, an official charged with the collection of the tax imposed by this subsection (b) shall not record any instrument evidencing an indebtedness, unless it contains the statement required by this subdivision (b)(5)(C) and tax is properly paid, based upon the amount contained in that statement or in the valuation statement, as appropriate.

(D) When the instrument being offered for registration, recording, or filing secures, or evidences the securing of, a line of credit or other indebtedness arising from more than one (1) advance or extension of credit, the amount of which will, or may, vary from time to time, the tax shall be computed and paid on the maximum amount of the indebtedness as stated in the instrument or the

accompanying sworn statement, and the reduction or subsequent increasing of the amount of the indebtedness within such limits shall not result in additional tax.

- (6) Imposition of a transfer tax as levied under subsection (a) with respect to an instrument evidencing an indebtedness shall not operate to exonerate such instrument from the tax levied under this subsection (b), if such tax would otherwise be appropriate. Furthermore, an instrument evidencing transfer of any interest in real estate that is subject to the transfer tax shall, nevertheless, be subject to the tax levied under this subsection (b) also, when such instrument evidences an indebtedness either by showing in the instrument that a vendor's lien is retained, or by referring in the instrument to such a lien being evidenced by another instrument not being offered for public recordation.

(7)

(A)

- (i) If some of the property securing the payment of the indebtedness is located in Tennessee and some is located outside of Tennessee, as an optional method of computing the tax, the tax may be apportioned and paid on the basis of the ratio of the value of the Tennessee collateral to the value of all collateral, by applying the following mathematical formula:  $\text{value of Tennessee collateral} / \text{value of total collateral} = \% \times \text{indebtedness} = \text{taxable Tennessee indebtedness}$
- (ii) If the tax is apportioned pursuant to this subdivision (b)(7), no evidence of the calculation or statement of tax shall be required in addition to the statement required by subdivision (b)(5)(C), which shall be completed with the amount resulting from the calculation made pursuant to subdivision (b)(7)(A)(i).
- (B) For purposes of the apportionment calculation allowed in subdivision (b)(7)(A)(i):
- (i) "Collateral" means any real property or personal property securing the indebtedness evidenced by the instrument to be filed or recorded;
- (ii) "Mobile goods" means goods that are mobile and that are of a type normally used in more than one (1) jurisdiction, such as trailers, rolling stock, airplanes, shipping containers, road building and construction machinery, commercial harvesting machinery and the like;
- (iii) "Taxable Tennessee indebtedness" means the amount of indebtedness on which tax is to be calculated as provided in subdivision (b)(4), with the two-thousand-dollar (\$2,000) exemption to be applied to the taxable Tennessee indebtedness;
- (iv) "Tennessee collateral" means all collateral in which a security interest, deed of trust, mortgage lien or other consensual lien is perfected by filing or recording one or more instruments in the state of Tennessee or by other methods where the laws of the state of Tennessee govern perfection; provided, however, that the Tennessee collateral of a debtor that is located in Tennessee, as determined pursuant to § 47-9-307, does not include such debtor's interests in:
- (a) Any personal property physically located outside the state of Tennessee, including goods, other than mobile goods, and any property that is of a type in which a security interest could be perfected by possession under Tennessee law if such property were located in Tennessee, such as certificated securities, chattel paper, documents, instruments and money; or
- (b) Any intangible property and mobile goods, unless such debtor's chief executive office is also located in the state of Tennessee. Any subsequent change in the location of the debtor or any collateral, in the facts supporting the categorization of any particular collateral, or in the relative

quantities or values of collateral shall not in itself result in the imposition of additional tax;

(v) "Total collateral" means all collateral, including the Tennessee collateral; and

(vi) "Value" of collateral means the value that the collateral would command at a fair and voluntary sale.

- (8) In the event of an increase in the indebtedness beyond the amount stated subsequent to the filing or recordation of the instrument, the holder of the indebtedness shall pay the tax on the amount of the increase. Such a payment shall be due on the date the increase occurs, but may be made without penalty if made within sixty (60) days after the increase occurs. Thereafter, such payment may be made only upon payment of the penalty provided in subdivision (b)(12) based on the amount of the increase in the indebtedness.
- (9) Section § 67-4-206 and § 67-4-217 shall not apply to the tax imposed by this subsection (b).
- (10)
- (A) Nonpayment or underpayment of tax on an indebtedness, or failure timely to pay tax on an increase in indebtedness, shall not affect or impair the effectiveness, validity, priority, or enforceability of the security interest or lien created or evidenced by the instrument, it being declared the legislative intent that the effectiveness, validity, priority, and enforceability of security interest and liens are governed solely by law applicable to security interests and liens, and not by this title.
- (B) Such nonpayment, underpayment, or failure to pay, until cured, shall result in the imposition of a tax lien, in the amount of any tax and penalties unpaid and owing under this subsection (b), in favor of the department of revenue as described in subdivision (b)(11), shall subject the holder of the indebtedness to a penalty as described in subdivision (b)(12), and shall subject the holder of the indebtedness to the disability described in subdivision (b)(13).
- (11) The tax lien described in subdivision (b)(10) shall arise at the time the tax is due and shall at that time attach to any property, either real or personal, tangible or intangible, subject to the instrument until:
- (A) The lien or security interest of the instrument is released with respect to any property; or
- (B) Any property is transferred in settlement or realization of the lien or security interest, whereupon the tax lien shall automatically be released from such property and attach to any proceeds thereof. The department may not levy upon or sell any property subject to the tax lien until notice of the tax lien has been recorded pursuant to § 67-1-1403 but notwithstanding such section, the department otherwise shall not be required to record any notice of the tax lien. The tax lien shall be superior to all liens and security interest under Tennessee law, except:
- (i) Those enumerated in § 67-1-1403(c)(2)-(4) that were recorded, filed or perfected, respectively, prior to attachment of the tax lien; and
- (ii) County and municipal ad valorem taxes.
- (12) It is the duty of every holder of an indebtedness, including an individual, business entity of any organizational structure, or governmental entity, to collect the tax imposed by this subsection (b) from the debtor and to remit the tax as required by this subsection (b). Except as provided in subdivision (b)(8), if the holder of the indebtedness fails to pay or underpays the tax imposed by this subsection (b), the holder of the indebtedness shall be liable for a penalty, in addition to the tax, in the amount of two hundred fifty dollars (\$250) or double the unpaid tax due, whichever is greater.

- (13) The holder of an indebtedness evidenced or secured by an instrument upon the recording or filing of which tax is owing under this section may not maintain an action on such indebtedness, other than an action limited to the enforcement of the holder's security interest or lien, against the debtor until such nonpayment is cured. If such an action is commenced and a cure is not effected within a time limit set by the court, the debtor may obtain a dismissal of such action, without prejudice to refile in the event of a subsequent cure of nonpayment. Notwithstanding the terms of the instrument, if a cure is not effected until after the filing of a motion or pleading in which the holder's noncompliance with this subsection (b) is raised, the holder may not thereafter charge the debtor with the costs of curing such noncompliance.
- (c) Any oath required in subsections (a) and (b) shall not be introduced as evidence in any proceeding conducted in connection with any condemnation action for the purpose of indicating the value of such real property.
- (d) Reports and Payment of Tax to the Commissioner.
- (1) The county register and other officials charged with the collection of taxes imposed under this section shall report all collections to the department on forms prescribed by the commissioner, in the same manner and under the same conditions as county clerks collect and report revenue under parts 2-6 of this chapter.
- (2)
- (A) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission five percent (5%) of the taxes so collected.
- (B) Notwithstanding subdivision (d)(2)(A) or any other law to the contrary, fifty-two percent (52%) of the five percent (5%) commission provided by subdivision (d)(2)(A) shall be remitted to the state treasurer and credited to the general fund of the state.
- (3) The county registers shall also be entitled to receive as a fee for issuing each receipt for taxes imposed in this section the sum of one dollar (\$1.00), to be paid when the tax receipt is issued. The fee, however, shall not be applicable nor collectible by any state officials charged with the collection of taxes imposed under this section.
- (e) Instruments made pursuant to mergers, consolidations, sales or transfers of substantially all of the assets in this state of corporations, pursuant to plans of reorganization, are exempt from this section.
- (f)
- (1) The recording and rerecording of all transfers of realty in which a municipality is the grantee or transferee and all instruments evidencing an indebtedness in which a municipality is the holder or owner of the indebtedness shall be exempt from this section. The recording and rerecording of all instruments evidencing an indebtedness of any health and educational facility corporation formed pursuant to title 48, chapter 101, part 3 shall also be exempt from this section.
- (2) For the purposes of this subsection (f), "municipality" means the state of Tennessee or any county or incorporated city or town, utility district, school district, power district, sanitary district, or other municipal, quasi-municipal, or governmental body or political subdivision in this state, and any agency, authority, branch, bureau, commission, corporation, department or instrumentality thereof now or later authorized to be created.
- (3) The recording or rerecording of any transfer of realty to or from any municipality and any evidence of indebtedness of or to any municipality, as defined in subsection (a), prior to May 11, 1971, and otherwise validly made, is declared to be valid and effective, notwithstanding any failure to pay the tax formerly imposed by

this section, and any such recording or rerecording is ratified, approved and confirmed, and no tax shall be imposed or collected on account of any such recording or rerecording.

(g) Wetland Acquisition Fund.

- (1) Three and one fourth cents (3.25¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the 1986 wetland acquisition fund; provided, that such funds shall not be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain. Expenditures from such fund shall only be made to implement and effectuate the purposes of title 11, chapter 14, part 4. The fund may be expended to maintain and enhance state-owned property that is under the agency's jurisdiction. Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.
- (2) Notwithstanding any provision of this section to the contrary, the commissioner of finance and administration, with the written approval of the executive director of the Tennessee wildlife resources agency, is authorized, subject to legislative appropriation, to transfer funds from the 1986 wetland acquisition fund to the Tennessee heritage conservation trust fund, created in title 11, chapter 7, part 1. For the purposes of § 11-7-103(h), "other available sources" also shall not include any funds transferred to the Tennessee heritage conservation trust fund from the 1986 wetland acquisition fund pursuant to this subdivision (g)(2).

(h) Exception for Certain Facilities.

- (1) With respect to any facility as defined in subdivision (h)(2)(A):

- (A) The taxes paid under subsection (a) shall not exceed one hundred thousand dollars (\$100,000) in the aggregate; and
- (B) The taxes paid under subsection (b) shall not exceed five hundred thousand dollars (\$500,000) in the aggregate.

- (2)

- (A) As used in this subsection (h), "facility" means any real or personal property that is constructed, acquired or developed for the principal purpose of manufacturing, processing, fabricating or assembling any manufactured products and includes, but is not limited to, all or any part of or any interest in any land and building, including office, administration or other buildings, any improvement to the facilities and all real and personal properties, including, but is not limited to, equipment and machinery deemed necessary in connection with the facility, whether or not now in existence.
  - (B) As used in this subsection (h), "related indebtedness" means indebtedness relating to or incurred to finance a portion of or otherwise in connection with a facility, which shall be evidenced by instruments, including, but not limited to, mortgages, deeds of trust, conditional sales contracts, financing statements contemplated by the Uniform Commercial Code, compiled in title 47, and liens on personalty, notwithstanding the fact that portions of such indebtedness may be held by different holders, owners, trustees or other secured parties (holders) of indebtedness or portions of indebtedness relating to the facility.
- (3) In order to qualify for the exception provided under this subsection (h), prior to the public recordation of any instrument evidencing a transfer of an interest in realty or of any instrument evidencing a related indebtedness under this section, the grantee or transferee of the interest in such realty or the holder of related indebtedness must submit a sworn statement declaring the amount of tax paid for recording instruments by or on behalf of the person, corporation, or other entity that owns, leases or otherwise operates the facility, referred to in this subsection (h) as the taxpayer,

under both subsection (a), with respect to the transfer of realty pertaining to the facility, and subsection (b), with respect to related indebtedness, and a copy of each receipt for the taxes paid for recording such instruments or other evidence of such payments. No tax will be due, if the taxes paid by or on behalf of the taxpayer for recording such instruments pursuant to subsections (a) and (b) relating to the facility and any related indebtedness equal an aggregate amount of one hundred thousand dollars (\$100,000) or five hundred thousand dollars (\$500,000), as the case may be. If less than the aggregate amount of one hundred thousand dollars (\$100,000) or five hundred thousand dollars (\$500,000), as the case may be, in taxes for recording instruments pursuant to subsections (a) and (b) relating to the facility and any related indebtedness has been paid by or on behalf of the taxpayer prior to the proposed recordation of any instrument evidencing a transfer of an interest in realty or related indebtedness, the grantee or transferee of an interest in such realty or the holder of related indebtedness must pay or cause to be paid the amount of tax due, calculated in accordance with this section, which amount shall be no more than the difference between one hundred thousand dollars (\$100,000) or five hundred thousand dollars (\$500,000), and the aggregate amount of such taxes paid by or on behalf of the taxpayer for recording instruments pertaining to the facility and any related indebtedness pursuant to subsections (a) and (b). In no event, however, shall the aggregate amount of taxes paid for recording instruments relating to transfers of an interest in realty under subsection (a) and related indebtedness under subsection (b) exceed one hundred thousand dollars (\$100,000) or five hundred thousand dollars (\$500,000) by or on behalf of the taxpayer.

(i) Local Parks Land Acquisition Fund.

(1) One and three fourths cents (1.75¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the local parks land acquisition fund. The moneys in this fund shall be used only for grants to county and municipal governments to implement and carry out the purposes set forth in subdivision (i)(3); provided, that the commissioner of environment and conservation may allocate not more than three and one-half percent (3.5%) of the moneys in this fund for the administration of the fund. Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.

(2)

(A) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds, deposited in the local parks land acquisition fund. No project shall receive any such funds unless each such official has approved such expenditure. Such officials shall consider applications from county and municipal governments throughout the state.

(B) At least sixty percent (60%) of the funds allocated annually shall go to municipal governments.

(3) County and municipal governments may use the funds allocated under this section for the purchase of land for parks, natural areas, greenways, and for the purchase of land for recreation facilities. Such funds may also be used for trail development and capital projects in parks, natural areas, and greenways.

(4)

(A) Any county or municipal government that receives a grant under this section must match the grant with an equal amount of money for each project. The matching money provided by the local government may be used to purchase additional land or to develop facilities on the land that is purchased with the



grant. Rather than providing matching money, the local government may provide as its match a tract of land not previously used for park or recreational purposes that will be dedicated entirely for park or recreational purposes after receipt of the grant and that is independently appraised as having the same, or greater, value as the amount of the state grant.

- (B) Rather than providing matching money, the local government may also provide as all or part of its match volunteer services, materials, and equipment that are donated to the local government by a third party at the time the state grant is made, that are used for trail construction or other development on the tract of land for which the state grant is sought, and that are valued in a manner specified by the department.
- (5) If an application from a county or municipal government has been submitted for a grant from the local parks land acquisition fund and the county or municipal government subsequently purchases the land or constructs the trail for which the grant was sought before the grant is acted upon, the grant may still be awarded as a reimbursement; provided, that the application was submitted by the local government no more than twelve (12) months prior to the award of the grant.
- (6) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency may promulgate regulations to implement this subsection (i).
- (7) No funds deposited in the local parks land acquisition fund from the tax levied by subsection (a) shall be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain.
- (j) State Lands Acquisition Fund.
  - (1) One and one half cents (1.5¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the state lands acquisition fund. Expenditures from such fund shall be made only to implement and carry out the purposes set forth in subdivision (j)(2). Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.
  - (2)
    - (A) The commissioner of environment and conservation shall expend the funds which are deposited in the state lands acquisition fund only for the acquisition of land for any area designated as an historic place as evidenced by its inclusion on the National Register of Historic Places, state historic areas or sites, state parks, state forests, state natural areas, boundary areas along state scenic rivers, the state trails system, and for the acquisition of easements to protect any of the foregoing state areas. Such funds may also be used for trail development in the foregoing areas. Such funds may also be used for the redevelopment, renovation and restoration of historic theaters owned by a governmental entity or a not-for-profit corporation or its controlled affiliate and listed on the National Register of Historic Places. Such funds may also be used for capital projects, including improvements and maintenance, at state parks.
    - (B) No funds deposited in the state lands acquisition fund from the tax levied by subsection (a) shall be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain.
  - (3) The first three hundred thousand dollars (\$300,000) deposited in the state lands acquisition fund shall be transferred and credited to the compensation fund created under § 11-14-406-. Following the procedure set forth in that section, the commissioner of finance and administration shall annually reimburse each city and county the amount of lost property tax revenue resulting from any purchase of land

by the department of environment and conservation which renders such land tax exempt. The next two hundred fifty thousand dollars (\$250,000) deposited in the state lands acquisition fund in each fiscal year shall be transferred and credited to the Tennessee Civil War or War Between the States site preservation fund created under § 4-11-112. Funds allocated to the preservation fund shall be used exclusively as provided in § 4-11-112.

- (4) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds deposited in the state lands acquisition fund. No project shall receive any such funds unless each such official has approved such expenditure. The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency may promulgate regulations to implement this subsection (j).
- (5) Acquisition pursuant to this subsection (j) of property classified under chapter 5, part 10 of this title, shall not constitute a change in the use of the property, and no rollback taxes shall become due solely as a result of such acquisition.
- (6) Notwithstanding any provision of this section to the contrary, the commissioner of finance and administration, with the written approval of the commissioner of environment and conservation, is authorized, subject to legislative appropriation, to transfer funds from the state lands acquisition fund to the Tennessee heritage conservation trust fund, created in title 11, chapter 7, part 1. For the purposes of § 11-7-103(h), "other available sources" also shall not include any funds transferred to the Tennessee heritage conservation trust fund from the state lands acquisition fund pursuant to this subdivision (j)(6).
- (k) Revenue Stream. The moneys deposited in the 1986 wetlands acquisition fund and the moneys deposited in the state lands acquisition fund may be used as the revenue stream to pay the principal of and interest on revenue bonds that are sold by the state of Tennessee to generate funds to fulfill the purposes for which the moneys deposited in each of these funds may be used.
- (l) Agricultural Resources Conservation Fund.
  - (1) One and one half cents (1.5¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the agricultural resources conservation fund. Expenditures from such fund shall be made only to implement and carry out the purposes set forth in subdivision (l)(2). Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the funds not otherwise expended shall be returned to and made a part of the fund.
  - (2) The commissioner of agriculture shall expend the funds that are deposited in the agricultural resources fund for purposes of landowner assistance, to address point and nonpoint source water quality issues, as well as nuisance problems, including, but not limited to, odor, noise, dust and similar concerns. The commissioner of environment and conservation, commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds deposited in the agricultural resources conservation fund. No project shall receive any such funds unless each such official has approved such expenditure. The commissioner of agriculture may promulgate regulations to implement this subsection (l).
  - (3) Expenditures from the agricultural resources conservation fund shall be made for the promotion and implementation of agricultural management practices that conserve and protect natural resources associated with agricultural production, including, but not limited to, soil, water, air, plants and animals. The commissioner of agriculture may spend up to five percent (5%) of the annual appropriations from

this fund on education of landowners, producers and managers concerning conservation and protection practices. No more than ten percent (10%) of the annual appropriation from this fund may be used for management costs associated with technical assistance to accomplish the purposes of the fund and/or the administration of the fund. It is the intent of the general assembly that the highest priority of the agricultural resources conservation fund is to abate and prevent nonpoint source water pollution that may be associated with agricultural production; therefore, the commissioner of agriculture may spend no more than fifteen percent (15%) of the annual appropriations from the fund for the combined purposes of preventing or remedying air, noise, dust, and odor pollution, or similar nuisance type environmental problems associated with agricultural production. The commissioner of agriculture may expend agricultural resources conservation funds as matching dollars to secure additional funding to fulfill the purposes for which the fund was established.

- (4) The commissioner of agriculture shall seek advice from the commissioner of environment and conservation in determining the most effective ways to abate nonpoint pollution from agricultural activities.
- (m) Transfers to Other Funds. Beginning in fiscal year 2015-2016 and in each subsequent fiscal year, fifty percent (50%) of the total growth in collections of the tax levied by subsection (a) over the previous fiscal year and deposited to the funds enumerated in subsections (g), (i), (j), and (l) shall be transferred and credited as follows:
  - (1) Sixty-four percent (64%) of the growth funds shall be transferred and credited to the Tennessee Civil War or War Between the States site preservation fund created by § 4-11-112, to be used exclusively as provided in § 4-11-112; and
  - (2) Thirty-six percent (36%) of the growth funds shall be transferred and credited to historic property land acquisition fund created by § 4-11-113, to be used exclusively as provided in § 4-11-113.
- (n) Reports of Expenditures.
  - (1)
    - (A) By February 1 of every odd-numbered year, the commissioner of environment and conservation shall file with the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the state lands acquisition fund and grants made to local governments from the local parks land acquisition fund.
    - (B) By February 1 of every odd-numbered year, the fish and wildlife commission shall file with the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the wetlands acquisition fund.
    - (C) By February 1 of every odd-numbered year, the commissioner of agriculture shall file with the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the agricultural resources conservation fund.
  - (2)
    - (A) Once every five (5) years, beginning in 1996, the commissioner of environment and conservation and the fish and wildlife commission shall reevaluate their land acquisition goals and priorities and shall incorporate their findings and conclusions into a written plan. This plan shall be submitted to the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives, which shall

conduct public hearings on the plan.

- (B) Once every five (5) years, beginning in 2002, the commissioner of agriculture shall reevaluate the progress and accomplishments of the agricultural resources conservation fund and shall incorporate the conclusions and recommendations of such reevaluation into a written plan. This plan shall be submitted to the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives, which shall hold public hearings on the plan.
- (o) Management Policies. The commissioner of environment and conservation and the fish and wildlife commission shall establish policies for the management of land acquired with funds from the state lands acquisition fund and the wetlands acquisition fund, which policies shall be designed to foster a good relationship with nearby private landowners and to prevent adverse impacts on adjoining property. These policies shall be publicized to nearby private landowners.

#### **§ 67-4-708 Business Tax Act – classifications**

Businesses, vocations and occupations that are taxable are set forth in the following classifications; provided, that each person shall be classified according to the dominant business activity:

(3) Classification 3.

- (A) Each person engaged in the business of making sales of the following:
  - (xi) Architectural supplies . . . bait . . . leather goods . . . pet foods, pets . . .
- (C) Each person making sales of services or engaging in the business of furnishing or rendering services, except those described in subdivisions (3)(C)(i)-(xvi). It is the legislative intent that the exceptions in subdivisions (3)(C)(i)-(xvi) shall include the sales of services by those businesses or establishments so described in the Standard Industrial Classification Index of 1972, including all supplements and amendments prepared by the bureau of the budget of the federal government, except where otherwise provided:
  - (iv) Services rendered by nonprofit membership organizations operating on a nonprofit membership basis for the promotion of the interest of the members;
  - (vi) Services furnished by nonprofit educational and research agencies;
  - (vii) Services by religious and charitable organizations;
  - (xiii) Lessors of the following properties: agricultural, airport, forest, mining, oil, and public utility;
  - (xv) Services furnished by persons engaged in the practice of veterinary medicine, dentistry or surgery, including services involving the boarding and lodging of animals;
  - (xvi) Farmers providing services to other farmers for the planting or harvesting of agricultural products or for the preparation, improvement, or maintenance of land used in the production of agricultural products;
- (4) Classification 4. Each person engaged or continuing in this state in the business of contracting or performing a contract or engaging in any of the activities, or similar activities, listed in subdivisions (4)(A) and (B) for a price, commission, fee or wage:
  - (B) Each person engaged in the business of selling livestock, poultry or other farm products not exempted under § 67-4-712; provided, that the tax imposed in § 67-4-709(b)(4) shall apply to all commissions, fees, margins or other charges received from such sales; and

## § 67-4-712 Exemptions

(a)

- (1) Each person being unable to see by reason of total blindness, owning less than two thousand five hundred dollars (\$2,500) of property above encumbrances on the property and doing business with a capital not exceeding two thousand five hundred dollars (\$2,500), residing in and being a citizen of Tennessee and of the county in which the exemption shall be claimed, and being the sole beneficiary of the business, shall be exempt from the payment of the taxes payable by persons taxable under § 67-4-708(1)-(4). Any institution for the blind engaged in the training and employment of the blind of the state likewise shall be exempt from the payment of the privilege taxes imposed, without regard to property qualifications.
- (2) Any disabled former uniformed member of the armed forces who is a veteran of any armed conflict in which the United States has engaged, or any peacetime uniformed member of the armed forces who was disabled while in regular service, owning less than five thousand dollars (\$5,000) of property above encumbrances on the property and doing business with a capital stock of not exceeding five thousand dollars (\$5,000), residing in and being a citizen of the state of Tennessee and of the county in which the exemption shall be claimed, and being the sole beneficiary of the business, shall be exempt from the payment of the taxes imposed upon persons in § 67-4-708(1)-(4). Only one (1) exemption may be claimed by any one (1) person under this subsection (a), and any business for which the exemption is claimed shall be conducted by such former member personally or a member of such member's immediate family who may be assisted by not more than one (1) person not a member of the family. With respect to former members operating as peddlers, one (1) vehicle shall be considered as one (1) place of business.
- (3) The proper collectors shall require the applicant who wishes to seek the benefits of the exemptions under this subsection (a) to make an affidavit setting out the applicant's disability and the applicant's financial condition and the source of the applicant's income before the license shall be issued, and any person making a false affidavit and procuring a free privilege license commits perjury and shall be punished under the law.

(b) This part shall not apply to the following persons in the circumstances indicated:

- (1) Any person in respect to that person's employment in the capacity of an employee or servant as distinguished from that of an independent contractor;
- (2) Any person primarily engaged in the manufacture of goods, wares, merchandise or other articles of value from a location or outlet subject to ad valorem taxation under chapter 5, part 5 of this title;
- (3) Any person taxable under part 4 of this chapter with respect to receipts taxable under such provisions;
- (4) Newspaper route carriers and newspaper peddlers;
- (5) Any institution operated for religious or charitable purposes, with respect to any profits that are earned from the sale of items contributed to the institution or articles produced by the institution from such contributed items;
- (6) Persons conducting shows, displays, or exhibits sponsored by any nonprofit organization of gun collectors; provided, that any person who regularly engages in business as a dealer in guns or who sells guns for future delivery shall not be exempt under this subsection (b); and
- (7) Any person residing or located in this state whose only taxable business activity during the tax period is conducted at the Tennessee state fair or at only one (1) county fair, and any governmental entity, nonprofit corporation, institution or organization which has received a determination of exemption from the internal

revenue service pursuant to 26 U.S.C. § 501(c)(3) or (c)(4), and is currently operating under it, and whose only taxable business activity during the tax period is conducted at the Tennessee state fair, county fairs and their affiliates.

(c)

- (1) The gross sales made in this state of livestock, horses, poultry, nursery stock and other farm products direct from the farm are exempt from the tax levied by this part; provided, that such sales are made directly by the producer, breeder, or trainer. When sales of livestock, horses, poultry, or other farm products are made by any person other than the producer, breeder or trainer, they shall be classed and taxed under § 67-4-708(4).
- (2) No provision of this part shall apply to catfish farmers.

(d)

- (1) Any person having sales of less than ten thousand dollars (\$10,000) within a county shall be exempt from the tax and licensing provisions in §§ 67-4-704 and 67-4-723(a) with respect to the sales sourced to that county as provided in § 67-4-717(b).
- (2) Any person having sales of less than ten thousand dollars (\$10,000) within an incorporated municipality shall be exempt from the tax and licensing provisions in § 67-4-705 and § 67-4-723(a) with respect to the sales sourced to that municipality as provided in § 67-4-717(c).
- (3) Any person subject to the tax imposed by this chapter due to the operation of § 67-4-717(a) and having sales of less than ten thousand dollars (\$10,000) within a county shall be exempt from the taxing provision in § 67-4-704 with respect to the sales occurring in that county.

(e) Gross proceeds derived from admissions to amusement or recreational activities conducted, produced, or provided by not-for-profit museums, not-for-profit entities that operate historical sites and not-for-profit historical societies, organizations or associations by organizations that have received and currently hold a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501(c), or by organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, prepared by the office of management and budget of the federal government; provided, that this exemption shall not apply unless such entities, societies, associations or organizations promote, produce, and control the entire production or function.

(f) The tax imposed by this part shall not apply to a qualified business doing business from a location within an enterprise zone. The tax exemption provided by this subsection (f) shall only be allowed, however, to a qualified business for five (5) years from the date such business is originally certified as a qualified business.

#### **§ 67-4-2008 Excise Tax Law of 1999 – exemption if 66.7% of an entity's activity is farming**

(a)

- (6) Limited liability companies, limited partnerships, and limited liability partnerships, if all of the following criteria are met:
  - (A) At least sixty-six and sixty-seven hundredths percent (66.67%) of the activity of the entity is either farming or the holding of one (1) or more personal residences where one (1) or more of the members or partners reside. For purposes of this subdivision (a)(6)(A), the following provisions shall apply:
    - (i) "Farming" is the growing of crops, nursery products, timber or fibers, such as cotton, for human or animal use or consumption; the keeping of horses, cattle, sheep, goats, chickens or other animals for human or animal use or consumption; the keeping of animals that produce products, such as milk,

- eggs, wool or hides for human or animal use or consumption; or the leasing of the land to be used for the purposes described in this subdivision (a)(6)(A);
- (ii) For this purpose, the activity of the entity shall be considered farming only if at least sixty-six and sixty-seven hundredths percent (66.67%) of its income, including capital gains from the sale of land and other assets used in farming, is derived from farming and at least sixty-six and sixty-seven hundredths percent (66.67%) of its assets, valued at original cost to the entity, are used by the owner or by the owner's lessee or sharecropper for farming. In the event that an asset's original cost to the entity cannot be determined, or there is no original cost to the entity, for purposes of this subdivision (a)(6)(A), the property shall be valued at its fair market value at the time of acquisition by the entity;
  - (iii) A "personal residence" or "personal residences," as used in subdivision (a)(6)(A), includes acreage contiguous to the dwelling;
  - (iv) Any entity that qualifies for franchise tax exemption under this subdivision (a)(6), because of farming activity or because the property has been used as a personal residence for at least five (5) years, shall remain exempt for one (1) year from the end of the calendar year in which it ceases to qualify for the exemption, but only with regard to property and transactions related to property that it held at the time that it last qualified for the exemption. Net worth resulting from sales and other transactions involving real, tangible, or intangible property acquired by the entity after it ceased to qualify for the exemption (after-acquired property) shall be subject to the franchise tax. After-acquired property shall be included in the entity's franchise tax minimum measure. If the entity computes an apportionment formula, any after-acquired property and any compensation or gross receipts related to such property shall be included in the appropriate factors of such formula; and
  - (v) In order to qualify as a personal residence, the dwelling unit must be occupied for personal use by partners or members of the entity for more days than it is rented to others who are not partners or members of the entity. For purposes of this subdivision (a)(6), Internal Revenue Code 280A(d)(2), codified in 26 U.S.C. § 280A(d)(2), shall be used to define "personal use";

**§ 67-5-212 Property Tax – exemptions- religious, charitable, scientific, educational institutions - Assessment Act**

(a)

- (1) There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific, or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by an exempt institution, but occupied and actually used by:
  - (A) Another religious, charitable, scientific, or nonprofit educational institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the occupying institution was created or exists;
  - (B) An exempt institution that originated as part of a single exempt institution and that continues to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other

- agreement or arrangement; or
- (C) The United States government, the state of Tennessee, or any agency or political subdivision thereof.
- (2) In determining the exemption applicable to a post-secondary educational institution, there shall be a presumption that the entire original campus of an institution chartered before 1930 is an historical and integral entity, and is exempt so long as no particular portion of such campus is used for nonexempt purposes.
- (3)
  - (A) The property of such institution shall not be exempt, if:
    - (i) The owner, or any stockholder, officer, member, or employee of such institution shall receive or may be lawfully entitled to receive any pecuniary profit from the operations of that property in competition with like property owned by others that is not exempt, except reasonable compensation for services in effecting one (1) or more of such purposes, or as proper beneficiaries of its strictly religious, charitable, scientific, or educational purposes; or
    - (ii) The organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such institution, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one (1) or more of these purposes.
  - (B) The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, whether the income received therefrom be used for one (1) or more of such purposes or not, shall not be exempt; but, if a portion only of any lot or building of any such institution is used purely and exclusively for carrying out thereupon one (1) or more of such purposes of such institution, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining or other portion shall be subject to taxation.
- (4) No church shall be granted an exemption on more than one (1) parsonage, and an exempt parsonage may not include within the exemption more than three (3) acres.
- (5) For property owned by a corporation organized for the exclusive purpose of holding title to property for use by any organization that itself qualifies for exemption under this section, only such property of the corporation, or such parts thereof, as would be entitled to an exemption under this section if owned directly by such organization shall be exempt from property taxation.
- (b)
  - (1) Any owner of real or personal property claiming exemption under this section or § 67-5-207, § 67-5-213, § 67-5-219, or as otherwise required by law, shall file an application for the exemption with the state board of equalization on a form prescribed by the board and supply such further information as the board may require to determine whether the property qualifies for exemption. No property that is subject to these application requirements shall be exempted from property taxes unless the application has been approved in writing by the board. An application shall be deemed filed on the date it is received by the board or, if mailed, on the postmark date. The applicant shall provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located. An application for exemption pursuant to this section or any other section referring to these procedures shall be treated as an appeal for purposes of § 67-5-1512.
  - (2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Written notice includes notification by



electronic means and notice may be preserved in digital or electronic format. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall retain copies of any approved exemptions in paper, electronic, or digital format. Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and the applicant shall promptly report to the assessor any change in the use or ownership of the property that might affect its exempt status. The board may by rule impose a filing fee for processing applications for exemption. Such filing fee shall not exceed one hundred twenty dollars (\$120) and shall be proportionate to the value of the property at issue. For purposes of this section, "filing" means one (1) submission that may include multiple parcels, including real and personal property, with a clear nexus to one (1) exemption determination.

(3)

- (A) Any institution claiming an exemption under this section that has not previously filed an application for and been granted an exemption for a parcel must file an application for exemption with the state board of equalization by May 20 of the year for which exemption is sought. If the application is approved, the exemption will be effective as of January 1 of the year of application or as of the date the exempt use of such parcel began, whichever is later. If application is made after May 20 of the year for which exemption is sought, but prior to the end of the year, the application may be approved but will be effective for only a portion of the year determined as follows:
  - (i) If application is filed within thirty (30) days after the exempt use of the property began, exemption will be effective as of the date the exempt use began; or
  - (ii) If application is filed more than thirty (30) days after the exempt use began, the exemption will be effective as of the date of application.
- (B) If a religious institution acquires property that was duly exempt at the time of transfer from a transferor who had previously been approved for a religious use exemption of the property, or if a religious institution acquires property to replace its own exempt property, then the effective date of exemption shall be three (3) years prior to the date of application, or the date the acquiring institution began to use the property for religious purposes, whichever is later. The purpose of this subdivision (b)(3) is to provide continuity of exempt status for property transferred from one exempt religious institution to another in the specified circumstances. For purposes of this subdivision (b)(3), property transferred by a lender following foreclosure shall be deemed to have been transferred by the foreclosed debtor, whether or not the property was assessed in the name of the lender during the lender's possession.
- (C) In any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, if a nonprofit educational institution which is a medical college acquires one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. This subdivision (b)(3)(C) shall apply to properties acquired before May 25, 2017, so that such properties are not subject to taxation under this chapter while owned by the exempt educational institution

and used for one (1) or more of the exempt purposes for which the institution was created or exists; provided, however, that nothing in this subdivision (b)(3)(C) requires a county to refund any taxes that were collected prior to May 25, 2017.

- (D) In any county with a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four-hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, or within a municipality located within such county, if a nonprofit children's hospital changes the use of one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. In determining the date that a qualifying institution begins using property for an exempt purpose, subsection (g) applies to the full extent of both improvements and underlying real property so that the entire property, to the extent that the full value of underlying land and any improvements thereon, is considered to be occupied and used by the qualifying institution or its officers purely and exclusively for the institution's purposes from and after the commencement of construction of improvements. This subdivision (b)(3)(D) applies to properties acquired before May 15, 2018, so that such properties are not subject to taxation under this chapter while owned by the qualifying institution and used for one (1) or more of the exempt purposes for which the institution was created or exists, and any property taxes paid on such property that were collected prior to May 15, 2018, shall be refunded.
- (4) All questions of exemption under this section shall be subject to review and final determination by the board; provided, that any determination by the board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property shall be entitled to judicial review of its status under this statute, except as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and only after the exhaustion of administrative remedies as provided in this section.
- (5) The state board of equalization may revoke any exemption approved under this section, either in whole or in part, if it determines that the exemption was approved on the basis of fraud, misrepresentation, or erroneous information, that the current owner of the property does not qualify for exemption, or that the property is not actually being used for an exempt purpose. Property is not actually being used for an exempt purpose if the property is not currently in use, has been abandoned, is not suitable for human habitation, or is being used for a nonexempt purpose. The executive secretary of the board may initiate proceedings for revocation on the executive secretary's own motion or upon the written complaint of any person upon a determination of probable cause. Revocation shall not be retroactive, unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by this section.
- (c) As used in this section, "charitable institution" includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.

(see full statute)

**§ 67-5-216 Property Tax - exemption - growing of crops (relevant portion)**

- (a) All growing crops of whatever kind, including, but not limited to, timber, nursery stock, shrubs, flowers, and ornamental trees, the direct product of the soil of this state or any other state of the union, in the hands of the producer or the producer's immediate vendee, and articles manufactured from the produce of this state, or any other state of the union, in the hands of the manufacturer, shall be exempt from taxation.
- (b)
  - (1) All livestock and poultry of whatever kind in the hands of the producer or the producer's immediate vendee shall be exempt from taxation.
  - (2) "Immediate vendee" is limited to farm use and does not include any person using such products in meat processing.

**§ 67-6-301 Sales and Use Taxes – exemptions — agricultural products**

- (a)
  - (1) The gross proceeds derived from the sale in this state of livestock, nursery stock, poultry and other farm or nursery products, in any calendar year, directly from a farmer or nurseryman, are exempt from the tax levied by this chapter, if fifty percent (50%) or more of such products are grown or produced in the calendar year by such farmer or nurseryman. If less than fifty percent (50%) of such products in any calendar year are grown or produced by the farmer or nurseryman, then only the gross proceeds of the sale in this state of the products actually grown or produced by such farmer or nurseryman shall be exempt from the tax levied by this chapter. When sales of livestock, nursery stock, poultry, or other farm or nursery products are made to consumers, other than as provided herein, they are not exempt from the tax imposed by this chapter.
  - (2) As used in subdivision (a)(1), unless the context otherwise requires, "sale directly from a farmer or nurseryman," includes, but is not limited to, the sale of farm or nursery products directly from a farmer to a consumer via an online nonprofit farmers' market; provided, that:
    - (A) An amount equal to the consumer's full purchase price is transmitted by the consumer or the online farmers' market to the farmer; and
    - (B) The cooperative or other organizing body of the online farmers' market levies no fee or other charge for facilitating the sales other than virtual booth rental fees periodically assessed to participating farmers in order to pay the actual costs incurred by the cooperative or organizing body in operating the online farmers' market.
- (b) It is specifically provided that the use tax, as defined herein, shall not apply to livestock and livestock products, to poultry and poultry products, to farm, nursery and agricultural products, when produced by the farmer or nurseryman and used by the nurseryman and members of the nurseryman's family.
- (c)
  - (1) Each and every agricultural commodity sold by any person, other than a producer, to any other person, who purchases not for direct consumption, but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be and is exempt from any and all provisions of this chapter, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one (1) tax be exacted.
  - (2) "Agricultural commodity," for purposes of this section, means horticultural, poultry, and farm products, livestock and livestock products, and harvested trees.

- (d) The gross proceeds derived from the sale in this state of products that are grown or produced in a community garden, as defined in 43-24-102, in any calendar year, directly from a representative of the community garden, are exempt from the tax levied by this chapter.

**§ 67-6-330 Sales and Use Taxes – amusement tax exemptions**

- (a) There is exempt from the sales tax on admission, dues or fees imposed by § 67-6-212:

- (1) Events or activities held for or sponsored by public or private schools, kindergarten through grade twelve (K-12);
- (2) The sales price of admissions to county or agricultural fairs and any dues, fees or charges that enable or entitle the entrant to engage in any otherwise taxable amusement activity held therein, including games, rides, shows, contests, or grandstand events;
- (3) Membership application fees, dues or contributions, except that portion attributable to admission prices, paid to institutions and organizations that have received a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c)(3), (8) and (19) and that are currently operating under such exemption;
- (4) Membership fees or dues of those organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government;
- (5)
  - (A) The sales price of admissions to amusement or recreational activities conducted, produced, or provided by:
    - (i) Not-for-profit museums, not-for-profit entities that operate historical sites and not-for-profit historical societies, organizations or associations;
    - (ii) Organizations that have received and currently hold a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c);
    - (iii) Organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government; or
    - (iv) Tennessee historic property preservation or rehabilitation entities, as defined in § 67-4-2004;
  - (B) The exemption provided for in this subdivision (a)(5) shall not apply unless such entities, societies, associations or organizations promote, produce and control the entire production or function;
- (6) Fees in any form resulting from the production of television, film, radio or theatrical presentations. This exemption shall not include any dues, fees or other charges made on or for the admission of the public to such presentations;
- (7) Events or activities conducted upon rivers and waterways in this state whose continued use for recreational purposes is contingent upon revenue produced pursuant to agreements entered into between the state of Tennessee and the federal government, or an agency thereof, which agreements provide for the establishment of a trust fund for such purposes; provided, that this exemption shall prevail only if the annual distribution of funds to the state from such trust fund exceeds that amount of revenue to the state that would otherwise be produced if the amusement tax under the provisions of § 67-6-212 were imposed on such events or activities, as determined by the fiscal review committee;
- (8) All sales contractually committed and/or for which money has been paid prior to June 1, 1984;
- (9) Athletic events for participants under eighteen (18) years of age sponsored by civic

- or not-for-profit organizations;
- (10) The sales price of admissions to amusement or recreational activities or facilities conducted, produced and controlled by municipalities or counties;
- (11) Membership assessments for capital improvements made by a recreation club, community service organization or country club against its members;
- (12) The sales price of admissions to beauty pageants or rodeos and any fees, charges or rental fees that entitle or enable the entrant to engage in any otherwise taxable amusement activity held therein that are conducted, produced or provided by a nonprofit civic organization; provided, that this exemption only applies to beauty pageants or rodeos that have been held in the same city for thirty (30) years or longer;
- (13) The sales price of admissions to musical concerts conducted, produced or provided by not-for-profit community group associations, if such associations promote, produce and control such concerts;
- (14) Any event or activity held by an employer solely for the benefit of the employer's employees; provided, that such event or activity must be entirely produced and controlled by such employer;
- (15) Fishing tournament registration fees collected from tournament participants;
- (16) Admission, dues, fees, or other charges paid to any person principally engaged in offering services or facilities for the development or preservation of physical fitness through exercise or other active physical fitness conditioning. This exemption shall apply to services and facilities such as gyms, fitness centers, fitness studios, high intensity interval training, cross training, ballet barre, pilates, yoga, spin classes, aerobics classes, and other substantially similar services and facilities that principally provide for exercise or other active physical fitness conditioning. This exemption shall not apply to persons principally engaged in offering recreational activities such as country clubs, tennis clubs, golf courses, and other substantially similar recreational facilities and activities;
- (17) Any entry fee or charge that allows an entrant to participate in a contest or tournament or charity horse show;
- (18) Charges made by landowners for permission to hunt native wildlife on their property that is located partially or entirely in a county having a population of not less than thirty-one thousand nine hundred (31,900) nor more than thirty-two thousand (32,000), according to the 1980 federal census or any subsequent federal census; and
- (19) The fee paid by an establishment operated primarily for the sale of prepared food to one (1) or more persons for the purpose of providing live entertainment to the patrons of such establishment.
- (b) The exemptions provided in subdivisions (a)(6) and (11) do not apply to interscholastic sports held or sponsored by private or public colleges or universities.

**§ 68-1-101 Department of Health -- department organized into divisions; expedited issuance of license (relevant portion)**

- (a) The department of health shall be organized into the following divisions:
  - (7) The division of rabies control, the head of which shall be the director of rabies control; and
  - (8) The division of health related boards for all administrative, fiscal, inspectional, clerical and secretarial functions of the following boards, agencies and commissions:
    - (DD) Board of veterinary medical examiners.

### **§ 68-1-201 Department of Health -- power to quarantine**

- (a) The commissioner has the power to:
- (1) Declare quarantine whenever, in the commissioner's judgment, the welfare of the public requires it; and
  - (2) Prescribe such rules and regulations as may be deemed proper for the prevention of the introduction of yellow fever, cholera and other epidemic diseases into the state.
- (b)
- (1) Whenever yellow fever, cholera, smallpox or other epidemic diseases appear in any locality within the state, and information thereof is brought to the knowledge of the department, the commissioner shall prepare and carry into effect such rules and regulations as, in the commissioner's judgment, will, with the least inconvenience to commerce and travel, prevent the spread of the disease.
  - (2) Whenever the commissioner determines that an influenza outbreak may pose a threat of an epidemic, the commissioner shall prepare and carry into effect rules and regulations that, in the commissioner's judgment, will, with the least inconvenience to commerce and travel, prevent the spread of the disease.
- (c) As used in this part, "quarantine" means the limitation of a person's freedom of movement, isolation of a person, or preventing or restricting access to premises upon which the person or the cause or source of a disease may be found, for a period of time as may be necessary to confirm or establish a diagnosis, to determine the cause or source of a disease, or to prevent the spread of a disease.

### **§ 68-2-601 County Board of Health – members; powers and duties**

- (a) The county legislative body of each county may establish a board of health. The board shall consist of the following:
- (1) The county mayor;
  - (2) The director of schools or a designee appointed annually by the director;
  - (3) Two (2) physicians licensed to practice in the state of Tennessee, who shall be nominated by the medical society serving that county;
  - (4) One (1) dentist licensed to practice dentistry in the state of Tennessee, who shall be nominated by the dental society serving that county;
  - (5) One (1) pharmacist licensed to practice in the state of Tennessee, who shall be nominated by the pharmaceutical society serving that county;
  - (6) One (1) registered nurse licensed to practice in the state of Tennessee, who shall be nominated by the nurses association serving that county;
  - (7) The county health director and the county health officer shall serve as ex officio members to the board, with the county health director serving as secretary to the board. In the absence of a duly appointed county health director, the county health officer shall serve as secretary. In the absence of the duly appointed county health officer, the commissioner of health or the commissioner's designee shall serve in that capacity. The board shall elect a chair at its first meeting and annually thereafter. It is the duty of the chair to call all meetings of the board;
  - (8) The county legislative body may, by resolution, provide for the election of a doctor of veterinary medicine as an additional member of the county board of health. The county legislative body may also, by resolution, provide for the election of a citizen representative as another additional member of the county board of health. The citizen representative shall not, at the time of such citizen representative's election, previous to such citizen representative's election, nor during the term of such citizen representative's office, be a health provider or the spouse of a health provider; and
  - (9) In the event a nomination is not timely made, the county legislative body may

- proceed to elect an otherwise qualified member.
- (b) All members, except ex officio members, shall be residents of the county. In the event that the required members are not available from within the county to serve on the board of health, the board would remain duly constituted.
  - (c) The members shall be appointed by the county legislative body for a term of four (4) years. All vacancies shall be filled by the legislative body to serve the remainder of the unexpired term. A majority of the board shall constitute a quorum.
  - (d) The county legislative body may remove an appointed member for cause.
  - (e) In counties which fail to establish an active board of health pursuant to subsection (a), the commissioner of health may establish a health advisory committee to function as provided in § 68-2-802; however, the commissioner or the commissioner's designee retains all powers and duties of the board of health.
  - (f)
    - (1) Except as provided in § 68-2-611, under advisement of the county board of health under subdivisions (f)(2)(B) and (C), the county mayor has the power to issue orders as are necessary or appropriate to protect the general health and safety of county residents.
    - (2) The powers and duties of county boards of health are to:
      - (A) Govern the policies of full-time county health departments established in accordance with this chapter;
      - (B) Advise the county mayor on the enforcement of such rules and regulations as may be prescribed by the commissioner essential to the control of preventable diseases and the promotion and maintenance of the general health of the county;
      - (C) Advise the county mayor on the adoption of rules and regulations as may be necessary or appropriate to protect the general health and safety of the citizens of the county; and
      - (D) Require that an annual budget be prepared and, when this budget has been approved by the county board of health, submit the same to the county legislative body for consideration and subsequent provision of necessary funds to meet all obligations under the adopted budgets.
  - (g) This part does not grant a county board of health the power to prohibit or regulate agriculture as defined in § 1-3-105.
  - (h) County health departments shall not regulate agriculture as defined in § 1-3-105, except as otherwise authorized under state law.
  - (i) A county health department or board of health of a county in existence prior to July 1, 1985, remains in existence after November 12, 2021. The regulations of such departments and boards remain in full force in effect to the extent such regulations do not conflict with this part.

#### **§ 68-2-602 Violations of rules and regulations of county board – penalty**

Any person who violates a county board of health regulation commits a Class C misdemeanor.

#### **§ 68-2-603 County health department – establishing; director; health officer**

- (a)
  - (1) Each county shall establish a county health department which shall be headed by, and under the immediate direction of, a county health director.
  - (2) The county health director shall be appointed by the commissioner of health or by the commissioner's designee, act as the administrative officer of the county health department, take actions and make determinations necessary to properly execute the state department of health's program's, and adequately enforce the rules and

- regulations established by the commissioner.
- (3) The county health director shall be a health professional who possesses the necessary education and experience in public health administration as determined by the state department of health and approved by the department of human resources.
  - (4) The county health director shall have compensation paid, all or in part, by the state department of health.
  - (5) If the county health director is a qualified physician, such county health director may also serve as a county health officer.
  - (6) When the commissioner appoints a county health director pursuant to this subsection (a), the appointment shall be made in writing by the commissioner in concurrence with the county mayor of the county for which the appointment is made. The mayor shall submit a slate of not more than three (3) nominees to the commissioner for consideration within ten (10) days of a request for nominees by the commissioner. The commissioner may appoint a health director from the list of nominees or request additional nominees.
- (b) It is the county health director's duty to enforce the regulations of the state department of health.
  - (c) The commissioner may appoint a county health officer responsible for providing medical direction including medical enforcement actions with the approval of the commissioner or the county mayor. The county health officer shall be a graduate doctor of medicine or osteopathy, schooled and experienced in public health work and licensed to practice in the state of Tennessee. The county health officer shall have compensation paid, all or in part, by the state department of health.
  - (d) Any person who undertakes to hold the position of county health officer without being qualified as provided in this section commits a Class C misdemeanor.
  - (e) In the absence of a duly-appointed county health officer, the commissioner or the commissioner's designee shall appoint a physician who shall provide medical direction, including the authority outlined in § 68-2-609.
  - (f) Except as provided in subsection (g), in the absence of an epidemic or immediate threat of an epidemic, any person who files with the county board of health a signed, written statement that a specific regulation pertaining to personal medical treatment conflicts with the person's religious tenets and practices, affirmed under penalty of perjury, shall be exempted from the regulation.
  - (g) This section does not apply to an immunization, vaccination, or injection for the SARS-CoV-2 virus or any variant of the SARS-CoV-2 virus.

#### **§ 68-8-102 Tennessee Anti-Rabies Law – definitions**

As used in this chapter, unless the context otherwise requires:

- (1) “Cat” means all domesticated members of the feline family;
- (2) “Commissioner” means the commissioner of health or a duly authorized representative;
- (3) “Compendium or rabies compendium” means the most recent issue of the national “Compendium of Animal Rabies Prevention and Control” published by the Association of State Public Health Veterinarians;
- (4) “Confinement” means housed in a building, pen or by some other suitable escape-proof method or enclosure or being leashed;
- (5) “Department” means the Tennessee department of health;
- (6) “Dog” means all domesticated members of the canine family;
- (7) “Hybrid animal” means the offspring of wild animals crossbred to domestic dogs or cats or any of their progeny for which the owner has records substantiating that their genetic heritage consists of twenty-five percent (25%) or more from wild animals.



Crossbred dogs or cats with less than twenty-five percent (25%) documented genetic heritage from wild animals will be considered as domestic dogs or cats for purposes of this chapter;

- (8) "Observation period" means the time following a bite incident during which the biting animal's health status must be monitored;
- (9) "Owner" means any person having a right or property in a dog or cat, or who keeps or harbors a dog or cat, or who has it in such person's care or acts as its custodian, or who permits a dog or cat to remain on or about any premises;
- (10) "Peace officer" means animal control officer, police, rabies control officer, sheriff, wildlife officer, or similar duly appointed law enforcement officer of the state or any political subdivision thereof, authorized by the Constitution, statutes, charter, or ordinances to enforce statutory, rule, charter or ordinance violations. It does not include employees of the department assigned to implement this chapter;
- (11) "Quarantine" means a state of strictly enforced isolation from other animals or the public imposed to prevent the spread of disease;
- (12) "Shelter" means animal or humane shelter, dog pound or animal pound;
- (13) "Vaccination" means the injection of a rabies vaccine for animals, which meets the standards prescribed by both the United States Department of Agriculture (USDA) license granted to the vaccine for interstate sale and by the department; and
- (14) "Veterinarian" means any individual licensed by the state board of veterinary medical examiners to practice veterinary medicine in this state.

#### **§ 68-8-103 Anti-Rabies Law – vaccination; certificate and tags; frequency**

- (a) It is unlawful for any person to own, keep or harbor any dog or cat six (6) months of age or older that has not been vaccinated against rabies as required by this chapter, or the rules and regulations promulgated pursuant to this chapter.
- (b) Dogs and cats may be vaccinated as early as three (3) months of age or at an age as specified by the vaccine's United States department of agriculture (USDA) license, but will be considered as noncompliant with this section if over six (6) months of age.
- (c) Ferrets, certain livestock, hybrid animals and other animals may be vaccinated for rabies if a vaccine is legally available for that species. Routine rabies vaccination of animals other than dogs or cats is not required unless deemed necessary by the commissioner or by emergency rules of the department.
- (d) All rabies vaccinations of dogs and cats as required by this chapter shall be administered only by or under the supervision of a veterinarian.
- (e) Evidence of such vaccination shall consist of a certificate that contains the owner's name and address, date of vaccination, date the dog or cat should be revaccinated, description and sex of the dog or cat vaccinated, number of the vaccination tag issued when applicable, manufacturer and lot number of vaccine administered, and the name and signature of the supervising veterinarian. If the vaccination is given at an animal control facility or shelter, then the certificate shall contain the name and signature of the person administering the vaccine as well as that of the supervising veterinarian.
- (f) The vaccination certificate shall be prepared in one (1) of the following manners, unless otherwise provided for by rule:
  - (1) Paper forms in triplicate; the original shall be given to the owner, the first copy provided to and retained by the department, and the veterinarian administering or supervising the administration of the vaccine shall retain the second copy; or
  - (2) Computer printout or electronic format, such that the owner, the department and the veterinarian administering the vaccine obtain a copy of the information provided for in subsection (e).
- (g) The rabies certificate form and rabies tags shall be provided by the department.
- (h) A licensed veterinarian may provide and use an alternative tag and certificate providing

that the requirements in subsections (e) and (f) are met.

- (i) Nothing in this section shall be construed to require more frequent rabies vaccinations or a greater number of rabies vaccinations than are required by the rabies compendium.

**§ 68-8-104 Anti-Rabies Law – registration of vaccinated cats and dogs may be required; registration fees, use of**

- (a) In addition to, but not as a substitute for or in any way detracting from the vaccination requirements of this chapter, authorization is granted for the adoption of local laws or ordinances to require the registration of dogs or cats in counties or municipalities.
- (b) Any local laws or ordinances implementing animal registration shall include methods for the collection of registration fees and shall require the expenditure of these funds to establish and maintain a rabies control program, also commonly known as an animal control program. In addition to various animal control activities, the rabies control program shall ensure that dogs and cats are properly vaccinated in accordance with this chapter and that biting animals or rabies suspects are observed or confined in accordance with this chapter and rules of the department.
- (c) No dog or cat registration certificate shall be issued unless an unexpired certificate of rabies vaccination is exhibited.
- (d) All fees collected for registration shall become part of the county or municipality rabies control fund and shall be disbursed by the appropriate trustee in a manner prescribed by the local legislative body for the sole purpose of the payment of salaries, for the establishment and operation of an animal shelter, for the establishment and operation of an animal control program, or for other expenses incidental to the enforcement of this chapter in the jurisdiction to which the registration requirement applies.
- (e) Any funds remaining at the end of any fiscal year shall be carried over to the next fiscal year, and its expenditure authorized by the local legislative body only for the purpose of rabies and animal control.

**§ 68-8-105 Anti-Rabies Law – exempt programs**

- (a) Any county or municipality maintaining a program for the control of rabies shall be exempt from the operation of this chapter so long as such rabies program meets the minimum requirements of this chapter.
- (b) This chapter shall not apply to any county that now has or hereafter may enact private laws governing the control of rabies in that county, that meet the minimum requirements of this chapter.

**§ 68-8-106 Anti-Rabies Law – tag to be issued upon vaccination**

- (a) The person or facility administering the vaccine shall issue a rabies tag for every dog vaccinated for rabies and the identification numbers on the tag shall be recorded on the rabies certificate.
- (b) Cats may be, but are not required, to be issued a rabies tag.
- (c) Every dog owner shall attach a metal tag or other evidence of rabies vaccination to a collar, which shall be worn at all times by the dog vaccinated; provided, that the collar may be removed in the case of hunting dogs while in chase or returning from the chase. Nothing in this section shall be construed as permitting the use of an unvaccinated dog for any purpose.

**§ 68-8-107 Anti-Rabies Law - Seizure of dogs/cats running at large -- Notification of seized animals -- Redemption by owner -- Vaccination requirement.**

- (a) Any dog found running at large may be seized by any peace officer and placed in an animal shelter in counties or cities where an animal shelter or pound is available.

- (b) If the dog or cat is wearing a rabies vaccination tag or other identification, all reasonable effort shall be made to locate and notify the owners who shall be required to appear within five (5) days and redeem the animal by paying a pound fee as set by the city or county legislative body. A failure to pay the pound fee, or have the animal vaccinated if proof of current vaccination is not produced prior to release, shall require the animal to be adopted or destroyed.
- (c) If any dog or cat is not wearing a vaccination tag or other identification, the animal may be adopted or destroyed, unless legally claimed by the owner within three (3) days.
- (d) No dog or cat three (3) months of age or older shall be released from a shelter without having proof of current vaccination or until it has been vaccinated and, where applicable, a tag issued.
- (e) A county may allow, by local ordinance, the adoption of a dog or cat three (3) months of age or older without a vaccination as long as procedures are established to ensure that the animal is vaccinated for rabies within seventy-two (72) hours of release from the shelter.

**§ 68-8-108 Anti-Rabies Law – not to interfere with transportation of confined dogs and cats through the state**

This chapter shall not prohibit the transportation of dogs or cats in the state; provided, that the dogs or cats are securely confined or kept on a leash while being transported in the state.

**§ 68-8-109 Anti-Rabies Law – confined observation or quarantine period after biting a person; investigation**

- (a) If any animal has bitten any person, is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the animal may be required to be placed under an observation period either by confinement or by quarantine for a period of time deemed necessary by the commissioner or rules of the department.
- (b) The act of investigating the bite or rabies exposure and placing the animal under observation by confinement or quarantine shall be accomplished either by the department or by the animal control program, in either the county or municipality wherein either the animal owner or the person bitten resides, in consultation with the department.
- (c) The confinement, quarantine or other disposition of the animal shall follow the current recommendations in the national rabies compendium unless more specific guidelines are designated by duly promulgated rules of the department or as deemed necessary by the commissioner to protect the public's health.
- (d) The observation period by confinement or quarantine may occur at the animal owner's home at the discretion of the department or the animal control program.

**§ 68-8-110 Anti-Rabies Law - Offense of hiding or concealing animal in violation of this chapter.**

It is an offense for any person to hide, conceal, aid, or assist in hiding or concealing any animal owned, kept or harbored in violation of § 68-8-103 or § 68-8-109. An offense under this section is punishable as a Class C misdemeanor.

**§ 68-8-111 Limit on veterinarian's liability for participation in anti-rabies program**

Any licensed veterinarian who provides services to vaccinate animals against rabies at a community clinic that is sponsored by a county health department or municipality in accordance with this chapter, shall not by such participation assume any responsibility or liability for the supervision of the site or location where the rabies program is conducted. Such responsibility and liability shall be borne by the sponsoring county or

municipality.

**§ 68-8-112 Anti-Rabies Law – rules and regulations**

- (a) The commissioner of health shall have the authority to promulgate such rules and regulations as may be deemed necessary for the proper enforcement of this chapter.
- (b) The commissioner in adopting rules may rely in whole or in part on guidance or standards contained in the rabies compendium or issued by the United States department of agriculture.
- (c) The rules deemed necessary by the commissioner to effectuate this chapter are of such importance to the welfare of the citizens of this state that they may be promulgated as emergency rules.

**§ 68-8-113 Anti-Rabies Law – violations**

Any person failing to meet any requirements or violating any of the provisions of this chapter commits a Class C misdemeanor with each violation being a separate offense.

**§ 68-131-102 Tennessee Hazardous Substances Act – part definitions**

- (a) As used in this part, unless the context otherwise requires:
  - (1) “Antifreeze” means any substance or preparation sold, distributed or intended for use as the cooling liquid or to be added to the cooling liquid in the cooling system of internal combustion engines of motor vehicles to prevent freezing of the cooling liquid or to lower its freezing point.
  - (2)
    - (A) “Banned hazardous substance” means:
      - (i) Any toy or other article intended for use by children, that:
        - (a) Is a hazardous substance;
        - (b) Bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted; or
        - (c) Is otherwise hazardous because it presents electrical, mechanical or thermal hazards; or
      - (ii) Any hazardous substance intended or packaged in a form suitable for use in household, that the commissioner by regulation classifies as a banned hazardous substance on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this part for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of commerce; provided, that the commissioner, by regulation:
        - (a) Shall exempt from subdivision (2)(A)(i) articles, such as chemical sets, that by reason of their functional purpose require the inclusion of the hazardous substance involved, and that bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings; and
        - (b) Shall exempt from subdivision (2)(A)(i), and provide for the labeling of common fireworks, including toy paper caps, cone fountains, cylinder fountains, whistles without report, and sparklers, to the extent that the commissioner determines that such articles can be adequately labeled to protect the purchasers and users of the articles;
    - (B) Proceedings for the issuance, amendment, or repeal of regulations pursuant to

- subdivision (2)(A)(ii) shall be governed by § 68-131-103;
- (C) If any substance or article is determined to be a banned hazardous substance after the sale of such substance or article by a manufacturer or a distributor to a distributor or a dealer and prior to the sale of such substance or article by such distributor or dealer, the distributor shall immediately repurchase such substance or article at the price paid by such dealer, plus the transportation charges involved, and the manufacturer shall immediately repurchase from the distributor, or from the dealer if there is no distributor, such substance or article unsold or repurchased at the price paid, plus all transportation charges involved;
- (3) "Bittering agent" means denatonium benzoate;
- (4) "Commerce" means any and all commerce within the state of Tennessee and subject to the jurisdiction of the state of Tennessee, and includes the operation of any business or service establishment;
- (5) "Commissioner" means the commissioner of agriculture or the commissioner's legally authorized representative or agent;
- (6) "Corrosive" means any substance that, in contact with living tissue, will cause destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;
- (7) "Department" means the Tennessee department of agriculture;
- (8) "Electrical" means of or pertaining to the flow of an electrical charge or to electrons in motion; an article may be determined to present an "electrical hazard," if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock resulting from current leakage, inadequate insulation, accessibility of live parts, or other conditions;
- (9) "Extremely flammable" applies to any substance that has a flash point at or below twenty degrees Fahrenheit (20° F), as determined by the Tagliabue Open Cup Tester and "combustible" applies to any substance that has a flash point above eighty degrees Fahrenheit (80° F), to and including one hundred fifty degrees Fahrenheit (150° F), as determined by the Tagliabue Open Cup Tester; and "flammable" applies to any substance that has a flash point above twenty degrees Fahrenheit (20° F), to and including eighty degrees Fahrenheit (80° F), as determined by the Tagliabue Open Cup Tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the commissioner to be generally applicable to such materials or containers, respectively, and established by regulations issued by the commissioner, which regulations shall also define the terms "flammable," "combustible" and "extremely flammable" in accordance with such methods;
- (10)
- (A) "Hazardous substance" means:
- (i) Any substance or mixture of substances that:
- (a) Is toxic;
- (b) Is corrosive;
- (c) Is an irritant;
- (d) Is a strong sensitizer;
- (e) Is flammable or combustible; or
- (f) Generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;

- (ii) Any substances that the commissioner by regulation finds, pursuant to § 68-131-103(a), meet the requirements of subdivision (10)(A)(i);
    - (iii) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the commissioner determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this part in order to protect the public health;
    - (iv) Any toy or other article intended for use by children that the commissioner finds, pursuant to 68-131-103(e), meets the requirements of subdivision (10)(A)(i)(d);
  - (B) "Hazardous substance" does not apply to economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act, compiled in 7 U.S.C. 135-135R, or the Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled in title 43, chapter 8, nor to foods, drugs, and cosmetics subject to the Tennessee Food, Drug, and Cosmetic Act, compiled in title 53, chapter 1, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house, but "hazardous substance" does apply to any article that is not itself an economic poison within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act or the Tennessee Insecticide, Fungicide, and Rodenticide Act, but that is a hazardous substance within the meaning of subdivision (10)(A) by reason of bearing or containing such an economic poison; and
  - (C) "Hazardous substance" does not include any source material, special nuclear material, or by-product material as defined in the Atomic Energy Act of 1954, compiled in 42 U.S.C. 2011 et seq., and regulations issued pursuant to that act by the atomic energy commission;
- (11)
- (A) "Highly toxic" means any substance that falls within any of the following categories:
    - (i) Produces death within fourteen (14) days in one half ( $\frac{1}{2}$ ) or more than one half ( $\frac{1}{2}$ ) of a group of ten (10) or more laboratory white rats, each weighing between two hundred (200) and three hundred (300) grams, at a single dose of fifty (50) milligrams or less per kilogram of body weight, when orally administered;
    - (ii) Produces death within fourteen (14) days in one half ( $\frac{1}{2}$ ) or more than one half ( $\frac{1}{2}$ ) of a group of ten (10) or more laboratory white rats, each weighing between two hundred (200) and three hundred (300) grams, when inhaled continuously for a period of one (1) hour or less at an atmosphere concentration of two hundred (200) parts per million (1,000,000) by volume or less of gas or vapor or two (2) milligrams per liter by volume or less of mist or dust; provided, that such concentration is likely to be encountered by a person when the substance is used in any reasonably foreseeable manner; or
    - (iii) Produces death within fourteen (14) days in one half ( $\frac{1}{2}$ ) or more than one half ( $\frac{1}{2}$ ) of a group of ten (10) or more rabbits tested in a dosage of two hundred (200) milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four (24) hours or less;
  - (B) If the commissioner finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations provided for in subdivision (11)(A), the human data shall take precedence;
- (12) "Immediate container" does not include package liners;

- (13) "Irritant" means any substance not corrosive within the meaning of subdivision (6), which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction;
- (14) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or in the case of an article that is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed to the article, and a requirement made by or under authority of this part that any word, statement, or other information appearing on the label shall not be considered to be complied with, unless such word, statement, or other information also appears:
- (A) On the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper; and
- (B) On all accompanying literature where there are directions for use, written or otherwise;
- (15) "Mechanical" means of or pertaining to the design, construction or structure of a substance; an article may be determined to present a "mechanical hazard," if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness by strangulation, suffocation, asphyxiation, fragmentation, explosion, puncture, or other mechanical means;
- (16) "Misbranded hazardous substance" means a hazardous substance, including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted, intended or packaged in a form suitable for use in the household or by children, which substance, except as otherwise provided by or pursuant to 68-131-103, fails to bear a label:
- (A) That states conspicuously:
- (i) The name and place of business of the manufacturer, packer, distributor, or seller;
- (ii) The common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component that contributes substantially to its hazard, unless the commissioner by regulation permits or requires the use of a recognized generic name;
- (iii) The signal word "DANGER" on substances that are extremely flammable, corrosive, or highly toxic;
- (iv) The signal word "WARNING" or "CAUTION" on all other hazardous substances;
- (v) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;
- (vi) Precautionary measures describing the action to be followed or avoided, except when modified by regulation of the commissioner pursuant to 68-131-103;
- (vii) Instruction, when necessary or appropriate, for first aid treatment;
- (viii) The word "poison" for any hazardous substance that is defined as "highly toxic" by subdivision (11);
- (ix) Instructions for handling and storage of bulk shipments and packages that require special care in handling or storage; and
- (x) The statement:
- (a) "Keep out of the reach of children" or its practical equivalent; or

- (b) If the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard; and
- (B) On which any statements required under subdivision (16)(A) are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label;
- (17) "Person" includes an individual, partnership, corporation, or association, or the person's legal representative or agent;
- (18) "Radioactive substance" means a substance that emits ionizing radiation;
- (19) "Strong sensitizer" means a substance that will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity that becomes evident on reapplication of the same substances and that is designated as such by the commissioner. Before designating any substance as a strong sensitizer, the commissioner, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity;
- (20) "Thermal" means of or pertaining to the transfer or manifestation of heat energy; an article may be determined to present a "thermal hazard" if it has surfaces or parts normally touched, handheld, or grasped that exceed a temperature of one hundred thirteen degrees Fahrenheit (113° F), or one hundred forty degrees Fahrenheit (140° F) in the case of surfaces other than metal, or if it has surfaces or parts exceeding one hundred forty degrees Fahrenheit (140° F), in normal use or when subjected to reasonably foreseeable damage or abuse, that may be touched accidentally, causing personal injury or illness. However, articles that have parts or surfaces exceeding a temperature of one hundred forty degrees Fahrenheit (140° F) that may be touched accidentally and are not normally touched, handheld, or grasped shall not be found to present a thermal hazard, if the following three (3) conditions are met:
  - (A) The article requires such surfaces or parts in order to perform the normal function or purpose of the article;
  - (B) The article bears labeling giving directions and warnings for safe use; and
  - (C) Because of such labeling and warnings or other factors, the article is likely to be used only by children who will comprehend the warning and use the toy safely. Temperature tests shall be made at an ambient room temperature of seventy-seven degrees Fahrenheit (77° F) (25° C); and
- (21) "Toxic" applies to any substance, other than a radioactive substance, that has the capacity to produce personal injury or illness to a human through ingestion, inhalation or absorption through any body surface.

#### **§ 68-131-106 Tennessee Hazardous Substances Act – injunction proceedings**

In addition to the remedies provided in this part, the commissioner is authorized to apply to a competent court in this state, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of § 68-131-104, irregardless of whether or not there exists an adequate remedy at law.

#### **§ 68-131-113 Tennessee Hazardous Substances Act – bittering agent added to antifreeze or engine coolant; liability; construction regarding sale of motor vehicle; violations; selection of alternative bittering agent**

- (a) Any and all antifreeze or engine coolant containing at least ten percent (10%) ethylene glycol that is manufactured on or after January 1, 2010, shall contain a bittering agent in a minimum concentration of thirty parts per million (30 p.p.m.) but not to exceed a



maximum concentration of fifty parts per million (50 p.p.m.).

- (b) No manufacturer, processor, distributor, recycler or seller of antifreeze or engine coolant containing at least ten percent (10%) ethylene glycol that complies with this section in this state shall be liable for any personal injury, death, property damage, environmental damage or economic loss caused by the required inclusion of the bittering agent to the antifreeze or engine coolant. The limitation on liability provided in this subsection (b) does not apply to a particular liability to the extent that the cause of the liability is unrelated to the inclusion of denatonium benzoate in any engine coolant or antifreeze.
- (c) The requirements of this section shall not be construed to apply to the sale of a motor vehicle that contains engine coolant or antifreeze.
- (d) Any person violating this section commits a Class C misdemeanor, punishable only by a fine of fifty dollars (\$50.00) per occurrence.
- (e) Upon a determination by a federal or state authority that denatonium benzoate is unsuitable for use, based on a threat to health and safety or the environment, the commissioner of agriculture shall establish by rulemaking hearing, as required by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2, a bittering agent that shall be required instead; provided, however, that the initial rules establishing the bittering agent shall be promulgated as emergency rules in compliance with § 4-5-208.

#### **§ 70-1-101 Wildlife Resources – title definitions; construction of dates and provisions**

- (a) As used in this title, unless the context otherwise indicates, the definitions and rules of construction in this section shall govern the construction of this title, and proclamations and rules and regulations made or adopted by the commission:
  - (1) “Agency” means the wildlife resources agency;
  - (2) “Angling” means any effort made to take, kill, injure, capture, or catch any fish and every act of assistance in any effort;
  - (3) “Bag limit” means the maximum number of wildlife other than fish that may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
  - (4) “Big game” means deer, bear, wild turkey, and all species of large mammals that may be introduced or transplanted into this state for hunting;
  - (5) “Bullfrog” means jumbo frog (*rana catesbiana*);
  - (6) “Carcass” means the dead body of any wildlife or a portion of any such dead body;
  - (7) “Chumming” means placing fish, parts of fish, or other material upon which fish might feed, in the waters of this state for the purpose of attracting fish to a particular area in order that they may be taken, but “chumming” does not include angling;
  - (8) “Commission” means the Tennessee fish and wildlife commission, and “commissioner” means a member of the fish and wildlife commission;
  - (9) “Creel limit” means the maximum number of fish that may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
  - (10) “Executive director” means the executive director of the wildlife resources agency;
  - (11) “Falconry” means hunting by means of a trained raptor;
  - (12) “Fish” means all species of trout, salmon, walleye, northern pike, bass, crappie, bluegill, catfish, perch, sunfish, drum, carp, sucker, shad, minnow, and such other species of fish that are presently found in the state or may be introduced or transplanted into this state for consumptive or nonconsumptive use;
  - (13) “Fishing” means any effort made to take, kill, injure, capture, or catch any fish and

- every act of assistance in any effort;
- (14) "Fur bearer" means beaver, raccoon, skunk, groundhog, coyote, gray fox, red fox, mink, muskrat, otter, weasel, bobcat, and opossum, and all subspecies or variations of the foregoing, and any other animals that may be declared by the commission under regulation to be a fur bearer;
  - (15) "Game birds" means all species of grouse, pheasant, woodcock, wilson snipe, crow, quail, waterfowl, gallinules, rails, mourning dove, and all species of birds that may be introduced into this state for hunting;
  - (16) "Harvest tag" means the certificate that is required either by law or rule or regulation of the commission to be secured to the carcass of wildlife as evidence of legal taking and ownership;
  - (17) "Hours" means the hours of the day or night when wildlife may be taken lawfully;
  - (18) "Hunting" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, trapping, shooting at, stalking, or lying in wait for, any wildlife, whether or not such wildlife is then or subsequently captured, killed, taken, or wounded and every act of assistance to any other person, but "hunting" does not include stalking, attracting, searching for, or lying in wait for, wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures of wildlife;
  - (19) "Motor vehicle" means any self-propelled vehicle, and any vehicle propelled or drawn by a self-propelled vehicle, wherever operated, but does not include any vessel;
  - (20) "Nongame birds" means all species of birds not classified as game birds;
  - (21) "Nongame mammal" means all species of wild mammals not classified as big game, small game, or fur bearers. Domestic dogs and cats when running at large and apparently unclaimed and not under human control, whether licensed or unlicensed, shall come within this subdivision (a)(21) for control and regulation by law or commission rule or regulation not inconsistent with Tennessee Anti-Rabies Law, compiled in title 68, chapter 8, to the extent such dogs and cats are endangering or harassing wildlife;
  - (22) "Nonresident" means any person who is not a resident;
  - (23) "Person" means an individual, association, partnership, or corporation;
  - (24) "Personally attended rod or line" means a rod or line that is used for fishing or angling, and that is under the personal control of a person who is in proximity to such rod or line;
  - (25) "Possession" means both actual and constructive possession, and any control of the object or objects referred to;
  - (26) "Possession limit" means the maximum limit in number or amount of wildlife that may be lawfully in the possession of any one (1) person;
  - (27) "Public hunting area" means a specific land or water area, or both, not intensively managed that is established for the protection of wildlife species and public use by both consumptive and nonconsumptive users;
  - (28) "Public road" means the traveled portion of, and the shoulders on each side of, any road or highway maintained for public travel by a county, city, city and county, the state, or the United States government, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road or highway;
  - (29) "Raptor" means all birds found in the wild that are members of the order of falconiformes, strigiformes, and specifically, but not by way of limitation, means falcons, hawks, owls, and eagles, except the golden and bald eagle;
  - (30) "Refuge" means a specific land or water area, or both, that is established for the protection of one (1) or more species of wildlife with no, or limited forms of,

- consumptive uses, and limited nonconsumptive use to the degree compatible with desired wildlife protection;
- (31) "Resident" means any person who resides in this state for a period of ninety (90) consecutive days with the genuine intent of making this state that person's place of permanent abode, and who, when absent, intends to return to this state. For the purposes of this subdivision (a)(31), the following are deemed residents of this state:
- (A) Members of the armed services of the United States or any nation allied with the United States, who are on active duty in this state under permanent orders;
  - (B) Personnel in the diplomatic service of any nation recognized by the United States, who are assigned to duty in this state; and
  - (C) Students who are attending and have been enrolled at least six (6) months in any school, college, or university in this state;
- (32) "Sell" includes the offering or possessing for sale, bartering, exchanging or trading;
- (33) "Small game" means fur bearers, game birds, swamp rabbits, bullfrogs, cottontail rabbits, fox squirrels, gray squirrels, red squirrels, and all species of small mammals and birds that may be introduced into this state for hunting;
- (34) "Snagging" means fishing, without the use of either bait or artificial lure or any other device designed to attract fish, by snatching with hooks, gang hooks, or similar devices;
- (35) "State fishing area" means a body of water where environmental conditions are such that relatively high fish production is possible and where fishing is the principal public use of the water;
- (36) "Transport" means to carry or convey from one place to another, and includes an offer to transport, or receipt or possession for transportation;
- (37) "Trapping" means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting, or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices;
- (38) "Waters of the state" means any waters within the territorial limits of the state of Tennessee;
- (39) "Wild bird" means all game birds, nongame birds, and raptors;
- (40) "Wildlife" means wild vertebrates, mollusks, crustaceans, and fish;
- (41) "Wildlife management area" means a specific land or water area, or both, that is established for the intensive management of both habitat and wildlife species for optimum enhancement and use by both consumptive and nonconsumptive users; and
- (42) "Zoological institution" or "zoo" means an institution operated wholly or in part by a political subdivision of the state to display wildlife to the public. For the purposes of 70-4-403(1), permitted permanent and temporary exhibitors are regarded as zoos.
- (b) Whenever in this title, or proclamation and rules and regulations adopted under this title, the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time indicated includes both dates specified. The first date specified designates the first day of the period, and the second date designates the last day of the period.
- (c) Every provision relating to any fish or wildlife shall be deemed to apply to any part of

the fish or wildlife with the same force and effect as it applies to the whole of any fish or wildlife.

**§ 70-1-102 Fees and penalties set by law**

Fees and penalties imposed pursuant to this title shall be established exclusively by law, and nothing in this title shall be construed as authorizing establishment of fees and penalties by rule or regulation.

**§ 70-1-103 Wildlife Resources -- assaulting or interfering with agency employee; penalty**

- (a) It is unlawful to assault, resist, oppose, impede, intimidate, or interfere with any employee of the wildlife resources agency while the employee is engaged in the lawful performance of the employee's official duties.
- (b) Any person violating the provisions of this section commits a Class A misdemeanor.

**§ 70-1-104 Wildlife Resources -- accessory to violation of wildlife laws and regulations punishable as principal**

Whoever aids, abets, counsels, commands, induces, or procures the commission of a violation of this title or title 69, chapter 9, and proclamations and rules and regulations promulgated by the wildlife resources commission, is punishable as a principal.

**§ 70-1-105 Wildlife Resources -- Notification of potential water quality violation regarding agricultural property.**

If the agency receives a complaint or otherwise becomes aware of a potential water quality violation regarding property used in agriculture, as defined by §1-3-105, the agency must notify both the department of environment and conservation and the department of agriculture, as soon as practicable, pursuant to § 69-3-115(d).

**§ 70-1-201 Fish and Wildlife Commission – creation; appointment of members; terms**

- (a) An independent and separate administrative board of conservation for game, fish and wildlife of the state is created, to be known and referred to as the Tennessee fish and wildlife commission, hereinafter referred to as the “fish and wildlife commission” or the “commission”, to consist of thirteen (13) citizens of this state, which citizens shall be well informed on the subject of the conservation of game animals, birds and fish in this state. Nine (9) of these citizens shall be appointed by the governor, two (2) shall be appointed by the speaker of the senate, and two (2) shall be appointed by the speaker of the house of representatives, each to be appointed within the period provided in this section. In making appointments to the fish and wildlife commission, the governor and the speakers shall strive to ensure that at least one (1) person serving on the commission is sixty (60) years of age or older, at least one (1) person serving on the commission is a member of a racial minority, and at least two (2) persons serving on the commission are female.
- (b)
  - (1) Except as otherwise provided in this subsection (b), each member shall be confirmed by the conservation and environment committee of the house of representatives and the senate energy and environment committee and by joint resolution of the general assembly prior to beginning a term of office.
  - (2) If the general assembly is not in session at the time a member is appointed to fill a vacancy resulting from the expiration of a term, the member of the commission whose term has expired shall serve until a new appointee is confirmed as provided in subdivision (b)(1).

- (3) If the general assembly is not in session at the time a member is appointed to fill a vacancy not resulting from the expiration of a term, the new appointee shall serve for the term appointed unless such appointment is not confirmed within sixty (60) calendar days after the general assembly next convenes in regular session following such appointment.
  - (4) If the general assembly is not in session when initial appointments are made, all initial appointments shall serve the terms prescribed pursuant to subdivision (c)(1), unless such appointments are not confirmed within sixty (60) calendar days after the general assembly next convenes in regular session following such appointments.
- (c)
- (1) The entire membership of the wildlife resources commission shall be vacated and shall be replaced by new appointments made to the fish and wildlife commission pursuant to this subsection (c). In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows
    - (A) Three (3) of the governor's initial appointments, one (1) from each grand division of the state as provided in § 70-1-204(a), and one (1) initial appointment by each speaker shall be made for a term of two (2) years and eight (8) months;
    - (B) Three (3) of the governor's initial appointments, one (1) from each grand division of the state as provided in § 70-1-204(a), and one (1) initial appointment by each speaker shall be made for a term of four (4) years and eight (8) months; and
    - (C) Three (3) of the governor's initial appointments, one (1) from each grand division of the state as provided in § 70-1-204(a), shall be made for a term of six (6) years and eight months.
  - (2) For purpose of calculating terms, the initial term of office of each commission member shall begin on July 1, 2012
  - (3) At the conclusion of the initial terms, each regular term of a commission member appointed by a speaker shall be four (4) years and each regular term of a commission member appointed by the governor shall be six (6) years. For purpose of calculating regular terms, each term shall begin on March 1 and shall expire on the last day of February.
  - (4) No commission member shall serve consecutive terms. For the purposes of this subdivision (c)(4), a commission member shall be considered as having served a term if such member has served more than two (2) years of an initial term, regular term or unexpired term on the fish and wildlife commission
  - (5) A vacancy on the commission shall be filled by the appointing authority making the original appointment for the remainder of any unexpired term or, if a term has expired, for a regular term.

#### **§ 70-1-206 Fish and Wildlife Commission – duties and functions**

- (a) The fish and wildlife commission is directed and authorized to perform the following duties and functions:
  - (1) Appoint and dismiss the executive director;
  - (2) Approve the budget pursuant to § 70-1-306;
  - (3) Promulgate necessary rules, regulations, and proclamations as required under this title and title 69, chapter 9. The commission is also authorized to promulgate rules and regulations to permit a licensed trapper to release small game animals in counties contiguous to the counties where the animals were trapped;
  - (4) Establish objectives within the state policy that will enable the wildlife resources agency to develop, manage and maintain sound programs of hunting, fishing,

trapping and other wildlife related outdoor recreational activities;

- (5) Establish the salary of the executive director of the wildlife resources agency;
  - (6) Promulgate rules and regulations for the administration of the Reelfoot Lake natural area, as provided in title 11, chapter 14, part 1; and
  - (7) Promulgate rules and regulations to adjust fees for licenses and permits in this title and to establish new hunting, fishing and trapping licenses and permits as deemed appropriate along with necessary fees. Adjusting or establishing fees shall be in such amounts as may be necessary to administer the wildlife laws; provided, that the percentage increase in total revenue from a license package containing one (1) or more licenses or permits, or both, shall not exceed the percent of increase in the average consumer price index, all items-city average, as published by the United States department of labor, bureau of labor statistics, on the first day of March 1990, or, in the case of any permit, license or permit/license package fee adjustment after the initial adjustment under this subdivision (a)(7), the difference in the average consumer price index, all items-city average between the dates of one (1) adjustment and any subsequent adjustment; provided further, however, that individual fee adjustment amounts may be rounded up to the next dollar amount. All such fees, and any adjustments to the fees, shall be deposited in the wildlife resources fund and shall be expended solely for the administration and operation of the agency's programs and responsibilities authorized pursuant to this chapter. Further, the commission shall report actions taken on permits, licenses, and fees to be assessed following the promulgation of the proposed rules and regulations to the senate energy and environment committee and to the conservation and environment committee of the house of representatives.
- (b) The fish and wildlife commission shall become knowledgeable in and familiar with the special needs of handicapped and disabled veterans.

#### **§ 70-1-301 Wildlife Resources Agency – creation; statement of policy**

- (a) There is hereby created a wildlife resources agency, which shall have full and exclusive jurisdiction of the duties and functions relating to wildlife formerly held by the game and fish commission or of any other law relating to the management, protection, propagation, and conservation of wildlife, including hunting and fishing, except those powers and duties conferred upon the wildlife resources commission as provided in § 70-1-206.
- (b) It is the policy of the state that the agency shall be nonpartisan and shall place first and foremost the welfare of the wildlife and its environment in the agency's planning and decisions, and to encourage, by every appropriate means, the full development of the state's natural resources to the benefit of all of the citizens of Tennessee, including, but not limited to, the creation of a comprehensive long-range management plan to integrate the wildlife resource agency's efforts and to implement and encourage full utilization of Tennessee's wildlife resources consistent with realistic conservation principles.

#### **§ 70-1-302 Wildlife Resources Agency – duties and functions; agency advertising**

- (a) The wildlife resources agency is directed and authorized to perform the following duties and functions:
- (1) Make such expenditures from funds in the wildlife resources fund and the boating safety fund as it deems advisable subject to titles 9 and 12, and 70-1-306(c)-(h);
  - (2) Protect, propagate, increase, preserve and conserve the wildlife of this state, and enforce by proper action and proceedings, the existing laws of this state relating to

- wildlife;
- (3) Acquire by purchase, condemnation, lease, agreement, gift or devise, lands or waters suitable for the following purposes and develop, operate and maintain them for these purposes, subject to 70-1-306(c)-(h):
    - (A) Fish hatcheries and nursery ponds;
    - (B) Lands or waters suitable for game, birds, fish, or fur-bearing animal restoration, propagation, protection, management, or for access to such lands or waters;
    - (C) Public hunting, fishing or trapping areas to provide places where the public may hunt, trap or fish in accordance with law or the regulations of the agency; and
    - (D) The protection, preservation, and enhancement of Reelfoot Lake and the lands surrounding it;
  - (4) Extend and consolidate by exchange lands or waters suitable for the purposes set out in subdivisions (a)(3)(A)-(D);
  - (5) Capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fur-bearing animal or other wildlife needed for propagation, enforcement or stocking purposes, or to exercise control measures of undesirable species;
  - (6) Enter into cooperative arrangements with farmers and other landowners or lessees for the utilization of lands under their ownership or control for the purpose of protecting, propagating, conserving, restoring, taking or capturing of the wildlife of the state, under such rules and regulations as the agency may prescribe; and
  - (7) Enter into cooperative agreements with educational institutions and state, federal, and other agencies to promote wildlife management and conservation.
- (b) The agency may enter into cooperative agreements with the United States Tennessee Valley authority, United States fish and wildlife service, national park service, United States forest service, or with any other federal agency, or with any state for the purpose of regulating fishing, hunting, or trapping in the area under jurisdiction of the federal agencies or the state or in interstate waters, as the case may be. Such regulations shall become effective as soon as they shall have been accepted by all parties to the agreement and as soon as thirty (30) days shall have elapsed from the first publication of such regulations. Agreements involving reciprocal actions relative to wildlife violations shall become effective thirty (30) days after publication in the same manner as is required for proclamations.
  - (c) The wildlife resources agency may require creel census reports and reports of all fish taken under commercial fishing license and all mussels taken under commercial musseling license for any water or waters designated by it, such reports to be on forms provided by the executive director. This shall apply to license holders, wholesalers and others as required.
  - (d) The wildlife resources agency shall administer the Reelfoot Lake natural area, as provided in title 11, chapter 14, part 1.
  - (e) In order to further the public interest in the protection and preservation of wildlife and its habitat, the wildlife resources agency is authorized to participate in the federal wetlands mitigation banking program. Participation includes, but is not limited to, entering into agreements for agency or private development, construction and operation on lands that are affected by the program and that are owned, leased, or controlled in some manner through cooperative arrangement agreement or otherwise by the agency.
  - (f) The agency may sell advertising in any magazine or other publication of the agency, under terms and conditions to be set by the agency. The revenue generated from such advertising shall be deposited exclusively in the wildlife resources fund provided in 70-1-401. Any person or entity purchasing such advertising shall include an appropriate disclaimer, as determined by and subject to approval of the agency, to ensure that the appearance of such advertising in an agency publication does not constitute, directly

or indirectly, any endorsement by the agency of any products, services, companies, organizations, or other matters referenced in the advertising.

- (g) The agency may sell the right to include advertising in mailings sent by the agency, including, but not limited to, licenses, under terms and conditions set by the agency; provided, that any advertisers must comply with the disclaimer requirements of subsection (f). The revenue generated from such advertising shall be deposited exclusively in the wildlife resources fund provided in 70-1-401.
- (h)
  - (1) The agency is authorized to enter into agreements with landowners or persons who control hunting access to lands to establish deer management assistance plans. The purpose of a plan is to permit a landowner, adjoining landowners, or persons who control hunting access on contiguous lands to achieve deer management goals on the contiguous land through management for the specific needs of deer that may at any point in time cross over the land. Harvests under a particular deer management plan may exceed the normal season harvest in accordance with the plan.
  - (2) General guidelines for implementation of a deer management assistance program shall be developed by rule and regulation. In order to qualify under the program, the total combined contiguous acreage must meet or exceed one thousand (1,000) acres. Further, a deer management assistance permit must be purchased. Permit fees shall be established by rule and regulation. It is the intent in creating this program that it shall be revenue neutral to the agency and the state.
- (i) The agency is authorized to enter into agreements with the United States coast guard to enforce federal regulations in connection with homeland security related activities on Tennessee waters; however, all enforcement activities are subject to prior approval by the Tennessee office of homeland security.
- (j) The agency may enter into cooperative agreements with the United States Tennessee Valley authority, United States fish and wildlife service, national park service, United States forest service, or with any other federal agency, or with any public or private landowners in this state for the purpose of creating partnerships for the purpose of planting cover and food plots along utility easements for the benefit of indigenous wildlife.
- (k)
  - (1) The wildlife resources agency is authorized to enter into partnership agreements with nonprofit organizations for the purpose of promoting and supporting the goals and objectives of the agency including, but not limited to, marketing opportunities.
  - (2) This subsection (k) shall not be interpreted to abridge any powers or duties delegated to the agency in this part.
  - (3) The nonprofit partners shall have their boards of directors elected by a process approved by the governor or the governor's designee.
  - (4) The nonprofit partners shall be properly incorporated under the laws of this state, and approved by the internal revenue service as organizations that are exempt from federal income tax under 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), by virtue of being organizations described in 501(c)(3) of the Internal Revenue Code (26 U.S.C 501(c)(3)).
  - (5) Costs to underwrite the nonprofit partners' activities related to marketing opportunities shall be borne from revenues of the nonprofit partners and no state employee shall benefit from such proceeds. All proceeds in excess of the cost of operation shall be deposited exclusively into the wildlife resources fund as established in 70-1-401 and shall not revert to the general fund.
  - (6) The nonprofit partners shall annually submit to the governor, the speakers of the senate and the house of representatives, and the chair of the Tennessee fish and



- wildlife commission, within ninety (90) days after the end of their fiscal year, a complete and detailed report setting forth their operation and accomplishments.
- (7) The annual reports and all books of accounts and financial records of all funds received by grant, contract or otherwise from state, local or federal sources shall be subject to audit annually by the comptroller of the treasury. With prior approval of the comptroller of the treasury, the audit may be performed by a licensed independent public accountant selected by the nonprofit partner. If an independent public accountant is employed, the audit contract between the nonprofit partner and the independent accountant shall be on contract forms prescribed by the comptroller of the treasury. The cost of any audit shall be paid by the nonprofit partner. The comptroller of the treasury shall ensure that audits are prepared in accordance with generally accepted governmental auditing standards and determine if the audits meet minimum audit standards prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until approved by the comptroller of the treasury.
- (8) All full board meetings of a nonprofit organization concerning activities authorized by 70-1-207 or pursuant to subsection (f) shall be open to the public, except for executive sessions that include, but are not limited to, any of the following matters: litigation; audits or investigations; human resource issues; gift acceptance deliberations; board training; governance; donor strategy sessions; and security measures.
- (9) All expenditures of a nonprofit organization relating to activities authorized by 70-1-207 or pursuant to subsection (f) shall be open for public inspection upon specific request to the nonprofit organization.

**§ 70-1-310 Submission of fine in lieu of court appearance -- Arrest or judgment of forfeiture possible**

- (a) Whenever a person is issued a citation pursuant to § 40-7-118 for a misdemeanor violation of any provision of this title, title 69, chapter 9, or for any offense for which an arrest is authorized pursuant to this title, prior to the time set for the person to appear in court to answer the charge, the person cited may, in lieu of appearance in court, submit the fine and costs to the clerk of the court. The submission to fine must be with the approval of the court that has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed. The submission to fine shall not otherwise be exclusive of any other method or procedure prescribed by law for disposition of a citation.
- (b) If the person cited has not paid the citation upon submission to fine as provided in subsection (a) and the person cited fails to appear in court at the time specified, or such later date as may be fixed by the court, the court may issue a warrant for such person's arrest or may declare a judgment of forfeiture of the offense charged. The judgment of forfeiture shall in no case be more than the total amount of fine and costs prescribed by law for the offense and may be collected in the manner provided in § 40-24-105.
- (c) This section shall not be applicable to any person arrested for a violation of any provision of this title, title 69, chapter 9, or any offense for which an arrest is authorized pursuant to this title, which is punishable by a fine of more than fifty dollars (\$50.00) or by imprisonment for more than thirty (30) days. This section shall not supersede § 40-7-118, nor shall they require the use of a citation in lieu of continued custody of an arrested person in any of the circumstances specified in § 40-7-118(d).

**§ 70-1-311 Qualifications for position of wildlife officer**

For purposes of qualifying for the position of wildlife officer with the wildlife resources

agency, at least ten (10) years of full-time work experience in wildlife or fisheries management, wildlife biology, or other related work experience in this state or another state may be credited as equivalent to a bachelor's degree from an accredited college or university in wildlife or fisheries management, wildlife biology, or other related acceptable field. This section shall apply to any person who submitted an application for the position of wildlife officer prior to, or on or after, May 20, 2016.

#### **§ 70-1-401 Wildlife resources fund established**

- (a) All moneys sent to the state treasury in payment of licenses, advertising, contraband, fines, penalties, and forfeitures arising from the wildlife resources laws of this state shall be set aside. This fund shall constitute a fund known as the "wildlife resources fund" for:
- (1) The payment of the wildlife resources agency's necessary and incidental expenses;
  - (2) The payment of the salaries and traveling expenses of the director, office assistants, and other persons appointed or employed by the director;
  - (3) The purchase of lands suitable for wildlife resources farms, reservations, wildlife management areas, fishing areas, access areas, fish hatcheries or rearing ponds;
  - (4) The construction of suitable buildings, ponds, and propagation pens, and the purchase and propagation of wildlife, and other essentials necessary to restock the state or maintain wildlife resources farms, reservations, fisheries and hatcheries;
  - (5) The promotion, advancement and efficient management of wildlife, including educational activities to that end; and
  - (6) Any purpose of or in consequence of this title not otherwise provided for.
- (b) No part of the funds realized from the sale of licenses, advertising, from contrabands, fines, penalties, forfeitures, or from any privilege taxes levied under the provisions of this title shall be used for any other purposes than those set out in subsection (a), nor shall any part of the wildlife resources fund be diverted to the general fund or any other public fund. Likewise, interest accruing on investments and deposits of the wildlife resources fund shall be returned to the fund and remain a part of it, and under no circumstances shall such interest be diverted to any other public fund.

#### **§ 70-1-501 Wildlife management endowment fund established**

The general assembly recognizes and reaffirms the importance to the citizens of Tennessee of management, protection, propagation, and conservation of wildlife, including the importance of protecting and preserving for future generations the heritage of hunting and fishing in the state. Further, the general assembly recognizes the importance of providing the opportunity for citizens to invest in the future of its wildlife resources. Therefore, in order to aid in future funding for the wildlife resources agency to continue establishing and carrying out fish and wildlife programs and to assure protection and preservation for future generations of the heritage of hunting and fishing in the state, there is hereby created a fund known as the "wildlife management endowment fund."

#### **§ 70-2-101 Wildlife Resources – taking wildlife without license; migratory waterfowl stamps; licenses nontransferable; revocation or suspension; penalties.**

- (a) It is unlawful for any person in this state to hunt, chase, trap, kill or take any form of wildlife in the open season, unless the person so hunting, chasing, trapping, killing or taking, or attempting to take, such wild animals, wild birds, wild fowl, or fish at the time possesses the requisite license prescribed by this chapter, such license, of proper color and design, to be on the person of the licensee while hunting, chasing, trapping or fishing.
- (b) A valid federal migratory waterfowl stamp must be possessed while hunting migratory

waterfowl by any person over sixteen (16) years of age, which stamp shall be cancelled in ink by the signature of the hunting licensee.

(c) No license or permit, required and issued under this chapter, may be loaned or transferred to any other person, firm or corporation.

(d)

(1)

(A) Upon conviction for any offense against this title, any rule or regulation promulgated pursuant to this title, or any proclamation of the fish and wildlife commission, the court may revoke the license or suspend any or all of the fishing, hunting, or trapping privileges of the person so convicted, or both revoke the license and revoke any or all of the fishing, hunting or trapping privileges of the person so convicted.

(B) Any license so revoked shall be surrendered to the court and transmitted to the arresting officer, to be made a part of the prosecution record.

(2) Any person whose license has been revoked or whose privileges have been suspended, or both, may be prohibited from fishing, hunting and trapping for a period of time of not less than one (1) year to be fixed by the court.

(e) Any violation of this section is a Class C misdemeanor and punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00). Any person who violates the revocation order of the court may be fined not less than twenty-five dollars (\$25.00) and may be confined in the county jail or workhouse not less than ten (10) days nor more than eleven (11) months and twenty-nine (29) days, it being mandatory upon the court to impose the prison sentence, and the minimum time may not be subject to suspension.

#### **§ 70-2-102 Wildlife Resources – licensing requirement; penalty**

(a) Every person shall, before hunting, fishing, or trapping, as the case may be, in this state, possess a license in accordance with the schedules in this title, except as otherwise provided in this chapter.

(b) A violation of this section is a Class C misdemeanor.

#### **§ 70-2-103 Exception to licensing requirement; military personnel on furlough**

(a) Any member of the armed forces or services while on furlough or other temporary military leave of absence has the right to hunt and fish in this state during the appropriate seasons for hunting and fishing as fixed by law, without the necessity of procuring a license.

(b) In order for any person to hunt and fish without the required license, the person shall have in that person's possession at all times a copy of that person's furlough papers or other military orders showing that such person is officially on leave of absence from the military service. Such military papers or orders are subject to examination and inspection by duly constituted officers of the wildlife resources agency at all times.

#### **§ 70-2-104 Wildlife Resources – persons entitled to reduced license without fee or at reduced fee – Designation of assistant penalty for false information; imposition of fee**

(a) The wildlife resources director and the director's agents, through the county clerks or other legally designated license sales agents, have the power to issue a:

(1) Sport fishing license without the payment of a license fee to those residents of Tennessee who are certified to be blind, having a visual acuity, with maximum correction, not exceeding 20/200 in the better eye or having a visual acuity exceeding 20/200 but accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty

degrees (20°). The director shall accept as evidence, for the purposes of this title, a certificate from the department of human services or from a physician licensed to practice medicine in this state and who is actively engaged in the treatment of diseases of the human eye, or a licensed, registered optometrist, certifying that such person meets the requirements of this section with reference to the degree of blindness as defined in this subdivision (a)(1);

- (2) Sport fishing and hunting license without the payment of a fee to residents of Tennessee who by reason of service in any war are thirty percent (30%) or more disabled. The director shall accept as evidence of service-connected disability for the purposes of this section a certification from the veterans' administration;
  - (3)
    - (A) Hunting license to persons with intellectual disabilities who reside in this state and who are over ten (10) years of age. The director shall accept as evidence for the purposes of this subdivision (a)(3) a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this section with reference to such disability. The person must be accompanied by an adult at least twenty-five (25) years of age or older, who is hunter-education-certified and licensed to hunt. The person shall be required to complete the hunter education course as provided in § 70-2-108 in the presence of a licensed adult, but shall not be required to attain a particular score on the course examination or take the course more than once;
    - (B) As used in this subdivision (a)(3), unless the context otherwise requires:
      - (i) "Accompanied" means the licensed adult shall supervise no more than one (1) person with intellectual disabilities at any one (1) time and shall be able to take immediate control of the hunting device;
      - (ii) "Persons with intellectual disabilities" means persons who possess an intellectual disability, as defined by § 33-1-101;
    - (C) The commission shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of subdivision (a)(3)(A), including, but not limited to, rules and regulations to specifically denote on the license that the person issued the license is a person with intellectual disabilities, and to create a one-time-only fee in an amount sufficient to cover the costs of implementing subdivision (a)(3)(A); and
  - (4)
    - (A) Permanent sport combination hunting and fishing license upon payment of a one-time ten-dollar (\$10.00) fee to those residents of Tennessee who are permanently restricted to wheelchairs. The director shall accept as evidence for the purposes of this section a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this section with reference to permanent restriction to a wheelchair; or
    - (B) Permanent sport combination hunting and fishing license upon payment of a one-time ten-dollar (\$10.00) fee to those residents of Tennessee who are one hundred percent (100%) permanently and totally service connected disabled veterans who apply for such discounts and exemptions prior to or after May 24, 2000. The agency shall accept as evidence of service-connected disability for the purposes of this subdivision (a)(4)(B) a certification from the veterans' administration.
- (b)
- (1) The fish and wildlife commission shall by proclamation designate one (1) week of each year when any person who receives social security benefits due to intellectual disability may engage in all forms of sport fishing, and all sport fishing license

- requirements shall be suspended during such week for such persons. The agency may accept as evidence for purposes of this section a certificate from the social security administration or any other evidence acceptable to the executive director.
- (2) A resident of Tennessee who receives social security benefits due to intellectual disability is entitled to the privilege of sport fishing upon presentation of evidence of such disability satisfactory to the agency. Such resident shall be issued a permanent license for sport fishing.
- (c) The giving of false information as to name, age, degree of blindness, percentage of disability, permanent restriction to a wheelchair, address, residence or nonresidence by any applicant for any license provided for in this chapter, or altering any license or permit or any application for any license or permit, is a Class C misdemeanor.
- (d)
- (1) The license fee discounts and exemptions provided in subsections (a) and (b) shall apply to qualified residents of Tennessee who apply for such discounts or exemptions prior to May 24, 2000.
- (2) For qualified residents of Tennessee who have not applied for such discounts or exemptions prior to May 24, 2000, there shall be imposed a one-time ten-dollar (\$10.00) fee for such license; provided, that such fee shall not apply to the exemption granted in subdivision (b)(1).
- (3) Any qualified resident of Tennessee who has applied for such discount or exemption prior to May 24, 2000, may nevertheless make a voluntary payment of the one-time ten-dollar (\$10.00) fee and upon making such payment shall be issued a license in accordance with this section.
- (e)
- (1) This subsection (e) shall be known and may be cited as the "Hunter Wright Hunting and Fishing Act."
- (2) Notwithstanding this section to the contrary, the wildlife resources director and the director's agents, through the county clerks or other legally designated license sales agents, have the power to issue an annual sport combination hunting and fishing license upon payment of a five-dollar fee to residents who are under eighteen (18) years of age and who are disabled.
- (3) As used in this subsection (e), "disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that is certified by a licensed physician. This means that the condition must be both totally and permanently disabling. The director shall accept as evidence for the purposes of this subsection (e) a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this subsection (e) with reference to being disabled.
- (4) The commission shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, to specifically denote on the license that the person is disabled.
- (f)
- (1)
- (A) The agency shall be reimbursed for lost revenue resulting from the issuance of free or partially discounted combination hunting and fishing licenses created by statute on or after January 1, 2017, in an amount equal to the discounts received.
- (B) Subdivision (f)(1)(A) shall also apply to lost revenue resulting from exemptions to licensure requirements created by statute on or after January 1, 2017, in an amount equal to the amount of lost revenue from such exemptions.
- (2)
- (A) The agency shall maintain an accounting of lost revenue, as described in

- subdivision (f)(1), and shall submit the accounting to the department of finance and administration for the payment of moneys in an amount equal to such lost revenue out of the general fund on or before June 30 of each fiscal year.
- (B) Within thirty (30) days of the receipt of the accounting from the agency, the department of finance and administration must pay the actual amount of lost revenue for the fiscal year into the wildlife resources fund established in § 70-1-401.
- (C) The accounting maintained pursuant to subdivision (f)(2)(A) and any other records relating to the accounting shall be subject to audit by the comptroller of the treasury.
- (3) Any reimbursement to the agency for lost revenue pursuant to subdivision (f)(1)(A) shall be made from the general fund, subject to an appropriation by the general assembly in the annual general appropriations act.
- (g) A person may assist a resident of this state who obtains a license under subdivision (a)(1), (a)(2), (a)(4), or (b)(2), or subsection (e), or who is exempt from licensure under subdivision (b)(1), without the necessity of procuring a license, if:
- (1) The person who qualifies for a license under subdivision (a)(1), (a)(2), (a)(4), or (b)(2), or subsection (e), or who is exempt from licensure under subdivision (b)(1), completes and retains a form that designates one (1) person as an assistant and identifies the assistant by driver license number or by some other unique identifying number that appears on a form of identification issued to the assistant by a governmental entity. A person may only designate one (1) person as an assistant for hunting or fishing purposes each calendar year, except in the case of the death of the designated assistant. The agency shall develop a form that may be used to satisfy the requirements of this subdivision (g)(1), and make the form available to the public on the agency's website;
  - (2) The person providing assistance is not hunting or fishing on the person's own behalf. No extra bag limit or creel limit is permitted for an assistant who is not licensed to hunt or fish in this state, as applicable; and
  - (3) The assistant does not possess:
    - (A) A fishing pole, unless the assistant has a valid license to fish in this state;
    - (B) A firearm, unless the assistant has a valid license to hunt in this state, a concealed handgun carry permit, or an enhanced handgun carry permit; or
    - (C) Any weapon other than a firearm that the agency has authorized by proclamation to be used for the taking of game, unless the assistant has a valid license to hunt in this state.

## **§ 70-2-108 Wildlife Resources - hunter education course**

- (a)
- (1) Every person born on or after January 1, 1969, before hunting, shall possess, in addition to all other licenses and permits required, proof of satisfactory completion of an agency approved hunter education course, except this provision shall not apply to persons under ten (10) years of age accompanied by an adult at least twenty-one (21) years of age.
  - (2)
    - (A) The commission is authorized to promulgate rules to create a permit for a fee exempting persons from the hunter education requirements of this section for a twelve-month period, as long as the person possesses all other licenses and permits required, and, if ten (10) years of age or older, the person must be accompanied by a licensed adult at least twenty-one (21) years of age or older, who is hunter-education-certified or otherwise exempt by law.

- (B) Effective July 1, 2015, a person who meets the requirements of subdivision (2)(A) may purchase the permit annually for up to three (3) consecutive years.
- (b) For the purpose of this section, "accompanied" is defined as being able to take immediate control of the hunting device.
- (c) This section shall not apply to persons hunting or fishing within the guidelines of § 70-2-204.
- (d) As punishment, any person violating the provisions of this section shall have all hunting privileges suspended and the person's license shall be taken by the arresting officer. Submission of proof of satisfactory completion of an agency approved hunter education course shall entitle a person to the return of that person's license and the restoration of hunting privileges.

#### **§ 70-2-201 Resident license fees and requirements**

- (a) [Deleted by 2021 amendment.]
- (b) [Deleted by 2021 amendment.]
- (c)
- (1) Residents of Tennessee who are sixty-five (65) years of age or older prior to March 1, 1991, are entitled to the privileges of sport fishing, hunting and trapping without possessing any license.
- (2) [Deleted by 2021 amendment.]
- (d) Any resident of Tennessee between thirteen (13) and fifteen (15) years of age, inclusive, may purchase the junior hunting, fishing and trapping license. Such license shall entitle the individual to the privileges of sport fishing, trapping and hunting without the requirement of possessing any other license or supplemental license as provided in subsection (a). Any resident under thirteen (13) years of age shall be exempt from the licensing requirements of subsection (a). Residents between thirteen (13) and fifteen (15) years of age, inclusive, are entitled to fish without a license during one (1) week of the year, commencing with free sport fishing day as proclaimed by the fish and wildlife commission.
- (e) A sportsman license is valid for hunting, trapping and sport fishing without the necessity of any supplemental license. Additionally, a holder of a valid sportsman license is not required to possess the following agency permits: agency lake permits; Tellico-Citico trout permits; Lake Graham annual permits; small game permits; combination waterfowl and small game permits; nonquota big game, including Cherokee, permits; Reelfoot preservation permits; and premiere tourist resort city trout fishing permits. The holder may also participate in all quota hunt drawings without payment of the drawing fee, and if drawn, will be issued a quota hunt permit at no charge. Furthermore, for as long as *Tennessee Wildlife* is published, the executive director shall have the discretion to provide a subscription to a sportsman license holder at no cost.
- (f) A combination hunting and fishing license is valid for the taking of all species of game and fish; provided, that those persons sixteen (16) years of age and over desiring to hunt big game, waterfowl, or to take trout, must, in addition to the appropriate hunting or fishing licenses, or both, possess the appropriate supplemental license as provided in subsection (a).
- (g)
- (1) There is hereby created a lifetime sportsman license, which shall entitle a resident of Tennessee, as defined in subdivision (g)(2), to the same privileges and benefits as provided to an annual sportsman license holder. A lifetime sportsman license remains valid throughout the life of the license holder even though the person may become a nonresident.

- (2) In order to qualify for a lifetime sportsman license, a person must have been a resident of the state for twelve (12) consecutive months immediately preceding purchase of the license. A child under the age of one (1) year qualifies, no matter where the child is born, if one (1) or more of the child's parents or the child's legally designated guardian has been a resident of the state for twelve (12) consecutive months immediately preceding purchase of the license.
- (3)
  - (A) [Deleted by 2021 amendment.]
  - (B) The fees are automatically adjusted to reflect the same percentage increase as the annual sportsman license. No fees may be decreased as part of the automatic adjustment.
- (h)
  - (1) There is created a lifetime sportsman license for adopted children who reside in this state, which entitles such child's legally designated guardian to apply for the license on the child's behalf within thirty-six (36) months immediately following the date of the child's adoption. The child must be under thirteen (13) years of age on the date of application for the license and upon receipt of the license is entitled to the same privileges and benefits as provided to an annual sportsman license holder. A lifetime sportsman license for adopted children remains valid throughout the life of the license holder even if the person becomes a nonresident. The child is to be issued the lifetime sportsman license upon payment of the fee created under subdivision (h)(2) and presentation of proof of age and residency, satisfactory to the agency. This subsection (h) does not prevent issuance of a lifetime sportsman license to an adopted child who meets the qualifications in subsection (g).
  - (2) The commission shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to create a one-time-only fee to cover the costs of implementing subdivision (h)(1).

**§ 70-2-204 Hunting and fishing on farmland — License exemption to owners, tenants, and specified spouses and relatives — Proof of compliance.**

- (a)
  - (1)
    - (A) The owners and tenants of farmlands, and their spouses and children, have the right to engage in the sport of hunting and fishing, subject to all laws or regulations concerning wildlife, upon such lands and waters on the land of which they or their spouses or parents are the bona fide owners or tenants, with the permission of the landowner, during the season when it is lawful to do so, without procuring a hunting and sport fishing license.
    - (B) The grandchildren and great-grandchildren under sixteen (16) years of age of the owners of farmlands have the right to engage in the sport of hunting and fishing, subject to all laws or regulations concerning wildlife, upon such lands and waters on the land of which their grandparent or great-grandparent or grandparents or great-grandparents are the bona fide owners, with the permission of the landowner, during the season when it is lawful to do so, without procuring a hunting and sport fishing license.
    - (C) The spouses of the children of the owners of farmlands have the right to engage in the sport of hunting and fishing, subject to all laws or regulations concerning wildlife, upon such lands and waters on the land of which their mother-in-law or father-in-law is the bona fide owner, with the permission of the landowner, during the season when it is lawful to do so, without procuring a hunting and sport fishing license.
    - (D) Tenants and their spouses and their dependent children must be bona fide



residents of this state and must actually reside on the land.

- (E) Owners and their spouses, children, spouses of children, qualified grandchildren, and qualified great-grandchildren must be bona fide residents of this state.
- (F) Land may qualify as farmland only if it is owned by no more than one (1) individual or a family; provided, that, if land is owned jointly or in common by persons who are first cousins related by blood, then such cousins and their children may hunt small game and fish on such land under this subsection (a)
- (2) "Family" means any combination of kinship within the third degree, including any spouse who has an interest in the property.
- (3) "Tenant" means an individual who receives compensation, such as free rent or money, for acting either in the place of or at the direction of the landowner in tending to the requirements needed to care for the farmland. The primary purpose of the tenancy shall be agricultural in nature.
- (b) Each person claiming a license exemption under subsection (a) shall provide identification and shall submit a signed statement attesting to the exempt status described in the statement and a description of the land and the name of the land owner when requested by an officer of the wildlife agency or upon presenting any game to a check station. Such statement shall contain information sufficient to demonstrate that such person has complied with the requirements of subsection (a). The commission shall prepare a preprinted form for the submission of such statements for convenience of use. Submission of false information in a signed statement is a Class C misdemeanor.
- (c) A violation of this section is a Class C misdemeanor.

#### **§ 70-2-205 Commercial fishing and musseling**

- (a) Any person, firm or corporation, before engaging in the business of a commercial fisher or commercial musseler, as defined under subsection (b), shall have in possession the requisite license prescribed in this section.
- (b)
  - (1) A "commercial fisher" is any person who takes or who aids and assists another person in taking fish or other aquatic life from any of the waters, lakes, streams or ponds of this state for pay, or for the purpose of sale, barter or exchange. Any person fishing with commercial fishing gear shall be deemed to be a commercial fisher within the meaning of this subdivision (b)(1). All persons using fishing tackle or fishing gear other than that permitted to be used by a person having or holding a sport fishing license is likewise deemed and considered a commercial fisher within the meaning of this subdivision (b)(1).
  - (2) A "commercial musseler" is any person who takes mussels from any of the waters of this state for pay, or for the purpose of sale, barter or exchange.
  - (3) "Person" includes the plural as well as the singular, as the case demands, and includes individuals, partnerships, associations or corporations.
- (c) The license and fees to be paid for a commercial license are as follows:

	<u>RESIDENT</u>	<u>NONRESIDENT</u>
(1) To take fish only	\$125.00	\$500.00
(2) To take mussels only	\$125.00	\$750.00
- (d) A commercial helper's license may be issued without limit as to numbers to any commercial fisher upon paying for each license the appropriate fee required for a commercial fisher. A "commercial helper" is any person who assists a commercial fisher in handling fishing gear, operation of motors or any other act of assistance to the commercial fisher while in the vessel with the commercial fisher. Each commercial fisher must have in personal possession a commercial helper's license for each helper

on board the vessel at any time.

- (e)
  - (1) Any violation of this section is a Class A misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), and if on second offense, and in the discretion of the court, the deprivation or prohibition of the offender from obtaining a license for a period of six (6) months. Any nonresident convicted of violation of this section shall be prohibited from engaging in commercial fishing or mussel taking in Tennessee for a period of five (5) years from the date of conviction, in addition to any other penalties prescribed by law.
  - (2) In addition to the fines prescribed in this subsection (e), any person found guilty of engaging in business as defined in subsection (b) without the necessary licenses shall be sentenced to thirty (30) days in the county jail or workhouse, which sentence may be suspended if such person shall show to the court that such person has subsequently purchased the appropriate licenses.
- (f) This section does not apply to a resident of Tennessee who is seventy (70) or more years of age, and such person is not required to purchase any license required by this section in order to carry on the businesses enumerated in subsection (b).
- (g) Nonresidents residing in states that do not permit the sale of nonresident licenses to residents of Tennessee are prohibited from engaging in the business of a "commercial fisher" or "commercial musseler" in Tennessee.

**§ 70-2-208 Fur dealers -- license requirements -- regulation of pelts -- penalties**

- (a) A fur dealer is any person who, either directly or through another person, engages in the business of buying and selling the pelts or hides of fur-bearing mammals from hunters, trappers, or other fur dealers.
- (b) The license fee for a resident or a nonresident fur dealer shall be one hundred dollars (\$100).
- (c) Any person, before engaging in the business of buying and selling the pelts or hides of fur-bearing mammals, shall possess the appropriate dealer's license; provided, that a furrier may engage in the business of buying and selling the pelts or hides of fur bearing mammals without possessing or being required to possess a fur dealer's license. Such pelts or hides may be purchased by the furrier from fur dealers.
- (d) Each dealer must file with the agency, periodically, as directed by the executive director, a complete report, on forms provided by the agency, of the activity of the previous reporting period. The report must be completed in its entirety and the dealer must, by signature, certify as to its accuracy.
- (e) The commission is authorized to adopt rules and regulations governing the tagging of all pelts or hides of fur-bearing mammals taken.
- (f) Each dealer must permit wildlife officers to inspect the inventory of pelts or hides and any records.
- (g) Any person violating the provisions of this section commits a Class C misdemeanor. Upon conviction of a second or subsequent offense within a twelve-month period, the person's license shall be revoked for a period of one (1) year. In addition, any person found guilty of engaging in business as defined in subsection (a) without the necessary licenses shall be sentenced to the county jail or workhouse, which sentence may be suspended if such person shall show to the court that the appropriate licenses have been subsequently purchased.
- (h) When used in this section, "person" includes any resident or nonresident individual, association, partnership, corporation or other legal entity including any individual or entity operating in any capacity on behalf of such individual, association, partnership, corporation or other legal entity.

**§ 70-2-209 Unlicensed possession and traffic in hides or pelts; penalty**

- (a) It is unlawful for any person, firm or corporation to purchase, receive for sale or have in its possession for commercial purposes any green hides, raw furs or pelts of wild animals without first procuring a license, except as provided in § 70-2-208.
- (b) Any violation of this section is a Class A misdemeanor.

**§ 70-2-212 Stocking of wildlife – inspections; charges**

- (a) Stocking of wildlife is declared to be a prerogative of the state. All persons desiring to stock wildlife shall first obtain a permit from the executive director. Such a permit will be issued free of charge. Applications for fish from the United States fish and wildlife service, when approved by the wildlife resources agency, shall be considered a sufficient permit for the purpose of this section.
- (b) The wildlife resources agency has the power to inspect all live fish entering the state, regardless of their source, and to destroy any shipment found to be diseased, without incurring any liabilities for so doing.
- (c) The agency is authorized to impose reasonable charges to defray expenses for stocking fish in private ponds. The charges may reflect the agency's costs for raising and transporting the fish together with other associated costs.

**§ 70-2-213 Permits for scientific purposes; reports required; penalty for violation**

- (a) The executive director has the power, at the executive director's discretion, to grant permission, under the executive director's seal, to any reliable person to take, capture and transport in Tennessee, wild birds, and nests and eggs of wild birds, and wild animals and fish, when taken and used for purely scientific purposes. The permit so issued shall continue in force for one (1) year after the date of issue and shall specify the number of any species to be taken under the permit.
- (b) Each person receiving a permit under the provisions of this section shall report to the wildlife resources agency on blanks furnished by it, at or before the expiration of such permit, the number and disposition of the collections made under the permit.
- (c) Any person taking any wildlife in violation of the provisions of this section, or of the permit held by that person, shall be, upon conviction, fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) and the permit held by that person shall become void.

**§ 70-2-214 Training of hunting dogs -- license requirements; regulation of field trials -- penalty for violations**

- (a) Any resident or nonresident who trains hunting dogs in this state shall purchase the appropriate hunting license, except when such person is competing in recognized field trials.
- (b) Raccoon dog field trials, retriever dog field trials, bird dog field trials, rabbit dog field trials, and foxhound field trials will be permitted only under rules and regulations promulgated by the wildlife resources commission. The wildlife resources commission is authorized to make all such rules or regulations, or both, in connection with the field trials as it may deem necessary to carry out the provisions of this section.
- (c) Any violation of the provisions of this section, or any violation of any rule or regulation promulgated by the wildlife resources commission pursuant to the provisions of this section, is a Class C misdemeanor and, upon conviction of the violation, shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

**§ 70-2-215 Taxidermist permits -- Report of work; Penalty for violations**

- (a) Any person, before engaging in the practice of taxidermy, which includes the stuffing,

mounting, and preparing of the skins of wild birds, animals, and fish for sale or for hire, must first obtain a permit to do so from the executive director.

- (b) The executive director shall collect a fee of fifty dollars (\$50.00) for each permit issued, each permit to expire the last day of February.
- (c) Each person obtaining such a permit shall conduct such practice of taxidermy in accordance with rules and regulations promulgated by the commission. Failure to make a report pursuant to the rules and regulations shall bar the person concerned from receiving a renewal of the person's permit or a new permit to engage in taxidermy.
- (d) Any person violating the provisions of this section commits a Class C misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

**§ 70-2-219 Permits for hunting or fishing in designated areas -- Trout fishing in premiere tourist resort cities -- disposition of funds from Reelfoot preservation permits -- Privileges of senior citizen permit holders -- Special elk-take permit.**

- (a) Fees for permits required by rules and regulations or proclamations proclaimed by the fish and wildlife commission, or both, are as follows: (see statute for full fee schedule)
- (b)
  - (1) Before any person may fish for trout in a premiere tourist resort city, such person must obtain the appropriate permit as described in this part, in addition to any appropriate state license, if required. The fish and wildlife commission is authorized to establish seasons and creel limits and to establish and collect permit fees in amounts to be set forth by proclamation duly passed by the commission. In addition to the appropriate state license, a person must obtain either a one-day permit for a fee of two dollars (\$2.00) or a three-day permit for a fee of six dollars (\$6.00); provided, that a nonresident may purchase a one-day all inclusive permit, in lieu of the normal license/permit combination. The fee for this permit shall be not less than eight dollars (\$8.00) nor greater than thirteen dollars (\$13.00). Eight dollars (\$8.00) from each permit sold shall be retained by the agency as its license fee.
  - (2) The fish and wildlife commission is authorized to pay to the premiere tourist resort city an amount not to exceed the permit fees collected, less the eight-dollar license fee retained by the agency, for the cost incurred by the premiere tourist resort city for the stocking of trout.
  - (3) The fish and wildlife commission may exempt certain age groups from this section.
  - (4) Full-time police officers and other such authorized employees of the premiere tourist resort city have the authority under the guidance of the fish and wildlife commission to enforce the creel limits, licensing and permit requirements of this subsection (b).
  - (5) "Premiere tourist resort city" means a municipality having a population of twenty-five hundred (2,500) or more persons, according to the federal census of 1980 or any subsequent federal census, in which at least forty percent (40%) of the assessed valuation, as shown by the tax assessment rolls or books of the municipality, of the real estate in the municipality consists of hotels, motels, tourist courts accommodation, tourist shops and restaurants.
- (c) All funds derived from the sale of the Reelfoot preservation permit are hereby designated as set aside for the exclusive use of acquiring and maintaining lands around Reelfoot Lake.
- (d) Residents of Tennessee sixty-five (65) years of age or older who purchase an annual senior citizen permit and who otherwise comply with the licensing requirements of 70-2-201(c)(2), if applicable, enjoy the same additional privileges and benefits as provided

to an annual sportsman license holder. The annual fee shall be forty dollars (\$40.00).

(e)

- (1) The executive director is authorized to issue special permits to a nonprofit wildlife conservation organization that qualifies as tax exempt under 501(c)(3) of the Internal Revenue Code (26 U.S.C 501(c)(3)). An organization that receives a special permit issued under this subsection (e) may sell or otherwise transfer such permits through any legal means available.
- (2) Any proceeds of the sale must be used in this state for wildlife management projects approved by the agency; provided, that, notwithstanding any other law to the contrary, the organization may use no more than twenty percent (20%) of the proceeds to administer the sale or transfer of the permit.
- (3) The executive director may issue up to five (5) special permits in a license year and shall strive to ensure that hunting or fishing opportunities occur in each grand division of the state pursuant to this subsection (e).
- (4) The commission may promulgate rules to implement the special permit program.

#### **§ 70-2-220 Permits for pearl culturing**

Any person, firm or corporation, before engaging in the business of culturing pearls in the public waters, shall first obtain an annual license from the wildlife resources agency. No nonresident shall be granted a license if the state or country of the nonresident prohibits residents of Tennessee from engaging in the business of culturing pearls. The fee for the license shall be one thousand dollars (\$1,000). The business shall be conducted in accordance with rules and regulations promulgated by the wildlife resources commission. The executive director of the wildlife resources agency shall select a committee of five (5) people that will include the executive director or the executive director's representative, the chief of fisheries, a fisheries biologist, and two (2) industry representatives to assist the executive director in the initial drafting of these rules and regulations.

#### **§ 70-2-221 Fish dealers license – requirements; fees; penalties**

(a) Any person, firm or corporation, before engaging in the businesses described in this section, must purchase a fish dealer's license:

(1)

- (A) A "bait dealer" engages in the business of capturing legal species of fish or other aquatic life for the purpose of sale or the selling of legal species of fish and other aquatic life for bait;
  - (B) Each bait dealer shall make a monthly report to the executive director on forms provided as to the number of minnows sold and shall indicate the source of supply of such minnows; provided, that the executive director may, in the executive director's discretion, require only those monthly reports that the executive director may deem necessary; and
  - (C) The wildlife resources agency is empowered to inspect any shipment of live minnows, and if found diseased, may cause the shipment to be destroyed without being liable for damage for such destruction;
- (2) "Catch-out operation" is the business of making legal species of fish placed in a pond, tank, or other constructed container available to persons wishing to procure them by purchase;
- (3)
- (A) "Fish farming" is the business of rearing for sale legal species of fish and other aquatic life or the selling of legal species of fish and other aquatic life reared in private facilities; and
  - (B) Fish used in the catch-out business must be reared fish or must be wild commercial fish species obtained legally by commercial fishers, and must be

approved by the agency. Fish to be purchased may be caught by persons using legal fishing methods without the requirement of a fishing license.

- (b) These businesses shall be operated under rules and regulations promulgated by the wildlife resources agency.
- (c) The fee for a resident license shall be twenty dollars (\$20.00); the fee for a nonresident license shall be two hundred fifty dollars (\$250). The license will expire on the last day of February each year.
- (d) Each license issued shall cover all operations of a single business conducted within the exterior boundaries of the same tract of land owned or leased by the person, firm or corporation.
- (e) Any person, firm or corporation violating this section commits a Class C misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

#### **§ 70-2-222 Freshwater mussels – purchase; payment; penalty**

- (a) Any person, firm or corporation that purchases or otherwise obtains freshwater mussels taken from Tennessee waters shall pay to the Tennessee wildlife resources agency the amount equal to \$0.0145 per pound of mussel shells or \$.0124 per pound of mussels, shell with meat, purchased or obtained.
- (b) The payment to the agency shall be calculated from receipts filled out by the buyer for each transaction. A copy of each receipt will be given to the seller and a copy retained by the buyer, and shall be made available by the buyer for inspection by agents of the agency or the office of the comptroller of the treasury for a period of two (2) years. When mussels are sold without first going through a buyer, the method of payment shall be as described in proclamations promulgated by the wildlife resources commission. For purposes of this section, a "buyer" is any person, firm or corporation that buys or otherwise obtains mussels from mussel harvesters or other mussel buyers, either for use within the state or for exporting from Tennessee.
- (c) Payments from buyers shall be made monthly, and must be received by the agency no later than the fifteenth day of the following month.
- (d) Revenue from this section shall be used for mussel management, research, and enforcement. However, no more than twenty-five percent (25%) of the total revenue shall be spent on enforcement.
- (e) A violation of this section is a Class A misdemeanor.

#### **§ 70-2-301 Promotion of commercial fishing**

The fish and wildlife commission is directed to promulgate reasonable rules and regulations necessary to promote commercial fishing activity as an economically viable commercial enterprise in this state.

#### **§ 70-2-302 Approval from the Convention for the International Trade of Endangered Species (CITES)**

The agency shall request approval from the Convention for the International Trade of Endangered Species (CITES) to establish a length limit of no less than thirty-six inches (36") and an annual season length no shorter than November 15 to April 15. Should the approval not be granted, the agency is authorized to negotiate conditions under which the approval would be granted.

#### **§ 70-2-303 Resident preference in licensing – nets; study plan**

- (a) Tennessee residents shall be given preference in licensing with a limit on the number of non-resident permits.
- (b) All nets shall be properly buoyed to promote safety on the waters of the state.

- (c) The agency shall develop a plan to study sustainability, population conditions, and juvenile survival rates on waters not currently open to commercial roe fishing. With the assistance of the commercial fishing community in harvest surveys, such study shall include at least the following objectives:
  - (1) Description of the size structure and age structure of the existing paddlefish population;
  - (2) Determination of paddlefish population parameters including growth, recruitment, and natural mortality; and
  - (3) Assessment of the likelihood that the paddlefish population can provide a sustainable commercial fishery.

#### **§ 70-2-304 Commercial fishing advisory committee**

To insure that the views of the commercial fishing community are appropriately communicated as well as to assist the wildlife resources agency in developing rules and regulations on commercial fishing, there is created a commercial fishing advisory committee. The committee members shall be named by the wildlife resources executive director and shall include, but not be limited to, licensed commercial fishers and roe fishers, dealers, and buyers. The members of the committee shall serve as volunteers and shall not be paid or reimbursed for time served as committee members.

#### **§ 70-4-101 Ownership and title to wildlife vested in the state**

- (a) The ownership of and title to all forms of wildlife within the jurisdiction of the state that are not individual property under the laws of the land are hereby declared to be in the state. No wildlife shall be taken or killed in any manner or at any time, except the person or persons so taking or killing the wildlife shall consent that the title to the wildlife shall be and shall remain in the state for the possession, use and transportation of the wildlife after such taking or killing as set forth in this chapter.
- (b) The taking or killing of any and all forms of wildlife at any time, in any manner, and by any person, shall be deemed a consent on the part of such person that the title to such wildlife shall be and shall remain in the state for the purpose of regulating the possession, use, sale and transportation of the wildlife for the public welfare.

#### **§ 70-4-102 Illegal taking, possession or destruction of wildlife; penalty for violations**

- (a) It is unlawful for any person to hunt, kill, trap, ensnare, or destroy, or to attempt to hunt, kill, trap, ensnare, or destroy, or to have in such person's possession, any form of wildlife except subject to the restrictions and by the means and devices and at the time prescribed by this title.
- (b) Any violations of the proclamations and rules and regulations proclaimed by the wildlife resources commission are punishable as provided in this title, and the illegal taking or possession of each bird, animal or fish constitutes a separate offense.
- (c) A violation of this section is a Class B misdemeanor.

#### **§ 70-4-103 Fox hunting -- training of hunting dogs -- penalty**

- (a)
  - (1) Foxes may be chased with dogs the entire year, except during such periods as may be fixed by the fish and wildlife commission for the protection of the species.
  - (2) Notwithstanding any private act to the contrary, the commission shall have the authority to regulate the taking or killing of foxes in this state.
  - (3) Any person who hunts and kills a fox in a manner other than as permitted by this subsection (a) commits a Class C misdemeanor.
- (b) Fox hounds, rabbit dogs and bird dogs may be trained the entire year, except during

such periods as may be fixed by the commission for the protection of the species, but any person accompanying the dogs or training them shall not possess any firearm, bow and arrow, or any other such device, except during the regular open season.

**§ 70-4-104 Catching or killing fish; fishing regulations**

Fish may be taken with rod and reel, by hook and line held in the hand while fishing, or by one (1) or more trotlines not having a combination of more than one hundred (100) hooks, which trotline shall be attended at least once each day. Use or possession of any other instrument for the killing, catching, or taking of fish or other aquatic life is expressly forbidden, except as provided for in this title or as permitted by regulations made under authority granted the fish and wildlife commission under this title.

**§ 70-4-105 Lawful possession of wildlife by license holders**

- (a) Wild animals, wild birds, or wild fowl lawfully taken may be possessed by legal license holders during any open season for their lawful taking, designated pursuant to the terms of § 70-4-107(b)-(d), but no person shall have in possession or in storage, or both, during any open season or at any other time, more than the possession limit prescribed by the fish and wildlife resources commission.
- (b) Any person violating the provisions of this section commits a Class C misdemeanor.

**§ 70-4-106 Permission of owner of land to take wildlife or big game required – penalty for violations**

- (a)
  - (1) It is unlawful for any person to hunt, take, chase, trap or kill any wild animal, wild bird, wild fowl or fish, upon the land of another without having first obtained the permission or approval of the owners of the land, or of the person or persons in charge of the land and having authority from the owner to give such permission.
  - (2) A violation of this subsection (a) is a Class C misdemeanor. Upon conviction for any violation of this subsection (a), the court may revoke the license of the person so convicted. Any license so revoked shall be surrendered to the court and transmitted to the arresting officer, to be made a part of the prosecution record.
- (b)
  - (1)
    - (A) Notwithstanding subsection (a), it is unlawful for any person to hunt, take, chase, trap or kill any game as defined in § 70-1-101 upon lands posted with signs approved by the wildlife resources agency bearing the language “Hunting By Written Permission Only” and bearing the name of the landowner or the person in possession or control of such lands, without having first obtained the written permission of or being accompanied by the landowner or the person in possession or control of such lands and having authority from the owner to give such permission. Every person who hunts, takes, chases, traps or kills any game on such lands shall have such written permission in immediate possession at all times and shall display the same upon demand of an officer of the wildlife resources agency, sheriff or other peace officer charged with the enforcement of the laws of this state. Written permission shall not be required of the landowner, the landowner's dependents, the person in possession or control of such lands, or the dependents of the person in possession or control of such lands.
    - (B) The signs posted pursuant to this subsection (b) must be posted by either of the following methods:
      - (i) The signs must be visible at all major points of ingress of the lands being



posted, in such manner that the signs are reasonably likely to come to the attention of intruders; or

- (ii) The signs must be visible at all major points of ingress and must be accompanied by fluorescent visual markings, which markings must also be placed at fifty-yard (50 yd) intervals around the perimeter of the lands being posted. Such fluorescent visual markings must be at least one inch (1") wide and four inches (4") long. The division of forestry, in cooperation with the department of agriculture and the wildlife resources agency, shall determine a unique universal paint color or colors, including the color blue, to be used for these property boundary markings.

- (C) Any person who posts signs pursuant to this subsection (b) without authorization from the landowner is subject to the penalties imposed by subdivision (b)(2).

(2)

- (A) A violation of this subsection (b) is a Class C misdemeanor. Upon conviction for any violation of this subsection (b), the court may revoke the license of the person convicted. Any license so revoked shall be surrendered to the court.
- (B) This subsection (b) is enforceable and may be prosecuted by all officers of the wildlife resources agency, sheriffs and other peace officers charged with the enforcement of the laws of this state.
- (C) An affidavit from the landowner or the person in possession or control of such lands stating that the property on which the violation occurred was properly posted in accordance with this section shall create an inference that such lands were properly posted.

#### **§ 70-4-107 Hunting and fishing seasons -- bag and creel limits; nonprotected wildlife**

- (a) There is hereby declared a closed season upon all hunting and fishing in this state upon all wildlife protected by the laws of the state.
- (b) Whenever the supply of game or fish, or both, existing in any area, lake or stream shall become adequate to allow the taking or hunting, or both, of the game or fish without material danger of extinction or undue depletion of such game or fish, then it is lawful for any person to hunt or fish, or both, in the area, lake or stream within the creel, size, and bag limits, and in the manner and by the means prescribed by the fish and wildlife commission.
- (c)
  - (1) The fact as to whether or not the supply of game or fish, or both, is at any time adequate to allow the taking of game or fish without the danger of extinction or undue depletion shall be determined by the commission, after a complete survey of the area in question.
  - (2) If the commission finds that the supply of game or fish, or both, is sufficient to allow taking without the danger of extinction or undue depletion, it shall announce such fact by proclamation, in which it shall state the species of the game or fish, or both, that may be taken without the danger as mentioned in this section, and shall likewise ascertain and announce the dates and hours of the day between which such game or fish, or both, may be taken without the dangers set forth. Upon such announcement by the commission, it is lawful for any person within the area so designated by the commission to take game or fish, or both, of the species mentioned by the commission.
  - (3) The proclamations shall become effective thirty (30) days after filing with the secretary of state. During emergency conditions, seasons may be closed, reopened or extended summarily. A copy of all proclamations issued by the

commission shall be immediately filed with the secretary of state and the county clerks for the counties affected.

- (4) The commission shall annually publish a list of such wildlife as are deemed destructive or not to be protected by law, or both.
- (d) During any such open season as promulgated by the commission, the provisions of all general game and fish laws shall remain in full force and effect with reference to the method and manner of hunting and fishing and all other restrictions and provisions as to the taking of wild animals and fish as now or hereafter appear in the general game and fish laws.
- (e) The open season on private lakes may be set by the owner and operator thereof, but the creel limits on fish caught from the waters of such lakes shall not exceed that set by law for public waters.
- (f)
  - (1) The commission may establish open seasons, bag and creel limits for the taking of game and fish on state lands, including lands leased by the state for wildlife management purposes, and may make any regulations it may deem needful to promote the best interest and enforce these provisions by means of rules and directions.
  - (2) A violation of this subsection (f) is a Class B misdemeanor.

**§ 70-4-108 Hunting from or across public road or near dwelling – penalty**

- (a) It is unlawful to hunt, shoot at, chase, catch, or kill, with or without dogs, any wild animal, wild bird, or wild fowl from a public road right-of-way, or to shoot any firearms across or on any public road.
- (b) It is unlawful to hunt, shoot at, chase, or kill, with or without dogs any wild animal, wild bird or wild fowl on public lands and waters within one hundred yards (100 yds.) of a visible dwelling house, whether or not such dwelling house is on public or private lands, without the owner's permission.
- (c) A violation of the provisions of subsection (a) or (b) is a Class C misdemeanor.
- (d)
  - (1) It is unlawful to hunt, shoot at, chase, catch, or kill, with or without dogs, any wild animal, wild bird, or wild fowl from a motor vehicle on either a public road or right-of-way, or from a public road or right-of-way after leaving a motor vehicle specifically for such purpose with the immediate intent to return to the vehicle.
  - (2) A violation of the provisions of this subsection (d) is a Class A misdemeanor.

**§ 70-4-109 Hunting from aircraft, watercraft or motor vehicles unlawful; exception for persons confined to wheelchairs; penalty**

- (a) It is unlawful to chase, hunt, or kill any wild birds, wild animals or wild fowl in this state from any craft propelled by electric, gasoline, steam or sail power, or airplane or hydroplane or from any automobile or motor vehicle, unless otherwise provided by law, rule and regulation or by proclamation; provided, that under no circumstance shall this subsection (a) be construed as authorizing the legalization of hunting from an automobile or motor vehicle while under power.
- (b) Notwithstanding subsection (a), any person totally and permanently confined to a wheelchair as certified by appropriate documentation to the executive director may hunt or kill any wildlife from a stationary automobile or motor vehicle during the lawful hunting seasons; provided, that it is unlawful for such person to shoot directly across or over any road, path or other right-of-way; and provided further, that any such persons shall be accompanied by another person who is not so confined at all times when hunting, and that such person shall retrieve all game taken in such hunt.
- (c) A violation of this section is a Class C misdemeanor.

#### **§ 70-4-110 Spotlighting deer – penalty**

(a)

(1) It is unlawful for any person, or one (1) or more of a group of persons together, to willfully throw or cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light from any motor vehicle or vessel or with the aid of any motor vehicle or vessel, on or from any highway, or in any field, woodland, or forest, or the waters of the state, in an apparent attempt or intent to locate deer by the use of such light, unless such person or persons direct such light onto property owned by such person or one of the persons involved, or such person or group of persons has written permission from the landowner to willfully throw or cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light onto the property of the landowner. Such written permission must be in immediate possession at all times and the individual shall display same upon demand of law enforcement.

(2) Notwithstanding subdivision (a)(1), it is unlawful to willfully throw or cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light from any motor vehicle or vessel or with the aid of any motor vehicle or vessel, at any time from or on any public roadway.

(b) The operator of any motor vehicle or vessel from which the rays of an artificial light have been cast as outlined in subsection (a) shall immediately stop such vehicle or vessel upon the direction of any enforcement officer of the wildlife resources agency.

(c) A violation of this section is a Class B misdemeanor.

(d) In the prosecution of second or subsequent offenders, the indictment or presentment must allege the prior conviction for violating any of the provisions of this section, setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either first or subsequent offenders, from hunting, fishing or trapping in this state for a period of one (1) year.

#### **§ 70-4-111 Hunting or killing any big game during closed season -- penalty**

Any person who hunts or kills any big game during the closed season for such game commits a Class B misdemeanor.

#### **§ 70-4-112 Hunting and chasing coons regulated; training season; violations; penalties**

(a)

(1) It is lawful for any person to chase coons with dogs at any season of the year, but no coon shall be killed or taken except during open season for killing or taking of coons, as may be prescribed by the fish and wildlife commission or other body possessing the power to regulate open and closed seasons for game. No person chasing coons with dogs shall use or carry any firearms, axes or climbing instruments except during such open season as may be proclaimed as set forth in this subdivision (a)(1). No coon shall be shot at any time in the year either from a boat or any type of motor vehicle.

(2)

(A) Notwithstanding the provisions of this section, this part or any public or private act to the contrary, in Morgan County and in counties that are located entirely east of U. S. Highway 27, the commission shall establish a minimum training season of not less than six (6) months each year, within which period coon dogs may be trained. Such coon dog training season shall not commence earlier than June 1 of each year. Such six (6) month period need not be consecutive. Within such training season, no person chasing coons with dogs

shall use or carry any firearms, axes or climbing instruments except during such open season as may be proclaimed pursuant to this section. No coon shall be killed or taken except during such open season. No coon shall be shot at any time in the year either from a boat or any type of motor vehicle. The commission shall establish a minimum coon hunting season of not less than six (6) weeks each year, which season shall not commence sooner than November 1 of each year. Such six (6) week period need not be consecutive. The commission has the authority to extend both the training season or hunting season, or both, to such additional periods of time as it deems justified based on the coon population in the area involved in any section or sections of the state.

- (B) To the extent that the provisions of this subdivision (a)(2) conflict with the provisions of § 70-4-122, any public act or any private act, the provisions of this subdivision (a)(2) control and shall supersede such laws.
- (b) Any person violating this section commits a Class C misdemeanor, and, in addition to the penalties prescribed by § 40-35-111 for Class C misdemeanors, is prohibited from hunting, chasing, or trapping for a period of not less than one (1) year.

**§ 70-4-113 Use of bait, pitfalls and certain other devices in taking birds and animals prohibited -- penalty -- exceptions.**

- (a) It is unlawful for any person at any time to make use of any pitfall, deadfall, cage, snare, trap, net, baited hooks, poison, chemicals, explosives, set guns, spotlights, electric lights or torches, bait, which includes any grain, or mixture of any ingredients, used as or for food purposes, or other devices for the purpose of killing, injuring, or capturing any birds or animals protected by the wildlife laws of this state, except as otherwise expressly provided.
- (b) The executive director or the executive director's designees may use any chemical, biological substance, poison or device under controlled conditions to capture or kill any bird or animal for scientific, propagating, enforcement, humane or rescue purposes or when it is considered necessary by the executive director to reduce or control any species that may be detrimental to human safety, health or property. No action on the part of the executive director, directed to the control of rabies or other diseases spread from wildlife to human beings, shall be taken until the following conditions have been met:
- (1) The county board of health in the affected county shall have met in open session and, by appropriate resolution, declared that a condition detrimental to the human safety, health or property exists within the affected county;
  - (2) An official quarantine by the county board of health has been established on all dogs, cats and pets in the county; and
  - (3) An official request has been made by the county board of health, through and with the concurrence of the commissioner of health, to the executive director to take such action as is necessary by the executive director or the executive director's designees and by such means as are authorized in this section to bring the disease under control in the affected county. This subsection (b) is effective in every county in this state.
- (c) A violation of this section is a Class C misdemeanor; provided, that spot, electric or torch lights may be used in the hunting and taking of raccoons, opossums and frogs, and box traps may be used for the taking of rabbits during the open shooting season for the same.

**§ 70-4-114 Destruction of dens or nests, spotlighting, and use of spears, explosives, chemicals or other devices unlawful; penalty**

- (a) It is unlawful to disturb, mutilate, or destroy the home, nest, or den of any protected

wild animals or birds, to use spears or any like device in the hunting or taking of protected wild animals, to blind with lights, except as provided in § 70-4-113, or to use explosives, chemicals, mechanical devices, or smokers of any kind to drive protected wild animals out of their dens, holes, or houses.

(b) A violation of this section is a Class C misdemeanor.

**§ 70-4-115 Destruction and disposal of wildlife – permit; penalty**

(a) The owner of lands may destroy any wild animals, wild birds, or wild fowl when such wild animals, wild birds, or wild fowl are destroying property upon such lands. Any person, before destroying any big game under the conditions provided for in this section, is required to obtain a permit for destroying such big game. Such permit shall be issued by an officer of the wildlife resources agency.

(b) Any big game killed or destroyed under the conditions provided for in this section shall remain the property of this state and may be disposed of by the officer of the commission by gift to any worthy recipient; provided, that any wild birds or wild animals killed accidentally or illegally shall be disposed of in the same manner and a receipt for the same obtained from the person or agency receiving such game.

(c) Motorists are not required to report game accidentally killed by the operation of a motor vehicle. Notwithstanding any other provision of the law to the contrary, wild animals accidentally killed by a motor vehicle may be possessed by any person for personal use and consumption; except that, first, personal possession of a deer accidentally killed by a motor vehicle is permitted only if the person notifies the wildlife resources agency or any law enforcement officer within a reasonable time not to exceed forty-eight (48) hours and supplies that person's name and address; and second, personal possession of a bear accidentally killed by a motor vehicle is permitted only when authorized by an enforcement officer of the wildlife resources agency and the person is issued a kill tag. In deer-kill notification situations where a law enforcement officer rather than someone with the wildlife resources agency is notified, the law enforcement officer or the officer's designee shall be responsible for notifying someone with the wildlife resources agency and supplying the information relevant to the deer-kill. Nothing in this section authorizes possession of federally protected wildlife or wildlife protected by the state under chapter 8 of this title.

(d) A violation of this section is a Class C misdemeanor.

**§ 70-4-116 Hunting, killing and possession of deer, bear, wild elk and wild turkey -- transporting – penalties**

(a) Notwithstanding any law or any public or private act to the contrary, it is unlawful for any person to hunt or take deer, bear or wild elk with any shotgun using ammunition loaded with more than one (1) solid ball or rifled slug, or with any rifle using rim-fire cartridges. Bows and arrows are prohibited except as prescribed by the fish and wildlife commission.

(b) It is unlawful to hunt, pursue, capture, possess, transport or store any deer, wild turkey, bear or wild elk either male or female, in this state, at any time or in any area other than at times and within the area designated by the commission in its promulgation of open seasons, as provided by this title.

(c) Subsections (a)-(c) do not apply when such deer, wild turkey, bear or wild elk has been killed outside the boundaries of this state. Possession of such game in any closed season or boundary, except as provided in subsection (e), is prima facie evidence of guilt under this section. Any person found in possession of a deer, wild turkey, bear or wild elk and claiming that it was killed outside the state shall present to the executive director, or to any court hearing a cause pursuant to this title, sufficient proof to establish that the animal was so killed.

(d)

- (1) Any person killing or possessing, or both, a deer, wild turkey, bear or wild elk shall tag the animal in accordance with procedures set out in the proclamation. Any deer, wild turkey, bear or wild elk that has not been tagged in accordance with this chapter or any proclamation promulgated in accordance with this title may be confiscated and disposed of as provided by law.
- (2) The commission is authorized to issue special quota harvest tags for certain species, or sexes of species, requiring limited harvest. The commission is authorized to adopt rules and regulations that would permit granting to landowners special consideration in the issuance of special quota harvest tags.
- (3) A violation of this subsection (d) is a Class C misdemeanor.

(e)

- (1) A violation of subsections (a)-(c) is a Class B misdemeanor except that a violation of any of these subsections relative to wild elk shall be a Class A misdemeanor. It is mandatory upon the court to impose the prison sentence, upon conviction for a second or subsequent offense, and the prison sentence is not subject to suspension.
- (2) In the prosecution of second or subsequent offenders, the indictment or presentment must allege the prior conviction for violating any of the provisions of subsections (a)-(c), setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either a first or subsequent offender, from hunting, fishing or trapping in this state for a period of one (1) year.

(f)

- (1) In addition to the punishments authorized by this title, any court that convicts a person of killing or possessing a white-tailed deer, wild turkey, bear, or wild elk in violation of this title may order that person to pay restitution for the animal to the agency in the following amount:
  - (A) Not less than one thousand dollars (\$1,000) per animal, for each of the following that is illegally killed or possessed:
    - (i) Wild turkey;
    - (ii) White-tailed deer with no antlers; and
    - (iii) Antlered white-tailed deer with less than eight (8) antler points;
  - (B) Not less than one thousand five hundred dollars (\$1,500) per animal, for each of the following that is illegally killed or possessed:
    - (i) Wild elk with no antlers; and
    - (ii) Antlered wild elk with less than eight (8) antler points;
  - (C) Not less than one thousand dollars (\$1,000) per animal plus five hundred dollars (\$500) per antler point, for each antlered white-tailed deer with at least eight (8) but not more than ten (10) antler points that is illegally killed or possessed;
  - (D) Not less than one thousand dollars (\$1,000) per animal plus seven hundred fifty dollars (\$750) per antler point, for each antlered white-tailed deer with eleven (11) or more antler points that is illegally killed or possessed;
  - (E) Not less than one thousand five hundred dollars (\$1,500) per animal plus five hundred dollars (\$500) per antler point, for each antlered wild elk with at least eight (8) but not more than ten (10) antler points that is illegally killed or possessed;
  - (F) Not less than one thousand five hundred dollars (\$1,500) per animal plus seven hundred fifty dollars (\$750) per antler point, for each antlered wild elk with eleven (11) or more antler points that is illegally killed or possessed; and
  - (G) Not less than five thousand dollars (\$5,000) per animal, for each bear that is illegally killed or possessed and for each bear cub that is orphaned by the illegal

killing or possession of a bear.

(2)

- (A) If the conviction is based on the killing or possession of a wild elk and the court orders restitution pursuant to subdivision (f)(1), in addition to any other relevant factors to consider when determining the amount of restitution, the court shall also include the costs associated with the reintroduction of a wild elk.
  - (B) Notwithstanding any provision of law to the contrary, a farmland owner, lessee, or designee may take an elk found within a “no elk zone” when the owner, lessee, or designee reasonably believes the elk is causing or has caused damage to the owner's property. In all other situations, the farmland owner, lessee, or designee shall first provide the agency an opportunity to relocate the elk. The “no elk zone” shall be defined by the commission.
- (g) In addition to the punishments authorized by this title, any court that convicts a person of killing or possessing a white-tailed deer, wild turkey, bear, or wild elk in violation of this section shall revoke any license that was issued to the person under this title until the person has paid in full all restitution that the court ordered the person to pay.

**§ 70-4-117 Possession of weapons in areas inhabited by big game; penalty**

- (a) It is unlawful for any person to be in possession of any firearm, bow and arrow, shotgun or rifle in, on, or while traversing any refuge, public hunting area or wildlife management area frequented or inhabited by big game, except during specified or lawful open seasons on these areas. Any person violating this section is guilty of hunting big game and shall be punished as provided for in subsections (b) and (c).
- (b)
  - (1) A violation of this section is a Class B misdemeanor.
  - (2) It is mandatory upon the court to impose the prison sentence, upon conviction for a second or subsequent offense, and the prison sentence is not subject to suspension.
- (c) In the prosecution of a second or subsequent offense, the indictment or presentment must allege the prior conviction for violating any of the provisions of this section, setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either a first or subsequent offender, from hunting, fishing or trapping in this state for a period of one (1) year.
- (d) Notwithstanding subsection (a), a person with a handgun carry permit pursuant to § 39-17-1351, or a person otherwise legally in possession of a handgun primarily for personal defensive use, may possess a handgun at any time while on the premises of any refuge, public hunting area, wildlife management area, or national forestland maintained by the state. Nothing in this subsection (d) shall authorize a person to use any handgun to hunt game unless the person is in full compliance with all wildlife laws, rules, and regulations.
- (e) Nothing in this section shall authorize a person with a hand gun carry permit to possess such weapon in the portion of any refuge, public hunting area or wildlife management area that is within the boundaries of a state park or state natural area unless otherwise authorized in accordance with state law.
- (f) Nothing in this section shall authorize a person to access any area unless the person is in full compliance with all current wildlife laws, rules, proclamations and regulations.

**§ 70-4-118 Unlawful to hunt deer being chased by dogs or to permit dogs to hunt deer or chase deer – confiscation of dogs; penalties**

- (a) No person shall knowingly hunt deer being chased by dogs nor shall any person knowingly and intentionally permit such person's dogs to hunt or chase deer.
- (b) Any officer of the wildlife resources agency may take into possession any dog known

to have hunted or chased deer and shall notify the owner of the dog, or if the owner is unknown, shall advertise in a newspaper of general circulation in the county that the dog is in the officer's possession, giving the description of the dog and stating the circumstances under which it was taken. The officer shall hold the dog for a period of ten (10) days and shall report the facts in full to the director.

- (c) If, within ten (10) days, the owner claims the dog, the owner may repossess it on payment of the costs of advertising and the cost of keep. If the owner does not claim the dog within the above specified time, the dog shall be deemed ownerless and a public nuisance and shall be disposed of in the manner prescribed by the executive director. In this event, the costs of advertising and keep shall be paid by the agency.
- (d) Any person violating the provisions of this section commits a Class B misdemeanor. It is mandatory upon the court to impose the prison sentence, and the minimum time is not subject to suspension, but may be served on such days designated by the judge.
- (e) Notwithstanding subsection (a), the commission is authorized to promulgate rules to allow for the use of dogs in tracking and recovering an injured or deceased deer.

**§ 70-4-119 Taking of aquatic animal life other than game fish -- possession of commercial fishing gear on contaminated waters -- use of explosives, electrical devices or poisons in taking fish -- penalties.**

- (a) The taking of fish, mussels, turtles and other aquatic animal life, other than those species designated as game fish, from the waters of this state is not permitted except in accordance with the following provisions:
  - (1) Any and all varieties of fish, mussels, turtles and other aquatic animal life may be sold commercially, subject to limitations prescribed by the fish and wildlife resources commission;
  - (2) The commission is hereby authorized to designate all waters that shall be opened to the use of various types of gear to be used for the commercial taking of fish, mussels, turtles and other aquatic animal life, and the commission is authorized to specify the types of commercial gear to be used for the taking of fish, mussels, turtles and other aquatic animal life from any of such waters, under regulations prescribed by the commission in its proclamation for the commercial taking of fish, mussels, turtles and other aquatic animal life;
  - (3) The possession or use, or both, of any type of gear that is not specifically authorized by the commission, or that is not properly licensed, is forbidden. No commercial gear may be possessed on, or immediately adjacent to, any body of water where such gear is not authorized;
  - (4) Any wildlife accidentally taken in connection with a commercial operation under this section shall be quickly and carefully released with the least possible injury;
  - (5) Each piece of commercial fishing gear, including trotlines, fished commercially, shall bear securely fastened to the gear at the head end of the line or net or to the float, a current and valid identifying tag to be supplied by the commercial fisher. The tag shall measure at least one inch by three inches (1" x 3") and shall have the name of the commercial fisher along with the commercial fisher's current license number.
  - (6) The commission is hereby authorized to promulgate proclamations pertaining to the use of slat baskets by sport fishing license holders. Such baskets shall be marked with an identifying tag, which will expire the last day of February following the date of issue. This tag will be issued to each sport fishing license holder upon application to the agency and upon payment of not more than five dollars (\$5.00) to defray the cost and expense of furnishing each tag;
  - (7) It is unlawful for a commercial fisher to possess, while engaging in commercial fishing, any species of fish that cannot legally be taken with commercial fishing



- gear, except for legally taken bream less than four inches (4") in length, which may be used as bait;
- (8) Any person violating this section or any proclamation promulgated pursuant to this section commits a Class B misdemeanor and also is prohibited from engaging in sport fishing, commercial fishing or commercial musseling for a period of time of not less than one (1) year. Any person who engages in sport fishing, commercial fishing or commercial musseling during the prohibited time set by the court commits a Class B misdemeanor;
  - (9) For enforcement purposes, if fewer than five percent (5%) by number of mussels taken by a commercial musseler are not suitable for sale because such mussels are too small, no sanctions shall be imposed against such commercial musseler; and
  - (10) Wholesale fish dealers and wholesale mussel dealers shall supply, upon request from the director of wildlife resources agency or the director's agent, reports detailing the quantities of fish and mussels purchased. Records shall be made available for inspection upon request by agents during normal business hours.
- (b) Possession of commercial fishing gear on, or immediately adjacent to, any waters closed due to contamination, or possession of any species of fish, turtle or other aquatic animal life taken from waters closed to that species due to contamination is punishable as a Class A misdemeanor. Additionally, such person shall be prohibited from engaging in commercial fishing for not less than six (6) years.
- (c)
- (1) It is unlawful to use or possess dynamite, an electrical device, explosives, chemicals, lime or poison to kill or stun fish, or to attempt to do so.
  - (2) A violation of subdivision (c)(1) is a Class B misdemeanor.
  - (3) Each fish killed and each stick of dynamite or dynamite cap used is a separate offense.
  - (4) The executive director, or the executive director's designated agents, may use any substance, chemical, or device to stun or kill fish for scientific, propagating, enforcement or rescue purposes, and may use poison in certain waters or lakes of the state where it is necessary to remove or eradicate undesirable species of fish from the waters.

**§ 70-4-120 Trapping, snaring or baiting regulations -- penalties for violations --  
snare traps -- use of tamed quail to train bird dogs**

- (a)
- (1) It is unlawful for any person, except as provided in this chapter, to set or place any trap or snare, or bait any trap or device, upon the lands of, or in the waters adjoining the lands of, any person, for the purpose of catching or killing any wild animal upon the lands of another, except during the open season on such animals, and then only after such person has obtained the written consent of the owner of the lands, which written consent shall be upon the person who may be using or setting the devices; provided, that nets, spring poles and deadfalls are prohibited at all times and all places.
  - (2) The commission shall promulgate rules or adopt proclamations, as necessary, to:
    - (A) Determine the types of steel traps that may be used in the taking of wild animals; and
    - (B) Regulate the placement of steel traps.
  - (3) The commission shall promulgate rules or adopt proclamations, as necessary, to establish inspection requirements for steel traps used in the taking of wild animals.
  - (4) Persons trapping upon the lands of another shall at once make to the owner of the lands a full written report of the head of fowl, stock, or dog caught in the steel trap

or other trapping device set by such person, giving the date the fowl, stock or dog was caught, with a full description of the fowl, stock or dog.

- (5) When damage is done to any person's fowl, stock, dogs or the like by reason of being caught by the device, the one setting or placing the device shall be liable for all damages done by such device.
  - (6) All traps set or used for the purpose of taking any wild animals shall be stamped with the owner's name in such manner that the same shall be legible at all times. Any trap or traps found that are not stamped may be confiscated or destroyed.
  - (7) Any person violating this section commits a Class C misdemeanor and also is prohibited from trapping or engaging in the business of buying or selling furs for a period of time of not less than one (1) year, or both. Any person who traps or engages in the business of buying or selling furs during the period commits a Class C misdemeanor.
- (b) It is lawful at all times for any person to train bird dogs through the use of release pens and tamed and identified quail. The tamed quail shall be identified through the use of tags or dye and the training of the bird dogs shall be conducted under such rules and regulations as may be promulgated by the fish and wildlife commission.

#### **§ 70-4-121 United States fish and wildlife service exempt from game laws**

It is lawful for the director of the United States fish and wildlife service and the director's duly authorized agents to take at any time and in any manner from the public fresh waters of this state all fish required by them for the operation of the state and federal hatcheries. The United States fish and wildlife service is exempt, in the operation of federal fish hatcheries in Tennessee, from the provisions of the state game laws. The director of the United States fish and wildlife service and the director's duly authorized agents are accorded the right to conduct fish hatching and fish culture and all operations connected with fish hatching and fish culture in any manner and at any time that may by the director be considered necessary and proper, any laws of the state to the contrary notwithstanding.

#### **§ 70-4-122 Coon dog training**

- (a)
- (1) It is unlawful for any person or firm to train coon dogs by chasing coons in West Tennessee and the following counties: Carter, Claiborne, Greene, Johnson, Sullivan, and that part of DeKalb County lying south and west of state highway No. 96 and U.S. Highway No. 70, except during the thirty (30) days immediately preceding the opening of the season under general laws of the state for hunting coons; provided, that none of the provisions of this subsection (a) shall apply to Shelby County or the counties of McNairy, Fayette, Hardeman, Decatur, Dyer, Carroll, Henry, Weakley and Chester.
  - (2) As used in this subsection (a), "West Tennessee" includes that portion of the state lying west of the Tennessee River where it enters the state from the states of Alabama and Mississippi and emerges into the state of Kentucky, but "West Tennessee" does not include Benton County, Gibson County, Madison County, Henderson County or Hardin County. The provisions of this subsection (a) also apply to the following counties located in other parts of the state: Carter, Claiborne, Greene, Johnson, Morgan, Sullivan, Unicoi, and that part of DeKalb County lying south and west of state highway No. 96 and U.S. Highway No. 70.
- (b)
- (1) **Cocke County.** It is lawful in Cocke County to have a jump-out training season during the period each year from October 9 through November 1, and notwithstanding other provisions of this section, it is lawful to train coon dogs in

- Cocke County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
- (2) **Crockett County.** It is lawful at any time of the year to train coon dogs in Crockett County so long as coons are not taken except during the open season.
  - (3) **Gibson County.** It is lawful at any time of the year to train coon dogs in Gibson County, so long as coons are not taken except during the open season.
  - (4) **Grainger County.** It is unlawful for any person or firm to train coon dogs by chasing coons in Grainger County, except during the period beginning October 1 through February 28, so long as coons are not taken except during the open season.
  - (5) **Hancock County.** Notwithstanding other provisions of this section, it is lawful to train coon dogs in Hancock County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
  - (6) **Hawkins County.** It is unlawful for any person or firm to train coon dogs by chasing coons in Hawkins County except during the open season.
  - (7) **Haywood County.** It is lawful at any time of the year to train coon dogs in Haywood County, so long as coons are not taken except during the open season.
  - (8) **Humphreys County.** It is lawful at any time of the year to train coon dogs in Humphreys County, so long as coons are not taken except during the open season.
  - (9) **Jefferson County.** It is lawful in Jefferson County to have a jump-out training season during the period each year from October 9 through November 1, and notwithstanding other provisions of this section, it is lawful to train coon dogs in Jefferson County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
  - (10) **Lake County.**
    - (A) It is unlawful for any person or firm to train coon dogs by chasing coons in Lake County except during the open season.
    - (B) This subdivision (b)(10) shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lake County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Lake County legislative body and certified by such officer to the secretary of state.
  - (11) **Lauderdale County.** It is lawful at any time of the year to train coon dogs in Lauderdale County, so long as coons are not taken except during the open season.
  - (12) **Morgan County.** It is lawful to conduct “sanctioned coon hunts” in Morgan County during the closed season, so long as coons are not taken during such closed season. For the purposes of this subdivision (b)(12), “sanctioned coon hunts” means chasing coons for the purpose of “treeing” only. The sanctioned hunts shall require the approval of a recognized Kennel Club such as the AKC, UKC, NKC or PKC.
  - (13) **Obion County.** Notwithstanding other provisions of this section, it is lawful to train coon dogs in Obion County at any time of the year, so long as coons are not taken except during the open season.
  - (14) **Tipton County.** It is lawful at any time of the year to train coon dogs in Tipton County, so long as coons are not taken except during the open season.
  - (15) **Unicoi County.** It is unlawful for any person or firm to train coon dogs by chasing coons in Unicoi County except during the seventy (70) days immediately prior to the season for hunting coons in such county.
  - (16) **Washington County.** It is unlawful for any person or firm to train coon dogs by chasing coons in Washington County except during the open season.

- (c) A person who violates this section commits a Class C misdemeanor. Nothing in this section shall be construed as restricting the training of coon dogs where no element of chasing or hunting coons is involved.

**§ 70-4-123 Hunting with bow and arrow prohibited while in possession of firearms or accompanied by a person in possession of firearms; penalty**

- (a) It is unlawful for any person hunting big game with a bow and arrow to be in possession of any firearms or be accompanied in hunting by any person possessing firearms during the archery-only deer season; provided, that persons authorized to carry a handgun pursuant to § 39-17-1351 may carry a handgun as defined in § 39-11-106(a) while hunting big game with a bow and arrow during the archery-only deer season.
- (b) A person who violates the provisions of this section commits a Class C misdemeanor.

**§ 70-4-124 Wearing daylight fluorescent orange while hunting big game required; penalty**

- (a) Every person hunting big game except turkey during the gun hunts proclaimed by the commission shall wear on the upper portion of the body and head outer garments of daylight fluorescent orange color of not less than five hundred square inches (500 sq. in.) and visible from the front and back.
- (b) "Daylight fluorescent orange color" means having a dominant wave length between five hundred ninety-five thousandths (.595) and six hundred five thousandths (.605) nanometers, excitation purity of not less than eighty-five percent (85%) and a luminance factor of not less than forty percent (40%).
- (c) A violation of this section is a Class C misdemeanor.
- (d) This section does not apply to a person hunting on that person's own property.
- (e) Notwithstanding § 8-21-401, the court costs imposed or assessed against any person convicted of a violation of this section may not exceed the maximum fine amount that may be imposed for a violation of this section.

**§ 70-4-125 Causing death to wildlife, hunting dog or domestic animal by poisonous substance prohibited**

- (a) No person shall deposit, place or cause to be deposited or placed out of doors any poisonous substance or any matter that has been rendered poisonous that causes or is capable of causing death or injury to wildlife, a hunting dog, or a domestic animal. Such prohibition applies only where the substance or matter is placed on the property of another.
- (b) No person shall knowingly or recklessly place or deposit, or cause to be placed or deposited, on such person's property a poisonous substance or any matter that be rendered poisonous if consumed by an animal or human being, if such poison or poisonous matter could be reasonably assumed to be accessible by a minor under the age of fifteen (15) years. The provisions of this subsection (b) shall only apply if the placing or depositing of the poisonous substance is done with the intent of causing death or injury to a hunting dog or a domestic animal.
- (c) A person who violates this section commits a Class C misdemeanor.
- (d) Such prohibition does not apply to rabies control activities of the appropriate public health officials.

**§ 70-4-126 Use of electronic or battery operated device to lure or kill a fox prohibited; penalty**

- (a) No person shall use any electronic or battery operated device for the purpose of luring, killing, or attempting to lure or kill a fox.

- (b) A person who violates the provisions of this section commits a Class C misdemeanor.
- (c) Such prohibition does not apply to rabies control activities of the appropriate public health officials.

#### **§ 70-4-127 Dove-baiting prohibited**

- (a) It is a criminal offense to bait a field or other area. "Bait," as used in this section, means the intentional placement of grain or any mixture of any ingredients used as or for food purposes for the purpose of killing, injuring, or capturing doves. "Bait" does not include the broadcasting or sowing of grain or seed for normal agricultural purposes, the placement of salt pans or troughs for livestock, the practice of leaving or manipulating standing crops in a field, or other normal agricultural practices customarily practiced on the land.
- (b) Any person who enters upon the lands of another to bait a field or other area commits criminal trespass, and, upon conviction, shall be punished in accordance with the provisions of § 39-14-405.
- (c) Any person who baits a field or other area or any person who assists, employs or directs another to do so commits a Class C misdemeanor.

#### **§ 70-4-128 Posting notice of dove-baiting**

If any Tennessee wildlife resources agency officer or employee has reasonable cause to believe that a field has been unlawfully baited with grain or any mixture of any ingredients used as or for food purposes for the purpose of killing, injuring or capturing doves, then such officer or employee shall immediately post notices on such field in conspicuous locations that the field is baited and hunting is prohibited. If any such officer or employee discovers and fails to post such field in accordance with this section, no person shall be subject to prosecution for hunting on or over such field, notwithstanding any provision of this title to the contrary. The Tennessee wildlife resources agency and its officers and employees are exempt from civil liability in its actions in enforcement of this section.

#### **§ 70-4-129 Sale of fish and wildlife by charitable organizations**

- (a) Notwithstanding the provisions of § 70-4-101, or rules, regulations or proclamations of the agency or commission to the contrary, fish and wildlife may be sold by charitable organizations in any county having a population of not less than twenty- seven thousand eight hundred (27,800) nor more than twenty-eight thousand (28,000) according to the 1990 federal census or any subsequent federal census for fundraising purposes in accordance with the provisions of subsection (b).
- (b) Notwithstanding any provision of this title or rule, regulation or proclamation of the agency or commission to the contrary, fish and wildlife that are lawfully taken or acquired and donated to an organization that has received a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501 (c)(3) may be sold by such organization to raise funds if the following conditions are met:
  - (1) The organization distributes at least ninety percent (90%) of the funds raised to other organizations that have received a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501;
  - (2) The organization maintains records for three (3) years of the source of such donations, and such records are made available for inspection upon request of the wildlife resources agency; and
  - (3) The organization notifies the wildlife resources agency thirty (30) days in advance of any such sale.

#### **§ 70-4-130 Albino deer**

- (a) Except as provided in § 70-4-115, it is unlawful for any person to knowingly hunt, kill, trap, ensnare, or destroy, or to attempt to destroy, or to have in such person's possession albino deer, which is a deer with a lack or significant deficiency of pigment in the skin and hair and with pink eyes.
- (b) Any violations of the proclamations or rules and regulations promulgated by the fish and wildlife resources commission are punishable as provided in this title, and the illegal taking or possession of each animal constitutes a separate offense.
- (c) Violation of this section is a Class B misdemeanor, punishable by fine only.

#### **§ 70-4-131 Possession of fish or wildlife illegally acquired, taken or transported from state or country of origin**

- (a) It is an offense for any person to possess any fish or wildlife that has been defined as fish or wildlife by the state or country of origin knowing that the fish or wildlife was acquired, taken, or transported from the state or country of origin in violation of the laws or regulations of that state or country.
- (b) A violation of subsection (a) is a Class A misdemeanor.

#### **§ 70-4-132 Walleye and crappie in restaurants**

Notwithstanding any law, rule or regulation to the contrary, a restaurant located in this state may advertise, possess, sell, offer for sale or give away fully cooked crappie or walleye for consumption on the premises of the restaurant; provided, that the crappie or walleye is not harvested from the waters of this state and that appropriate documentation is maintained on the premises of the restaurant exhibiting the location of origin of the crappie and walleye.

#### **§ 70-4-133 Wild-appearing swine**

- (a) It is the intent of this section to address the illegal translocation and release of wild-appearing swine. These animals have been shown to be destructive to native habitats, agricultural lands and private property and are carriers for a myriad of diseases that affect humans, livestock and wildlife.
- (b) It is not the intent of this section to impede the legal transportation of swine that are regulated by the department of agriculture.
- (c) As used in this section, "wild-appearing swine" means swine that are, at maturity, two feet to three feet (2' - 3') tall and three and one half feet to five feet (3 1/2' - 5') long and, at maturity, have the following physical features in comparison to domestic swine:
  - (1) Massive heads with smaller, pointed and heavily-furred ears;
  - (2) Heavier shoulders that slope down to small hips, giving the animal an outline similar to an American bison;
  - (3) Long and thin snouts;
  - (4) Upper tusks or whitters that curl up and out and rub against the lower tusks, making a knifelike edge against the lower tusks; and
  - (5) Straight tails that are tufted at the tip.
- (d) It is an offense for any person to knowingly transport or release into the wild, or cause to be transported into or within the state, live wild-appearing swine that do not have documentation approved by the department of agriculture.
- (e) Notwithstanding § 70-6-101, any stop, search or arrest pursuant to this section by an officer of the agency shall be predicated upon reasonable suspicion that a violation of this section has occurred.
- (f) A violation of subsection (d) is a Class A misdemeanor. Each undocumented wild-appearing swine illegally transported or released in violation of subsection (d) is a separate offense.

**§ 70-4-134 Availability of self-defense to person charged with taking, attempting to take, or harming wild animal**

(a) As used in this section:

- (1) "Enter" means the intrusion of any part of the body of a wild animal into the interior space of a structure;
- (2) "Serious bodily injury" means bodily injury that involves:
  - (A) A substantial risk of death;
  - (B) Protracted unconsciousness;
  - (C) Extreme physical pain;
  - (D) Protracted or obvious disfigurement; or
  - (E) Protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty; and
- (3) "Wild animal" means all wild vertebrates, mollusks, crustaceans, and fish presently occurring within the state.

(b) A person who is charged with taking, attempting to take, or harming a wild animal in violation of this title may assert the defense of self-defense if the wild animal taken, attempted to be taken, or harmed acted in a manner that caused:

- (1) The person to have a reasonable belief that the animal's action placed the person in imminent danger of death or serious bodily injury;
- (2) The person to believe the danger creating the threat of imminent death or serious bodily injury is real, or is honestly believed to be real at the time; and
- (3) The belief of danger to be founded upon reasonable grounds.

(c)

(1)

(A) A person shall notify the agency within twenty-four (24) hours after killing or seriously injuring a big game animal pursuant to this section if the person is reasonably able to notify the agency.

(B) No big game animal killed shall be removed from the site, repositioned, retained, sold, or transferred without authorization from the agency.

(2) A violation of subdivision (c)(1) is a Class C misdemeanor.

(d) The defense of self-defense shall not be available to a person who takes, attempts to take, or harms a wild animal if the person:

- (1) Has the ability to safely retreat from the threatening animal and fails to do so, except when the animal enters a home, tent, camper, or other permanent or temporary living structure occupied at the time by the person or any other individual; or
- (2) Recklessly provokes or attracts the wild animal into a situation in which it is reasonable to expect the wild animal will threaten the person or another individual.

**§ 70-4-201 Possession of or traffic in protected wildlife illegal – exception; penalty**

(a) It is unlawful for any person, firm or corporation, any restaurant, club, or hotel in this state to barter, sell, transfer or offer for sale, or to purchase, or offer to purchase, any of the wildlife except as provided within this title or in rules and regulations promulgated by the commission.

(b) Each unlawful sale, purchase, offer for sale or purchase, transfer, or possession with the intent to sell, barter or transfer for any consideration of a wild animal or wild bird, wild fowl or game fish, or part thereof, is a separate offense.

(c) Any person hiring another to kill or capture wildlife and receiving the wildlife is deemed to be buying the wildlife and is subject to the penalties of this title. Officers of the wildlife resources agency or persons specially employed or designated by the executive director or by the United States fish and wildlife service may capture, buy, sell, or offer to capture, buy or sell wild birds or wild animals, or parts thereof, for the

sole purpose of obtaining evidence of violation of this title. The carcass of a lawful possession limit of opossum, raccoon or beaver may be bought, sold or shipped for sale during the open hunting or trapping season.

- (d) A violation of this section is a Class A misdemeanor; except that any violation of this section involving wildlife valued at five hundred (\$500) dollars or more is a Class E felony.

**§ 70-4-202 Use or possession of wildlife, hides or parts thereof illegally taken unlawful**

Any person who makes any use of or has in possession any wild animals, wild animals' green hides, wild birds, wild fowl or fish or parts thereof that have been caught, taken, killed or destroyed contrary to any of this title shall be equally liable under this title for the penalties imposed against the person who caught, took, killed, or destroyed such wild animals, wild animals' green hides, wild birds, wild fowl or fish who was formerly in possession of same.

**§ 70-4-203 Transportation of protected game or fish out of the state -- duty of transporters; penalties**

- (a) Any person who desires to take protected game or fish out of the state may do so under the following conditions, but not otherwise:
- (1) Such person must have in possession at the time of such taking out of the state, or at the time of transporting within the state, a hunting and fishing license, duly issued to such person under this title; and
  - (2) Such person cannot take from the state more than two (2) days' bag or creel limit on ducks or other migratory birds or protected game or fish.
- (b) Any officer of the wildlife resources agency, or assistant officer of the wildlife resources agency, sheriff, deputy sheriff, constable or other officer has the right to demand of any person possessing game and proposing to take it out of the state an inspection of such person's license. A refusal on the part of the person to exhibit the license is a Class C misdemeanor.
- (c) Any resident hunter may have game or fish transported home by filing with the common carrier a written statement with name and address, the number of such person's hunting license, and the number of game or fish to be so transported, and that the game or fish was legally killed by such person and is not for sale. A copy of the statement shall be attached to such person's game, or to whatever the game may be enclosed in.
- (d) It is unlawful for any person, company or common carrier to ship or transport any birds, game fish or animals as mentioned in this section, except as otherwise provided in this title, without having ascertained that the person offering the same for shipment was then and there in possession of a hunting and fishing license duly issued and covering the period when the shipment was offered, and without requiring such person to accompany the shipment.
- (e) A violation of this section is a Class C misdemeanor.

**§ 70-4-204 Cold storage of wildlife -- Penalty for violations**

- (a)
- (1) No person, firm or corporation shall place in cold storage at any one (1) time more than two days' bag or creel limit of any wild animals, wild birds, wild fowl, or game fish.
  - (2) No person shall place in commercial cold storage any wild animals, wild birds, wild fowl, or game fish without first filling out and filing with the storage company an affidavit stating that the same has been lawfully killed or caught and is stored for



the affiant's own use and benefit and not for sale. No person, firm or corporation engaged in the business of cold storage shall receive any wild animals, wild birds, wild fowl or game fish, unless such affidavit has been made by the person storing and delivering to the storage concern. The storage concern shall post the affidavit upon a book kept for this purpose, which book shall be open at all times to the executive director or officers of the wildlife resources agency.

- (b) A violation of this section is a Class C misdemeanor. Each wild bird, wild animal, or wild fowl or game fish stored in violation of this section is a separate offense.

#### **§ 70-4-205 Use of state-controlled water areas and land bordering thereon**

(a)

- (1) In those places where any state agency or unit of state government owns in fee simple or controls through lease agreement water areas and the lands bordering such waters, it is illegal for individuals, persons, firms, corporations, or partnerships to place houses, docks, floats on, or to use as a landing area for boats, or to use for any purpose whatsoever, state-owned or controlled lands or waters, unless such rights and privileges are held by a signed, written agreement, for which a fee may be charged.

- (2) Where the lands are privately owned and the lake waters state owned or controlled, it is illegal to set up boat docks, fish docks, floats, or in any way use or attempt to use the state-owned waters for these purposes.

- (b) Each twenty-four-hour period during which a violation of this section persists or exists is a separate offense and is punishable as such.
- (c) A violation of this section is a Class C misdemeanor.

#### **§ 70-4-206 Pollution of waters -- Penalty for violations -- Nuisance**

- (a) No pollution, including, but not limited to, dye waste, petroleum products, brine waste, refuse from a mine, sawmill or construction activity, industrial or domestic sewage, or any deleterious or poisonous substance or activity, shall be thrown or be caused, or allowed to run into, wash into or take place in any waters, either private or public, in a manner injurious to fish life or other aquatic organisms, or that could be injurious to the propagation of fish, or that results in the destruction of habitat for fish and aquatic life.
- (b) A violation of this section is a Class A misdemeanor. Each day's violation of this section constitutes a separate offense and each five days' continuous violation also constitutes a public nuisance, subject to abatement by permanent injunction.

#### **§ 70-4-207 Defacing and destroying notice of commission or agency -- penalty**

- (a) It is unlawful for any person to deface, obliterate, tear down or destroy, in whole or in part, or attempt to deface, obliterate, tear down, or destroy any notice, proclamation or sign posted by the wildlife resources commission or the fish and wildlife resources agency.
- (b) A violation of this section is a Class C misdemeanor.

#### **§ 70-4-208 Unlawful importation of skunks -- penalty**

- (a) It is unlawful for any person to import, possess, or cause to be imported into this state any type of live skunk, or to sell, barter, exchange or otherwise transfer any live skunk, except that the prohibitions of this section shall not apply to bona fide zoological parks and research institutions.
- (b) Notwithstanding subsection (a), a person who possesses a valid wildlife rehabilitation permit issued by the agency may receive skunks from the wild for the purposes of rehabilitation and release only.
- (c) A violation of this section is a Class C misdemeanor.

#### **§ 70-4-209 Purchase or sale of red fox hides, furs or pelts**

(a)

(1) It is unlawful to buy or sell green hides, raw furs or pelts of a red fox, except as provided in subsection (b) or in counties open to the lawful taking of red fox.

(2) A violation of this subsection (a) is a Class C misdemeanor.

(b) When a red fox is legally killed, it is lawful to buy or sell green hides, raw furs or pelts of such red fox at any time in counties with the following population according to the 1970 federal census or any subsequent federal census (see statute for chart)

#### **§ 70-4-210 Deer hides; Squirrel pelts and tails.**

Notwithstanding any provision of law to the contrary, it is lawful for any person to buy, sell, store, or ship for sale, at any time the hides of deer and the pelts and tails of grey squirrels and fox squirrels taken during the open season.

#### **§ 70-4-211 Nets and other fishing equipment near mouth of watercourse -- penalty**

(a) It is unlawful for any person, while fishing, to use any nets, seines, snag lines, drag lines, grab hooks, or baskets, or any other form of fishing equipment, or other obstruction of any character to the free passage of fish within one hundred (100) yards of the mouth of any river, creek, slough, inlet or outlet, except bait or casting plugs with not more than three (3) treble hooks attached, ordinary fly fishing equipment, and pole and line with not more than three (3) single hooks attached.

(b) For the purposes of this section, "mouth of a stream" means the location of a line resulting from the projection or extension of the banks of the main stream that receives the tributary, except in the case of streams entering waters impounded by hydroelectric or flood control dams, in which case the mouth of the entering stream is defined as the line where the free, downstream movement of natural water is visibly reduced or retarded by the level of the impounded waters in the main stream.

(c) A violation of this section is a Class C misdemeanor.

#### **§ 70-4-301 Hunter Protection Act – part definitions**

As used in this part, unless the context otherwise requires:

(1) "Drone" means a drone as defined in § 39-13-609;

(2) "Taking" means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking that occur on lands or waters upon which the affected person has the right or privilege to take such wild animal; and

(3) "Wild animal" means any wild creature, the taking of which is authorized by the fish and game laws of the state.

#### **§ 70-4-302 Hunter Protection Act – violations; penalty**

(a) Any person who performs any of the following commits a Class C misdemeanor:

(1) Interferes with the lawful taking of a wild animal by another with intent to prevent the taking;

(2) Disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking;

(3) Disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking;

(4) Enters or remains upon public lands, or upon private lands without permission of the owner or the owner's agent, with intent to violate this section;

(5) Fails to obey the order of a peace officer to desist from conduct in violation of this section if the officer observes such conduct, or has reasonable grounds to believe

- that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day on a specific premises; or
- (6) Uses a drone with the intent to conduct video surveillance of private citizens who are lawfully hunting or fishing without obtaining the written consent of the persons being surveilled prior to conducting the surveillance.
- (b) As used in subsection (a), "any person" means any individual, firm, association, company, partnership, corporation, public or private organization, institution or similar entity.

#### **§ 70-4-303 Hunter Protection Act -- injunctions -- damages -- construction**

- (a) Any court may enjoin conduct that would be in violation of § 70-4-302 upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.
- (b) A court may award damages to any person adversely affected by a violation of § 70-4-302, which may include an award for punitive damages. In addition to other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.
- (c) No provision of this part shall be construed to prohibit or otherwise restrict any landowner, tenant, or employee of a landowner from engaging in normal activities on or normal use of the land or property, and such activities or use shall not be deemed unlawful pursuant to any provision of this part. No provision of this part shall be construed so as to interfere with the right of the landowner to prohibit trespass upon the landowner's property by any person.

#### **§ 70-4-401 Exotic Animals – prohibited acts**

- (a) It is unlawful for any person to possess, transport, import, export, buy, sell, barter, propagate or transfer any wildlife, whether indigenous to this state or not, except as provided by this part and rules and regulations promulgated by the Tennessee fish and wildlife commission pursuant to this part.
- (b) No person shall possess Class I or Class II wildlife without having documentary evidence showing the name and address of the supplier of such wildlife and date of acquisition.

#### **§ 70-4-402 Exotic Animals – part definitions**

As used in this part, unless the context otherwise requires:

- (1) "Agency" means the Tennessee wildlife resources agency;
- (2) "Cage" means the primary enclosure in which an animal is held;
- (3) "Circus" means a public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals, but does not include wrestling bears or any type of show in which there is direct contact between the public and a Class I animal, except as otherwise provided for in this part;
- (4) "Commercial propagator" means any person or entity that may sell, barter, trade, propagate or transfer Class I wildlife, excluding transfers to other commercial propagators located within the boundaries of Tennessee, and that meets all other applicable license, permit, zoning and other requirements necessary to conduct business in the city, county and state where located;
- (5) "Commission" means the Tennessee fish and wildlife resources commission;
- (6) "Mobile facility" means a facility designed for the transporting of animals or for the

- holding of animals on a temporary basis;
- (7) "Native wildlife" means those species presently occurring in the wild in Tennessee and those extirpated species that could reasonably be expected to survive in the wild if reintroduced;
  - (8) "Perimeter fence" means a secondary fence that prevents the public from touching the cage in which the animal is held;
  - (9) "Permanent exhibitors" means those exhibits that are housed the entire year in facilities located within this state;
  - (10) "Personal possession permit" means a noncommercial type permit issued to private citizens for ownership or possession of nonbreeding animals in small numbers;
  - (11) "Stationary facility" means the primary holding facility, including cage and barriers that remain in a fixed location; and
  - (12) "Temporary exhibitors" means those transient animal acts not permanently located within the boundaries of this state.

#### **§ 70-4-403 Classifications of wildlife**

- (a) Live wildlife, kept and maintained for any purpose, shall be classified in the following five (5) classes:
  - (1) Class I — This class includes all species inherently dangerous to humans. These species may only be possessed by zoos, circuses and commercial propagators, except as otherwise provided in this part. The commission, in conjunction with the commissioner of agriculture, may add or delete species from the list of Class I wildlife by promulgating rules and regulations. The following is a listing of animals considered inherently dangerous:
    - (A) Mammals:
      - (i) Primates — Gorillas, orangutans, chimpanzees, gibbons, siamangs, mandrills, drills, baboons, Gelada baboons;
      - (ii) Carnivores:
        - (a) Wolves — All species;
        - (b) Bears — All species; and
        - (c) Lions, tigers, leopards, jaguars, cheetahs, cougars — All species;
      - (iii) Order Proboscidea: Elephants — All species;
      - (iv) Order Perissodactyla: Rhinoceroses — All species; and
      - (v) Order Artiodactyla: Hippopotamus, African buffalo;
    - (B) Reptiles:
      - (i) Order Crocodylia: Crocodiles and alligators — All species; and
      - (ii) Order Serpentes: Snakes — All poisonous species; and
    - (C) Amphibians: All poisonous species;
  - (2) Class II — This class includes native species, except those listed in other classes;
  - (3) Class III — This class requires no permits except those required by the department of agriculture, and includes all species not listed in other classes and includes, but is not limited to, those listed in subdivisions (3)(A)-(Q). The commission, in conjunction with the commissioner of agriculture, may add or delete species from the list of Class III wildlife by promulgating rules and regulations:
    - (A) Nonpoisonous reptiles and amphibians except caimans and gavials;
    - (B) Rodents — Gerbils, hamsters, guinea pigs, rats, mice, squirrels and chipmunks;
    - (C) Rabbits, hares, moles and shrews;
    - (D) Ferrets and chinchillas;
    - (E) Llamas, alpacas, guanacos, vicunas, camels, giraffes and bison;
    - (F) Avian species not otherwise listed, excluding North American game birds, ostriches and cassowary;

- (G) Semi-domestic hogs, sheep and goats;
- (H) All fish held in aquaria;
- (I) Bovidae not otherwise listed;
- (J) Marsupials;
- (K) Common domestic farm animals;
- (L) Equidae;
- (M) Primates not otherwise listed;
- (N) Bobcat/domestic cat hybrids;
- (O) Hybrids resulting from a cross between a Class II species and a domestic animal or Class III species;
- (P) Cervidae except white-tailed deer and wild elk. Elk originating from a legal source while held in captivity for the purpose of farming shall be regarded as Class III wildlife. All other elk shall be wild elk and shall be regarded as Class II wildlife. No person shall possess elk in captivity within the eastern grand division of the state as defined in § 4-1-202 without having documentary evidence indicating the origin of the elk being held. This documentary evidence will be presented to the agents of the department of agriculture or the wildlife resource agency upon request. Sale documentation of offspring of purchased elk is not required; and
- (Q) Furbearing mammals, including those native to Tennessee, raised solely for the sale of fur;
- (4) Class IV — This class includes those native species that may be possessed only by zoos and temporary exhibitors; provided, that rehabilitation facilities may possess Class IV wildlife as provided by rules established by the commission if authorized by a letter from the director of the agency:
  - (A) Black bear (*Ursus americanus*);
  - (B) White-tailed deer (*Odocoileus virginianus*);
  - (C) Wild turkey (*Meleagris gallapavo*), including the eggs of wild turkey;
  - (D) Hybrids of a Class IV species other than bobcat shall be Class IV; and
  - (E) Animals that are morphologically indistinguishable from native Class IV wildlife shall be Class IV; and
- (5) Class V — This class includes such species that the commission, in conjunction with the commissioner of agriculture, may designate by rules and regulations as injurious to the environment. Species so designated may only be held in zoos under such conditions as to prevent the release or escape of such wildlife into the environment.

#### **§ 70-4-404 Permits – fees**

- (a) The agency shall issue permits for possessing live wildlife as defined in this part.
- (b)
  - (1) The commission shall adopt reasonable rules for issuing permits to possess live wildlife and establishing the conditions of possessing wildlife. The conditions shall be directed toward assuring the health, welfare, and safety of animals, the public and, where necessary, the security of facilities in which the animals are kept.
  - (2) The executive director of the agency may authorize by letter permission to possess any class of wildlife for approved research studies or for the temporary holding of animals in the interest of public safety. The executive director may exempt specific events from the caging and handling requirements established for Class I wildlife. Approval of an exemption will be based on a written request that outlines safety precautions that must be implemented during the specified activity.
- (c) Class I wildlife.
  - (1) Persons legally possessing Class I wildlife prior to June 25, 1991, shall obtain

annually a personal possession permit to keep such Class I wildlife. To obtain a personal possession permit, such persons shall comply with all of this part. After June 25, 1991, no new animals shall be brought into possession under authority of a personal possession permit. Persons in legal possession of one (1) or more species of Class I wildlife as of June 25, 1991, may maintain the lineage of such species up to a maximum of three (3) animals per species. Persons in legal possession of the offspring of such Class I wildlife shall have a maximum of twelve (12) months from the date of birth of such offspring to obtain appropriate permits for such offspring, or to dispose of such offspring through an appropriate commercial propagator, or by any other manner permitted by law within the state. This section applies solely to persons in legal possession of Class I wildlife as of June 25, 1991, and shall not be construed to authorize new personal possession of Class I wildlife.

- (2) The executive director shall issue a permit upon a satisfactory showing of qualifications to possess live wildlife under the following conditions:
  - (A) The applicant must be at least twenty-one (21) years of age;
  - (B) The applicant must have at least two (2) years of experience in the handling or care of the Class I species for which the applicant is applying, or, in the alternative, must take a written examination, developed and administered by the agency, evidencing basic knowledge of the habits and requirements, in regard to proper diet, health care, exercise needs and housing of the species to be covered by the permit. Experience gained while in violation of this part shall not be considered qualifying experience;
  - (C) The facilities for holding Class I wildlife must be located on the premises on which the permit holder resides or shall have a full-time resident caretaker to supervise the care and security of the facilities. Facilities for Class I animals may not be on premises of less than one (1) acre for a personal possession permit and three (3) acres for a commercial propagator facility permit, and may not be located in a multi-unit dwelling or trailer park; and
  - (D) The applicant must have a plan for the quick and safe recapture of the wildlife, or if recapture is impossible, for the destruction of any animal held under the permit. The applicant must have the legal authority to possess weapons or other equipment necessary to carry out the plan and, in fact, possess such weapons or other equipment.
- (3) The permittee shall control and maintain Class I wildlife at all times in such a manner as to prevent direct exposure or contact between the animal or animals and the public; provided, that a trained elephant may be brought into contact with the public under the close supervision of a qualified trainer or handler.
- (d) No person shall hold live wildlife in captivity without first obtaining the appropriate permit as provided in this part. The annual permits and fees for holding live wildlife are as follows:
  - (1) Personal Possession.
    - (A) Class I: \$150/animal or \$1,000/facility; and
    - (B) Class II: \$10.00/animal or \$100/facility;
  - (2) Transfer of Ownership. A permit for transferring any Class I or II animal held under a personal possession permit. If the transfer of the animal is ordered by the agency, no transfer permit is required;
  - (3) Commercial Propagator. \$1,000/facility for Class I wildlife;
  - (4) Propagator. \$25.00/facility for small game birds and waterfowl; and \$100/facility for all Class II wildlife except small game birds and waterfowl;
  - (5) Importation. \$10.00/shipment or \$100 per year;
  - (6) Temporary Exhibitor. \$100/30 day period;

- (7) Permanent Exhibitor. \$500/year/facility;
- (8) Commercial Wildlife Preserve. \$150/year for big game; and \$75.00/year for small game;
- (9) Falconry. \$40.00/year or other time period as might coincide with federal permit requirements;
- (10) Qualification Examination. \$10.00/examination; and
- (11) Zoos, Nature Centers, Rehabilitation Centers, and Educational Exhibits Certified As Nonprofit. No charge.

**§ 70-4-405 Housing and transportation of wildlife – requirements**

- (a) Wildlife housed in dangerously unsafe conditions constituting a threat to human safety shall, at the direction of agency personnel, be placed in agency approved facilities at the owner's expense.
- (b) Any condition that results in wildlife escaping from its enclosure, cage, leash or other constraint shall be considered maintaining wildlife in an unsafe manner and shall be a violation of this part.
- (c) Cages shall be sufficiently strong to prevent escape and to protect the caged animal from injury.
- (d) No person shall maintain any wildlife in captivity in any unsanitary or unsafe condition or in a manner that results in the maltreatment or neglect of such wildlife, nor shall any species of wildlife be confined in any cage or enclosure that does not meet the cage specifications.
- (e) Enclosure in which wildlife is held in captivity shall be maintained as follows:
  - (1) Water. Drinking water shall be provided daily in clean containers. Swimming or wading pools shall be cleaned as needed to ensure good water quality. Enclosures shall provide adequate drainage of surface water;
  - (2) Food. Food provided shall be unspoiled and not contaminated; and
  - (3) Waste. Fecal and food waste shall be removed from cages daily and stored or disposed of in a manner that prevents noxious odors or insect pests. Hard floors shall be scrubbed and disinfected weekly. Large pens and paddocks with dirt floors shall be raked every three (3) days and the waste removed.
- (f) The commission may promulgate rules and regulations requiring specific cage requirements for any species of live wildlife.
- (g) Stationary facilities — Class I wildlife.
  - (1) All stationary facilities must be surrounded by a perimeter fence, or secondary barrier, of at least eight feet (8') in height and a minimum of four feet (4') from the cage holding the animal, or such other fencing, building or other protection of the enclosure where the animal is kept sufficient to prevent unauthorized public entry or direct physical contact between the animal and the public.
  - (2) All cages shall be well braced and securely fastened to the floor or in the ground and shall utilize metal clamps or braces of equivalent strength as that prescribed for cage construction.
  - (3) All cage entrances shall have double safety doors, one (1) of which only opens to the inside. These doors must remain locked at all times when unattended with chains and locks of sufficient strength to prevent the animal from breaking open the door if highly excited.
  - (4) All cages shall be constructed with a den, nest box or other connected housing unit that can be closed off and locked with the animal inside for the safe servicing and cleaning of the open area. In lieu of a nest box, a divided cage with a door between the two (2) compartments may be used.
  - (5) All outdoor cages shall provide adequate shelter from inclement weather conditions, shade from the sun and provide for the protection and health of the

wildlife held.

- (6) The mesh size or distance between bars shall be sufficiently small to prevent the escape of the animal being held.
- (7) Restraint by tethering cannot be used as a means to hold an inherently dangerous animal in captivity, except for elephants within a perimeter fence or trained elephants under the immediate supervision of a qualified trainer or handler.
- (8) All animals shall be kept in cages that meet the following minimum criteria, or shall be housed in buildings in which the strength of the walls, and the restraints affixed to all windows, doors and other means of entry or exit in effect meet such minimum criteria:
  - (A) Felidae and Ursidae.
    - (i) All cages shall be constructed of and covered at the top with nine (9) gauge steel chain link or equivalent, with tension bars and metal clamps to prevent the escape of the animal; provided, that animals, except tigers, leopards and jaguars, may be held in facilities without a top where the sides of the cages are a minimum of eleven feet (11') high with the top three feet (3') of fencing turned in at a forty-five degree (45°) angle. No structures that could provide potential escape routes may be present near the fence of an open top cage;
    - (ii) All cages for cougars and cheetahs shall be constructed as specified in subdivision (g)(8)(A)(i) except that minimum strength shall be of eleven and one-half (11½) gauge steel chain link or equivalent;
  - (B) Canidae. All cages shall be constructed of and be covered at the top with eleven and one-half (11½) gauge steel chain link or equivalent, with tension bars and metal clamps to prevent the escape of the animal; provided, that animals may be held in facilities without a top where the sides of the cage are a minimum of nine feet (9') high with the top three feet (3') of fencing turned in at a forty-five degree (45°) angle;
  - (C) Elephants, rhinoceros, hippopotamus and African buffalo.
    - (i) Construction materials shall consist of steel bars, masonry block or equivalent. If masonry block construction is used, the holes in the blocks must be filled with steel reinforced concrete to provide sufficient strength;
    - (ii) Restraints consisting of a barrier system of moats or other structures as are commonly accepted as suitable to restrain and contain these animals in paddocks or corrals may be used in lieu of a cage;
  - (D) Poisonous animals. Poisonous animals shall be kept in a cage or in a glass enclosure sufficiently strong, and, in the case of a cage, of small enough mesh to prevent the animals' escape. The cage or glass enclosure must be kept inside an outer cage, or glass enclosures must be kept locked at all times. No person except the permittee or such person's authorized employee shall open any cage or other container that contains poisonous animals. Persons keeping poisonous animals shall have in their possession antivenin for each species possessed;
  - (E) Chimpanzees, gorillas, orangutans. Cage construction materials shall consist of steel bars, two inch (2") galvanized pipe, reinforced masonry block or their strength equivalent;
  - (F) Drills, mandrills, baboons, Gelada baboons, gibbons, siamangs. Cage construction materials shall consist of not less than nine (9) gauge steel chain link or equivalent; and
  - (G) Alligators and crocodiles. Cages shall consist of fencing at least five feet (5') in height of not less than eleven and one-half (11 ½) gauge chain link or equivalent.
- (9) A facility that meets the requirements to be a zoological institution may use



methods approved by the American Association of Zoological Parks and Aquariums for the purposes of restraint, containment and the prevention of escape and public contact for Class I animals, instead of the requirements listed in the preceding subdivisions.

- (h) Mobile facilities. No mobile facility shall be used in transporting any wildlife except as follows:
- (1) Facilities shall be equipped to provide fresh air without injurious drafts and adequate protection from the elements to all animals;
  - (2) The animal traveling area shall be free of engine exhaust fumes;
  - (3) Animal cages shall have openings for the emergency removal of wildlife;
  - (4) Cages shall be large enough to ensure that each specimen has sufficient room to stand erect and lie naturally;
  - (5) Wildlife transported in the same cage area shall be in compatible groups;
  - (6) Facilities used in transporting or temporarily exhibiting Class I wildlife shall be constructed of steel or case hardened aluminum of sufficient strength to prevent the escape of wildlife being transported. Such facilities shall be constructed in such a manner to prevent contact between the animal or animals and the general public. All doors shall be locked when the facility is in use;
  - (7) Poisonous reptiles shall only be transported in a strong, closely woven cloth sack, tied or otherwise secured. This sack shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes, which shall be screened. Boxes containing poisonous reptiles shall be locked and prominently labeled "Danger — Poisonous Snakes" or "Danger — Poisonous Reptiles," and shall include the owner's name, address, telephone number and list of number and species being transported;
  - (8) Temporary exhibits shall be housed in cages that meet the minimum cage specifications as provided in the section on stationary facilities when such wildlife is present in any geographical location for more than ten (10) days; and
  - (9) Prior to entering this state, temporary exhibitors shall submit a schedule that details the exact locations and dates of shows and places where such wildlife will be exhibited while in the state. Failure to provide such a schedule upon application for a permit shall be grounds to deny issuance of such permit.

#### **§ 70-4-406 Liability for escape; limitation of state's liability**

- (a) Any person who keeps Class I wildlife is liable for any costs incurred by any person, city, county or state agency resulting from the escape from captivity of the animal or animals.
- (b) Neither the state of Tennessee nor any agency, employee or agent of the state of Tennessee is liable for any animal that expires, is injured or is destroyed. Neither the state of Tennessee nor any agency, employee or agent of the state of Tennessee is liable for any damage or injury caused by live wildlife under a permit issued pursuant to this part.

#### **§ 70-4-407 Transfer of Class I wildlife -- notification**

- (a) Prior to the transfer of any Class I wildlife to a new owner, the prospective owner must provide the seller with proper documentation of an approved holding facility for that species. Proper documentation consists of a copy of a current permit for that species or a letter from the Tennessee wildlife resources agency stating that the facilities have been inspected and are approved. Any transfer without approved holding facilities is a violation of this part by the seller, who shall provide housing for the animal at such seller's cost until the transferee can provide approved facilities or until final court actions are concluded. If the seller does not provide housing, such seller shall be liable

for costs incurred by the agency for providing such housing.

- (b) Permittees must notify the agency of any transfer of Class I wildlife within five (5) days of the transfer on forms provided by the agency.

#### **§ 70-4-408 Owners of unpermitted wildlife -- disposition of such wildlife**

Owners of unpermitted wildlife who do not qualify for a permit to possess such wildlife shall dispose of such wildlife to an approved recipient within thirty (30) days of notification by the agency. Each day of possession of unpermitted wildlife after such thirty day period constitutes a separate violation.

#### **§ 70-4-409 Inspections**

- (a) Any person possessing live wildlife in Class I or Class II shall, during normal business hours and at all reasonable times, and without the necessity of a search warrant, allow the executive director or any officer or employee of the agency to inspect all animals, facilities and records relating to such animals for the purpose of ensuring compliance with this part.
- (b)
  - (1) Notwithstanding subsection (a) to the contrary, in Roane County the executive director or any officer or employee of the agency may be accompanied on such inspections of animals, facilities and records relating to such animals by the mayor or the county mayor's designee from the office of the county sheriff or the county office of emergency management.
  - (2) The commission is authorized to promulgate rules and regulations to effectuate the purposes of subsection (b). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

#### **§ 70-4-410 Propagation of Class I or Class II wildlife – permit required**

- (a) Before any person may engage in the business of propagating or otherwise obtaining Class I or Class II wildlife for sale, barter or trade, whether indigenous to this state or not, such person must obtain and possess a permit for each propagating location.
- (b) Any nonresident who enters the state for the purpose of selling Class I or Class II wildlife species in this state shall also be required to purchase and possess a permit.
- (c) All permits under this section shall comply with all provisions of the United States Code and the Code of Federal Regulations relating to exotic animals, their care, propagation, importation and sale.
- (d) Artificially propagated wildlife may be propagated, sold, possessed, released or exported in accordance with the rules and regulations prescribed by the commission and, in the case of migratory birds, the regulations prescribed by the federal government.
- (e) Only commercial propagators may qualify for a permit to propagate Class I wildlife and may transfer Class I wildlife only to persons or entities approved to possess Class I wildlife. First time commercial propagators shall have one (1) permit year to meet the criteria as defined in § 70-4-402(4). Renewal of a commercial propagator permit is conditional on the permittee having met the definition of a commercial propagator during the prior permit year.

#### **§ 70-4-411 Importation of wildlife – permits; papers**

- (a) All persons wishing to possess Classes I and II live wildlife obtained outside this state shall have in their possession the importation permit required by this part. The permit and all bills of lading and shipping papers relating to any wildlife that such person may have in such person's possession shall be open and available for inspection at all

reasonable times by authorized agency officers and employees for the purpose of ensuring compliance with this part.

- (b) Animals brought into this state under the authority of an annual importation permit must be reported to the agency within five (5) days of the date of importation.
- (c) An importation permit is required for all interstate movement of live wildlife except Class III, except no permit is required for zoos and temporary exhibitors.

#### **§ 70-4-412 Release of wildlife**

It is unlawful to release any class of wildlife in Tennessee except in accordance with the rules and regulations promulgated by the commission.

#### **§ 70-4-413 Private wildlife preserves -- hunting**

- (a) It is unlawful for any person to operate a private wildlife preserve for the purpose of propagating or hunting, or both, any class of wildlife reared in captivity unless that person obtains the appropriate permit and operates such private wildlife preserve in accordance with the rules and regulations promulgated by the commission.
- (b) It is lawful to hunt approved species of pen-reared and farm-reared animals on such preserve.
- (c) Persons hunting pen-reared animals on such preserve are not required to possess a hunting license.

#### **§ 70-4-414 Raptors -- falconry permit**

- (a) Before any person may take, transport or possess raptors for the purpose of falconry, such person shall first obtain a falconry permit in accordance with the rules and regulations promulgated by the commission. This permit is supplemental to all other permits and licenses required for hunting as provided in this title, except that a holder of a falconry license may import and possess raptors legally obtained without the necessity of an importation permit.
- (b) Rules and regulations promulgated by the commission shall govern the taking, importation, possession and use of raptors, and shall require applicants for such permit to satisfactorily pass a written examination attesting to their qualification to possess and use falcons. The rules and regulations may provide for a waiver of the examination if the applicant has satisfactorily passed an examination in any other state that the commission deems comparable to the Tennessee examination. The rules and regulations shall not be less restrictive than federal regulations governing taking, transporting, possessing and using raptors for the purpose of falconry.

#### **§ 70-4-415 Authority of officers of agency – violations; penalties; forfeitures**

- (a) Any officer of the agency, upon finding a violation of this part, of the terms of the permit or rules and regulations promulgated pursuant to this part, may, as appropriate:
  - (1) Exercise such officer's arrest authority or, in lieu of exercising the arrest authority, issue a finding of a violation, along with a warning to remedy the violation by a specified date. Each day's continuation after such date constitutes a separate violation;
  - (2) Give three days' written notice of seizure to the alleged offender, and make application to a court of proper jurisdiction for an order to seize any items or wildlife held, used or transported in violation of the provisions of this part, the permit or rules or regulations promulgated pursuant to this part; provided, that if such officer determines that the public health, safety or welfare imperatively requires emergency action, the notice requirement shall be suspended and such officer may make immediate application to the court for seizure; and provided further, that if the emergency is such that the wildlife presents a present or imminent life-threatening

situation or is likely to do so under the circumstances, then such officer or any member of the agency who may be present and assisting the officer may destroy such wildlife; and

- (3) Take any other reasonable and appropriate actions otherwise provided by law, including, but not limited to, the action provided for under § 70-4-405(a).
- (b) Any person violating any provision of this part, including a failure to remedy under subdivision (a)(1), or who violated the terms of any permit or rules and regulations promulgated pursuant to this part, commits a Class A misdemeanor; provided, that in the discretion of the court, and in lieu of or in addition to a fine or a jail sentence, or both, the person's permit may be revoked, and such person shall be precluded from applying for or obtaining a permit under this part for a period not to exceed three (3) years.
- (c) In the event of revocation of a person's permit, the court shall determine whether or not the items seized pursuant to subdivision (a)(2) shall be ordered forfeited to the state.
- (d) When any item or wildlife is forfeited, the court shall enter an order accordingly and the contraband property shall be sold at public sale by the commissioner of general services or as otherwise provided by rules and regulations, or donated to a worthy recipient. However, upon request of the agency at the trial of the matter, the court, as a part of its order, may direct that specific items or wildlife, which the court has ordered forfeited, be awarded to the agency for use as educational or training purposes.
- (e) No item or wildlife seized by the agency may be forfeited or disposed of in the discretion of the court, unless the offender has been convicted of the offense charged and all appeals from such conviction have been exhausted. An appeals bond shall be required to cover the cost of holding and maintaining such animals held, pending final disposition of the appeal.

#### **§ 70-4-416 Notification of escape, injuries**

Permittees shall immediately notify the agency or local law enforcement officials of any escape of Class I wildlife. Any personal injury inflicted by any species of captive wildlife requiring medical treatment shall be reported to the agency within forty-eight (48) hours of the injury, and a complete report provided regarding the nature and circumstances of the injury.

#### **§ 70-4-417 Cost of administration**

The cost of administration of this part as it relates to wildlife not indigenous to this state shall be borne by the general fund and revenues collected pursuant to this part.

#### **§ 70-4-418 Implantation of microchips in Class I carnivores**

- (a) Any person who obtains a Class I carnivore on or after July 1, 2015, shall, within six (6) months of obtaining the animal, have a microchip permanently implanted in the animal. The microchip shall have an identification number that is unique to the microchip. In addition, the microchip shall contain a passive integrated transponder, which shall have a frequency of one hundred twenty-five kilohertz (125 kHz), one hundred thirty-four and two-tenths kilohertz (134.2 kHz), or four hundred kilohertz (400 kHz).
- (b) Any person who possesses a Class I carnivore prior to July 1, 2015, and who continues to possess the animal on or after July 1, 2015, shall have a microchip that meets the technical specifications described in subsection (a) permanently implanted in the animal by July 1, 2018.

#### **§ 70-4-501 Computer-Assisted Hunting -- part definition**

"Computer-assisted remote hunting" means the use of a computer or any other device, equipment or software, to control remotely the aiming and discharge of a rifle, shotgun,

handgun, bow and arrow, cross-bow or any other implement to hunt wildlife.

#### **§ 70-4-502 Computer-Assisted Hunting -- prohibition**

A person may not engage in computer-assisted remote hunting or provide or operate facilities for computer-assisted remote hunting if the wildlife being hunted is located in this state.

#### **§ 70-4-503 Computer-Assisted Hunting -- exceptions**

It is an exception to the application of this part that a person provides only:

- (1) General purpose equipment, including a computer, camera, and building materials;
- (2) General purpose computer software, including an operating system and communication programs; or
- (3) General telecommunications hardware or networking services for computers, including adapters, modems, servers, routers, and other facilities associated with internet access.

#### **§ 70-4-504 Computer-Assisted Hunting -- violations**

Any person violating the provisions of this part commits a Class A misdemeanor.

#### **§ 70-5-101 Establishment of hunting areas, refuges, and wildlife management areas -- prohibited acts**

- (a) The wildlife resources agency has the power and authority to establish, with the consent of the property owner, public hunting areas, refuges, or wildlife management areas, wherever it deems necessary or feasible for the protection, propagation and management of wildlife, or any of these.
- (b)
  - (1) It is unlawful to hunt, kill, destroy, trap, ensnare, or molest in any manner any wildlife within such areas or to trespass on such areas, except as provided by proclamation or rule or regulation. Such areas shall be posted in conspicuous places. The executive director is authorized to issue permits for the destruction of predatory wildlife within such areas.
  - (2) A violation of subdivision (b)(1) is a Class C misdemeanor.
- (c) Notwithstanding subsection (b), a person with a handgun carry permit pursuant to § 39-17-1351 may possess a handgun the entire year while on the premises of any refuge, public hunting area or wildlife management area or, to the extent permitted by federal law, national forest land maintained by the state. Nothing in this subsection (c) shall authorize a person to use any handgun to hunt unless the person is in full compliance with all wildlife laws, rules and regulations.
- (d) Nothing in this section shall authorize a person with a hand gun carry permit to possess such weapon in the portion of any refuge, public hunting area or wildlife management area that is within the boundaries of a state park or state natural area unless otherwise authorized in accordance with state law.
- (e) Nothing in this section shall authorize a person to access any area unless the person is in full compliance with all current wildlife laws, rules, proclamations and regulations.
- (f)
  - (1) Subject to existing rights, lands managed by the wildlife resources agency shall be open to access and use for recreational hunting and fishing, except as limited by the agency for reasons of public safety, homeland security, or as otherwise limited by law.
  - (2) For the purposes of this subsection (f), lands managed by the agency include lands owned by the agency, as well as lands owned by other public entities for which the agency regulates hunting and fishing.

- (3) The agency shall exercise its authority to manage lands in a manner to support, promote and enhance recreational hunting and fishing opportunities to the extent authorized by law.
- (4) The agency is not required to give preference to hunting and fishing over other uses or priorities established by state law.
- (5) Agency decisions and actions shall not result in any net loss of any acreage available for hunting and fishing opportunities.
- (6) Prior to January 1, 2008, and each January 1 thereafter, the agency shall submit to the chair of the agriculture and natural resources committee of the house of representatives and the chair of the energy, agriculture and natural resources committee of the senate a written report containing:
  - (A) The estimated acreage managed by the agency that has been closed to recreational hunting and fishing during the previous fiscal year and the reasons for the closures;
  - (B) The estimated acreage managed by the agency that was opened to recreational hunting and fishing to compensate for the estimated acreage that was closed during the previous fiscal year; and
  - (C) The estimated acreage of new public hunting and fishing lands added to the existing hunting and fishing lands base since the previous report.
- (7) When lands owned by the agency are closed to hunting or fishing, the agency shall mitigate the closure by opening new lands to be used for the same purpose, within twelve (12) months of closure. The managed lands to be opened shall be at least equal to the acreage of lands closed by the agency and shall be located in the same grand division of the state in which the closed lands are located. The agency shall not be responsible for mitigation of land closures when lands not owned by the agency are removed from the agency's control or closed to hunting and fishing by the owning entity.
- (8) The agency is exempt from this subsection (c) when closing or utilizing acreages of public hunting and fishing lands for the following purposes:
  - (A) Firearm and archery shooting ranges;
  - (B) Road development and maintenance;
  - (C) Service buildings;
  - (D) Administrative buildings;
  - (E) Creation of agency lakes;
  - (F) Agency project-related parking;
  - (G) Establishment of wildlife refuges; and
  - (H) Development and maintenance of a proposed or existing greenway connecting Davidson, Wilson and Rutherford counties on land that is owned by the Nashville district of the United States army corps of engineers.
- (9) This subsection (f) shall have no effect on the agency's authority or ability to regulate hunting and fishing, including its ability to set season times and lengths, and bag limits.

#### **§ 70-5-105 Dedication of property for preserves by governor**

The governor is authorized and empowered to designate and set apart suitable lands and waters that have or may hereafter revert to and become the property of the state on account of delinquent taxes, or any lands or waters held or that may be given to the state by donation or otherwise, and, in the governor's discretion and judgment, shall, by public proclamation, set apart and dedicate such lands and waters for wildlife preserves and declare the establishment of such preserves and fix the limits of the lands and waters for state wildlife preserves.

**§ 70-5-106 Establishment of fish preserves – power of commission; penalty for violations**

- (a) The fish and wildlife commission has the power and authority, in its discretion, to set aside waters within the jurisdiction of the state as fish preserves in which it is unlawful to take, catch or kill fish, or to attempt to do so, except as provided in this section.
- (b) Upon the establishment of such fish preserves, notices of such establishment shall be inserted once in a newspaper regularly published in each of the counties in which such designated waters are located, or if there be no newspaper published in any such county, the notice of such establishment shall be once inserted in a newspaper published in the county nearest to which such waters are located.
- (c) The commission has the power and authority to close the waters against fishing of all kinds, and to reopen the same for fishing when it deems the water has been closed a sufficient time for restocking.
- (d) Notices of the establishment of such fish preserves shall also be posted in conspicuous places surrounding or along the route of the waters designated.
- (e) A violation of this section is a Class C misdemeanor.

**§ 70-5-108 Acquisition of game and fish rights on private property -- nature of rights acquired; penalty for violation**

- (a) The executive director is authorized and empowered to acquire by gift, devise, lease, purchase or otherwise the exclusive game and fish rights on any privately owned lands or waters in this state , which game and fish rights shall include the right to manage, administer, protect, stock, and propagate wild birds, wild animals and fish upon these areas, and the right to permit hunting and fishing upon these areas in accordance with rules and regulations proclaimed by the commission.
- (b) Any violation of such rules and regulations proclaimed by the commission is a Class C misdemeanor.
- (c) The game and fish rights authorized to be acquired in this section shall be acquired for any period of years that the private owner may agree to by appropriate instruments in writing, signed and acknowledged by the owner or owners of the areas, and the executive director is hereby authorized to have these leases duly recorded in the office of the register of deeds for the county or counties in which the land is located.

**§ 70-5-109 Posting notices of rules and regulations**

Before any rules and regulations proclaimed by the fish and wildlife commission relative to such game and fish rights become effective, there shall be posted printed notices in prominent places and at adequate intervals around the boundary line of the area on which such game and fish rights have been acquired; provided, that the fact that one (1) or more notices have been torn down or removed after having been posted in accordance with this section shall not constitute an excuse or defense for a violation of such rules and regulations.

**§ 70-5-111 Federal wildlife refuges within state -- Federal aid for wildlife and fish restoration and management projects**

- (a)
  - (1) For the purpose of more effectively cooperating with the United States, the governor and the executive director concurring, in the acquisition, development and maintenance of refuges for migratory waterfowl and other wildlife, consent is granted to the United States, to acquire by purchase, condemnation, gift, lease or exchange, lands and waters within this state that the secretary of the interior may deem necessary and suitable in furtherance of the Migratory Bird Treaty, the Migratory Bird Treaty Act (16 U.S.C. § 703 et seq.), and the Migratory Bird

Conservation Act (16 U.S.C. § 715 et seq.); provided, that the jurisdiction of the state, both civil and criminal, over persons upon areas acquired and privately owned property on areas acquired shall not be affected or changed by reason of the acquisition and administration of such areas by the United States, as migratory waterfowl and other wildlife reservations, except so far as the punishment for offenses against the United States is concerned; and provided further, that nothing in this section is intended to interfere with the operation of the game laws of this state, applying to migratory game birds, insofar as such game laws do not permit what is forbidden by federal law.

- (2) The state of Tennessee reserves the right to tax persons and corporations, their franchise and property on land or lands deeded or conveyed pursuant to subdivision (a)(1) and to tax sales of gasoline and other motor vehicle fuels and oil for use in motor vehicles or other means of transportation or any other privileges, trade or business conducted on such lands and to tax and control motor vehicles or other means of transportation using any highways constructed by the United States on such lands as a result of its improvements within the state.
- (b) The state of Tennessee assents to the act of congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937, Public Law 415, 75th Congress; ch. 899, 50 Stat. 917 (16 U.S.C. § 669 et seq.), and the agency is authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in that act of congress, in compliance with that act and rules and regulations promulgated by the secretary of the interior under that act.
- (c) The state of Tennessee assents to the provision of the act of congress entitled: "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes", approved August 9, 1950, Public Law 681, 81st Congress; ch. 685, 64 Stat. 430 (16 U.S.C. § 777 et seq.), and the agency is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fisheries, restoration, management, developmental and research projects, as defined in that act of congress in compliance with that act and rules and regulations promulgated by the secretary of interior under that act. No funds accruing to the state of Tennessee from license fees paid by fishers shall be diverted for any purposes other than the administration of the game and fish conservation purposes of the agency.

**§ 70-6-101 Enforcement authority -- inspection of game; penalty for refusing to allow inspection -- regulations**

- (a) The executive director or the officers of the wildlife resources agency, or officers of any other state or of the federal government who are full-time wildlife enforcement personnel designated by the executive director, shall enforce all laws now enacted or that may hereafter be enacted for the propagation and preservation of all wildlife in this state, and shall prosecute all persons, firms and corporations who violate any of such laws. The executive director or officers of the agency shall seize any and all wild animals, wild fowl, wild birds, fishes, frogs and other aquatic animal life, or parts of such wildlife, that have been killed, caught, or taken at a time, in a manner or for a purpose, or that are in possession, or that have been shipped, transported, carried or taken in this state or brought into this state from another state, contrary to the laws of this state.
- (b)
  - (1) It is the duty of every person participating in the privileges of taking or possessing such wildlife as permitted by this title to permit the executive director or officers of



the agency to ascertain whether the requirements of this title are being faithfully complied with, including the possession of a proper license.

- (2) Any person who refuses such inspection and count by any authorized officer of the state, or who interferes with such officer or obstructs such inspection or count commits a Class C misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).
- (c) This section does not permit search or inspection of a person's dwelling or place of business, or interior of an automobile without a search warrant.
- (d) The commission is authorized to provide by duly promulgated regulations a system for issuing warning citations under such conditions as may be deemed proper.

#### **§ 70-6-102 Each unlawful taking and device deemed separate offense -- penalty**

Each wild animal, wild bird, wild fowl, or fish caught, taken, killed, captured, destroyed, shipped, offered or received for shipment, transported, bought, sold or bartered, or had in possession, and each trap, snare, net or other device used or attempted to be used in violation of the provisions of this title constitutes a separate offense and, unless a specific penalty is otherwise provided, is punishable by a fine of not less than twenty- five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense.

#### **§ 70-6-103 Penalties for violation of this title**

- (a) The violation of any of the provisions of § 70-1-206, § 70-1-302(a) and (b), § 70-1-304(1), (2) and (4), § 70-1-305, § 70-1-306(c)-(h), § 70-1-307, § 70-1-308(a), § 70-2-206, chapter 3 of this title, § 70-4-105 or § 70-5-103, is a Class C misdemeanor.
- (b) The violation of any provisions of this title for which a penalty has not been expressly provided is a Class C misdemeanor, and in case of a corporation, every participating officer or agent, or both, of the corporation shall be guilty and punished as stated in this section.

#### **§ 70-6-104 Trial for violations -- jurisdiction -- appeals**

- (a) When any person is arrested for any violation of the wildlife laws, it is the duty of the arresting officer making or causing the arrest to take the person so arrested before a court of general sessions for trial, in the county where the offense was committed. If before such court of general sessions, the accused is found guilty of any offense punishable by a fine of fifty dollars (\$50.00) or less, that person shall have the right to appeal to the circuit or criminal court having jurisdiction of such appeals, upon giving security for the amount of the fine and imposed costs. In the cases of offenses punishable by a fine of more than fifty dollars (\$50.00) or by imprisonment, then the magistrate or court of general sessions is governed by the general laws applicable to such offenses.
- (b) If the circuit court has concurrent jurisdiction with or as a criminal court in any county, then the circuit court shall likewise have jurisdiction over any offense for violation of any of the provisions of this title.

#### **§ 70-6-105 Mistake of fact not a defense**

In any prosecution for the violation of any of the provisions of this title, it is not a defense that the person killing, taking, selling, shipping or storing any animals, fish or birds was mistaken as to its variety, sex, age or size, it being one of the purposes of this section to penalize recklessness resulting in the violation of this title's provisions.

#### **§ 70-6-201 Confiscation and disposal of wildlife and other articles illegally taken or used**

- (a) All officers of the wildlife resources agency, sheriffs and their deputies shall seize and take possession of any and all furs, fish, wild animals, wild birds, guns, rods, reels,

nets, creels, boats or other instruments, tackle or devices that have been used, transported or possessed contrary to any laws or regulations promulgated by the fish and wildlife resources commission, and impound and take them before the court trying the person arrested.

(b) Upon complaint showing probable cause for believing that any of the wild animals, wild birds or fish protected by any law or regulation are being illegally kept in any building, car or receptacle, any court having jurisdiction may issue a search warrant and cause such building, car or receptacle to be searched. Any wild bird, wild animal, fish, articles, instruments, or devices seized in accordance with this section, shall be impounded by the arresting officer and taken before the court trying the person arrested.

(c)

(1) Upon conviction, the court or jury trying the case shall, except as provided in §§ 70-4-116 -- 70-4-118, determine whether or not the things seized shall be declared contraband.

(2) When any item is declared contraband, the court shall enter an order accordingly and the contraband property shall be placed in the custody of the arresting officer, to be delivered to the executive director for disposition. The executive director shall destroy or cause to be destroyed any prohibited device or any device deemed by the executive director to be in a dangerous condition. Any contraband property that is not destroyed shall be transferred to the commissioner of general services to be sold at public sale in the manner authorized for surplus property by title 12, chapter 2.

(3) All proceeds from the sale of confiscated articles shall be deposited in the wildlife resources fund.

#### **§ 70-6-202 Property used in violation of §§ 70-4-116 -- 70-4-118 declared contraband -- seizure and sale**

(a) Any firearm, equipment, appliance or conveyance used in violation of the provisions of §§ 70-4-116 -- 70-4-118, including any truck, automobile, boat, airplane, or other vehicle, other than a common carrier, and in which any deer or bear is located, or that is used in transporting such animals in violation of this title, is hereby declared contraband property and shall be confiscated and forfeited to the state upon seizure.

(b) Any motor vehicle that is seized as contraband property, that has been finally forfeited to the state of Tennessee, and that has not been ordered by any court or competent authority to be returned to any claimant shall be sold at public sale by the commissioner of general services when the same has been turned over to the commissioner by the executive director as now authorized by law; provided, that, notwithstanding any other provision of the law to the contrary, any truck, automobile, boat, airplane or other vehicle seized and forfeited under the provisions of subsection (a) may be used, with the approval of the executive director, by wildlife officers, to enforce the fish and wildlife laws, for a period not to exceed two (2) years; and provided further, that the seized item is similar in kind and not substantially greater in value than like equipment that is procured and used by the wildlife resources agency in its operations.

(c) When any seizure results in an arrest and the person charged is found to be not guilty by a court of competent jurisdiction, such property shall be returned by the trial court. When the verdict of not guilty is rendered by a court of general sessions, the executive director shall have the right to appeal to the circuit court of the county where such verdict was rendered for a hearing de novo solely on the question of the propriety of the seizure of any property so seized as contraband and make disposition accordingly.

(d) The court or jury determining whether a violation of § 70-4-116, § 70-4-117, or § 70-4-

118, occurred shall also determine, in the same manner as provided in § 70-6-201, whether property seized pursuant to this section is contraband and should be forfeited to the state.

#### **§ 70-7-102 Landowner's duty of care**

The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for such recreational activities as hunting, fishing, trapping, camping . . . animal riding, bird watching, dog training . . .

#### **§ 70-7-105 Waiver of landowner's duty of care**

Any person eighteen (18) years of age or older entering the land of another for the purpose of camping, fishing, hunting, hiking, dog training . . . for such person's use for a consideration may waive, in writing, the landowner's duty of care to such person for injuries that arise from camping, fishing, hunting, sporting clays, shooting sports, and target shooting, including archery and shooting range activities, hiking, dog training . . . , if such waiver does not limit liability for gross negligence, or willful or wanton conduct, or for a failure to guard or warn against a dangerous condition, use, structure or activity.

#### **§ 70-8-102 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – declaration of policy**

The general assembly finds and declares that:

- (1) It is the policy of this state to manage certain nongame wildlife to ensure their perpetuation as members of ecosystems, for scientific purposes, and for human enjoyment;
- (2) Species or subspecies of wildlife indigenous to this state that may be found to be endangered or threatened within the state should be accorded protection in order to maintain and, to the extent possible, enhance their numbers;
- (3) The state should assist in the protection of species or subspecies of wildlife that are deemed to be endangered or threatened elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of species or subspecies of wildlife listed on the United States' List of Endangered Fish and Wildlife as set forth in this part, unless such actions will assist in preserving or propagating the species or subspecies; and
- (4) Adequate funding should be made available to the agency annually by appropriations from the general fund or from other sources for management of nongame and endangered species.

#### **§ 70-8-103 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – part definitions**

As used in this part unless the context requires otherwise:

- (1) "Agency" means the primary agency within the state that has statutory authority to manage wildlife populations;
- (2) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life;
- (3) "Endangered species" means:
  - (A) Any species or subspecies of wildlife whose prospects of survival or recruitment within the state are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:
    - (i) The destruction, drastic modification, or severe curtailment of its habitat;
    - (ii) Its overutilization for scientific, commercial or sporting purposes;
    - (iii) The effect on it of disease, pollution, or predation;

- (iv) Other natural or man-made factors affecting its prospects of survival or recruitment within the state; or
- (v) Any combination of the foregoing factors; or
- (B) Any species or subspecies of fish or wildlife appearing on the United States' List of Endangered Native Fish and Wildlife as it appears on April 5, 1974, (50 CFR, Part 17, Appendix D), as well as any species or subspecies of fish and wildlife appearing on the United States' List of Endangered Foreign Fish and Wildlife, (50 CFR, Part 17, Appendix A), as such list may be modified hereafter;
- (4) "Executive director" means the director of the state agency that has statutory authority to manage wildlife populations;
- (5) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. "Management" includes the entire range of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. "Management" includes, when and where appropriate, the periodic or total protection of species or populations as well as regulated taking;
- (6) "Nongame species" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean or other wildlife not ordinarily taken for sport, fur, food or other commercial use;
- (7) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function;
- (8) "Person" means any individual, corporation, association or partnership;
- (9) "Take" means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill wildlife;
- (10) "Threatened" means any species or subspecies of wildlife that is likely to become an endangered species within the foreseeable future;
- (11) "Watchable wildlife" is any species or subspecies that is defined in this section as nongame, endangered, threatened or wildlife in need of management. It further includes any wildlife species or subspecies when their use is nonconsumptive to the extent that such activities are consistent with their legal taking and welfare; and
- (12) "Wildlife in need of management" means any species or subspecies of wildlife that needs specific management to prevent it from becoming a threatened species within the state in the foreseeable future.

**§ 70-8-104 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – nongame species; promulgation regulations -- prohibited acts**

- (a) The executive director shall conduct an investigation on nongame wildlife in order to develop information relating to population, distribution, habitat, needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations, the fish and wildlife resources commission shall issue proposed regulations not later than April 5, 1975, and develop management programs designed to ensure the continued ability of nongame, endangered or threatened wildlife to perpetuate themselves successfully. Such proposed regulations shall set forth species or subspecies of nongame wildlife that the executive director deems in need of management pursuant to this section, giving their common and scientific names by species or subspecies. The executive director shall conduct ongoing investigations of nongame wildlife and may from time to time recommend amendments to such regulations by adding to or deleting from the regulations species or subspecies

of nongame wildlife.

- (b) The commission shall by such regulations establish proposed limitations relating to habitat, alteration, taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife.
- (c) Except as provided in regulations issued by the commission, it is unlawful for any person to take, attempt to take, possess, transport, export, process, sell or offer for sale or ship nongame wildlife. Subject to the same exception, it is also unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife.

**§ 70-8-105 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – endangered or threatened species list**

- (a) On the basis of investigation on nongame wildlife provided for in § 70-8-104 and other available scientific and commercial data, and after consultation with other state fish and wildlife agencies, appropriate federal agencies, and other interested persons and organizations, but not later than April 5, 1975, the fish and wildlife resources commission shall by regulation propose a list of those species or subspecies of wildlife indigenous to the state that are determined to be endangered and threatened within this state, giving their common and scientific names by species and subspecies. This list shall be made available to the public.
- (b) The commission shall conduct a review of the state list of endangered species within not more than two (2) years from its effective date and every two (2) years thereafter, and may amend the list by such additions or deletions as are deemed appropriate. The executive director shall submit to the governor a summary report of the data used in support of all amendments to the state list during the preceding biennium and shall make a current list available to the public.
- (c) In the event the United States' List of Endangered Native Fish and Wildlife, (50 CFR, Part 17, Appendix D), is modified subsequent to April 5, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the state may be accepted as binding if, after the type of scientific determination described in subsection (a), the wildlife resources commission by regulation accepts such modification for the state. Any such regulation shall be effective upon promulgation.

**§ 70-8-106 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – management programs -- exceptions to regulations**

- (a) The executive director shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered or threatened wildlife. The executive director shall utilize all authority vested in the agency to carry out the purposes of this section.
- (b) In carrying out programs authorized by this section, the executive director may enter into agreements with federal agencies, political subdivisions of the state, or with private persons for administration and management of any area established under this section or utilized for management of nongame and endangered or threatened wildlife.
- (c) The governor shall review other programs administered by the governor and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.
- (d) The executive director may permit, under such terms and conditions as may be prescribed by regulation, the taking, possession, transportation, exportation or shipment of species or subspecies of wildlife that appear on the state list of

endangered or threatened species, on the United States' List of Endangered Native Fish and Wildlife (50 CFR, Part 17, Appendix D), as amended and accepted in accordance with § 70-8-105(c), or on the United States' List of Endangered Foreign Fish and Wildlife (50 CFR, Part 17, Appendix A), as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife or for other species purposes.

- (e) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health and safety, endangered or threatened species may be removed, captured or destroyed but only pursuant to a permit issued by the executive director and by or under the supervision of an agent of the agency; provided, that endangered or threatened species may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the executive director pursuant to § 70-8-104(a).

**§ 70-8-107 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – rulemaking authority**

The fish and wildlife commission shall issue such regulations as are necessary to carry out the purposes of this part.

**§ 70-8-108 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – penalties for violations -- searches and seizures – forfeitures – Exception for black vultures**

- (a) Any person who violates the provisions of § 70-8-104(c) or any regulations issued under § 70-8-104, or fails to procure or violates the terms of any permit issued thereunder, commits a Class B misdemeanor.
- (b) Any person who fails to procure or violates the terms of any permit issued under § 70-8-106(d) and (e) commits a Class A misdemeanor.
- (c) Any officer employed and authorized by the executive director or any peace officer of the state or of any municipality or county within the state has the authority to conduct warrantless searches as provided by law, and to execute a warrant to search for and seize any equipment, business records, merchandise or wildlife taken, used, or possessed in connection with a violation of any section of this part. Any such officer or agent may, without a warrant, arrest any person who such officer or agent has probable cause to believe is violating, in the presence or view of the officer or agent, any such section, or any regulation or permit provided for by this part. An officer or agent who has made an arrest of a person in connection with any such violation may search such person or business records at the time of arrest and seize any wildlife, records, or property taken, or used, in connection with any such violation.
- (d) Equipment, merchandise, wildlife, or records seized under the provisions of subsection (c) shall be held by an officer or agent of the agency pending disposition of court proceedings, and upon conviction be forfeited to the state for destruction or disposition as the executive director may deem appropriate; provided, that prior to forfeiture, the executive director may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping, the costs of the transfer to be assessable to the defendant. The executive director is authorized to issue regulations to implement this subsection (d).
- (e)
  - (1) Notwithstanding subsections (a) and (b), it is not an offense for any person to disturb the habitat of, alter, take, attempt to take, possess, transport, export, process, sell or offer for sale, or ship a black vulture, also known by the name

Coragyps atratus, in this state.

- (2) No state funds or personnel, or other state resources, may be used to enforce any prohibition against the disturbance of the habitat of, alteration, taking, attempting to take, possession, transporting, exporting, processing, selling or offering for sale, or shipment of a black vulture.
- (3) Nothing in this subsection (e) prohibits the agency from using state funds or personnel, or other state resources, to assist landowners in acquiring federal depredation permits for black vultures.

**§ 70-8-109 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – construction of provisions; importation from other states; validity and application of part**

- (a) None of the provisions of this part shall be construed to apply retroactively or to prohibit importation into the state of wildlife that may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the state or possession, transportation, exportation, processing, sale or offer for sale or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this state but not in the state where originally taken, if the person engaging in the importation demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided, that this subsection shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of wildlife on the United States' List of Endangered Native Fish and Wildlife, compiled in 50 CFR, Part 17, Appendix D, as amended and accepted in accordance with § 70-8-105(c), except as permitted in § 70-8-106(d). All importations are subject to applicable state laws and regulations.
- (b) If any provision of this part or the application of this part to any person or circumstance is held invalid, the remainder of this part, and the application of such provision to other persons or circumstances, shall not be affected thereby. This part shall not be construed as superseding any applicable federal statute.

**§ 70-8-110 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – funding; donations**

- (a) The cost of programs established under this part shall be borne by the general fund or other sources. The federal cost share of approved programs P.L. 93-205, 87<sup>11</sup><sub>SEP</sub> Stat. 889, § 6(d)(2)(i) and (ii); 1(6 U.S.C. § 1535(d)(2)(i) and (ii)), for endangered species shall not exceed sixty-six and two thirds percent (66<sup>2</sup>/<sub>3</sub>%) of the costs stated in the cooperative agreement. The federal share may be increased to seventy-five percent (75%) whenever two (2) or more states having a common interest in one (1) or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such states, enter jointly into an agreement with the executive director.
- (b) The executive director is specifically authorized to accept from interested persons, firms, and corporations cash donations or donations of property to be converted to cash pursuant to the terms of the donor to be designated for the nongame and endangered species programs or to be designated for any other programs intended to effectuate the purposes of this part. At the discretion of the donor, cash donations or donations of property to be converted to cash pursuant to the terms of the donor may be made to the watchable wildlife fund. Evidence of the donations shall be by the issuance by the executive director of nongame certificates to the donors.
- (c) Watchable wildlife endowment fund.
  - (1) Recognizing the growing number of nonconsumptive users of wildlife along with their interest and willingness to make donations in support of such programs, there

is hereby created a fund called the "watchable wildlife endowment fund" to aid in the future funding of programs designed to perpetually benefit watchable wildlife and to aid in their nonconsumptive use by the public.

- (2) Moneys shall be deposited to the fund as provided in this section and shall be invested for the benefit of the fund pursuant to § 9-4-603, § 9-4-608, or § 9-4-612. Moneys in the fund shall not revert to the general fund of the state, but shall remain available and appropriated exclusively for the purposes set forth in this section.
- (3) This fund may be funded by donations as provided for in this section.
- (4) No expenditure shall be made from the principal of the fund. No expenditures shall be made from the interest earned until the combination of principal and interest reaches five hundred thousand dollars (\$500,000). Thereafter, interest earned shall be available for expenditures to aid in carrying out the purposes of this fund.
- (5) This fund is not intended to be the exclusive fund for holding donations authorized in this section and is not intended to affect any presently existing or future funds or means of holding and distributing moneys received through cash donations or through cash received from property donated and converted to cash pursuant to the terms of the donor. It is intended to provide the donor with an additional means of directing the use of the donor's donations.

**§ 70-8-111 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – authorization to enter agreements**

The executive director is authorized to enter into cooperative agreements with other states and the federal government for the establishment and maintenance of programs for the conservation of nongame, endangered or threatened species of wildlife.

**§ 70-8-112 Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act – species similar to endangered species**

The executive director may, by regulation, and to the extent the executive director deems advisable, treat any species as an endangered species or threatened species even though it is not listed, if the executive director finds that:

- (1) Such species so closely resembles in appearance, at the point in question, a species that has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;
- (2) The effect of this substantial difficulty is an additional threat to an endangered or threatened species; and
- (3) Such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this part.



## **APPENDICES**

## **APPENDIX ONE: Resources**

### **Selected National Organizations**

#### **1) American Humane Association**

Address: 1400 16th Street NW Suite 360, Washington, DC 20036  
Phone: 800-227-4645  
E-mail: [info@americanhumane.org](mailto:info@americanhumane.org)  
Website: [www.americanhumane.org](http://www.americanhumane.org)

#### **2) The American Society for the Prevention of Cruelty to Animals**

Address: 424 E. 92nd St., New York, NY 10128-6804  
Phone: 212-876-7700  
Website: [www.asPCA.org](http://www.asPCA.org)

#### **3) The American Veterinary Medical Association**

Address: 1931 N. Meacham Rd. Suite 100, Schaumburg, IL 60173-4360  
Phone: 800-248-2862  
E-mail: [avmainfo@avma.org](mailto:avmainfo@avma.org)  
Website: [www.avma.org](http://www.avma.org)

#### **4) The Humane Society of the United States**

Address: 1255 23<sup>rd</sup> Street NW, Suite 450 Washington, DC 20037  
Phone: 866-720-2676  
Website: [www.humanesociety.org](http://www.humanesociety.org)

#### **5) National Animal Control Association**

Mailing Address: 40960 California Oaks Rd. #242, Murrieta, CA 92652  
Phone: 913-768-1319  
E-mail: [naca@nacanet.org](mailto:naca@nacanet.org)  
Website: [www.nacanet.org](http://www.nacanet.org)

#### **6) The National Audubon Society**

Mailing Address: 225 Varick Street, New York, NY 10014  
Phone: 212-979-3196  
Website: [www.audubon.org](http://www.audubon.org)

#### **7) Michigan State University College of Law: Animal Legal & Historical Center**

Address: 648 North Shaw Lane, Lansing, MI 48824-1300  
E-mail: [animallaw@law.msu.edu](mailto:animallaw@law.msu.edu)  
Website: [www.animallaw.info](http://www.animallaw.info)

### **General Information Sites**

- 1) The Animal Law Resource Center** provides access to legislation and legal matters pertaining to animals and the law, including animal cruelty, animal control, laboratory animal welfare and wildlife management.  
Address: 53 W Jackson Blvd, Suite 1552, Chicago, IL 60604  
Phone: 800-888-6287  
Website: [www.animallaw.com](http://www.animallaw.com)

- 2) **The Animal Welfare Information Center at the U.S. Department of Agriculture National Agricultural Library** is an agency mandated to provide information for improved animal care and use in research, testing, and teaching. Among the notable information on this site is a list of federal laws and regulations related to animal welfare.  
Address: 10301 Baltimore Avenue, Room 118, Beltsville, MD 20705  
Phone: 301-504-6212  
E-mail: [awic@ars.usda.gov](mailto:awic@ars.usda.gov)  
Website: [www.nal.usda.gov/awic](http://www.nal.usda.gov/awic)
- 3) **The U.S. Department of Health and Human Services, Office of Laboratory Animal Welfare** lists policies and papers on the humane use and care of lab animals.  
Mailing address: 6700B Rockledge Dr, Suite 2500, MSC 6910, Bethesda, MD 20892  
Phone: 301-496-7163  
E-mail: [grantsinfo@od.nih.gov](mailto:grantsinfo@od.nih.gov)  
Website: [olaw.nih.gov](http://olaw.nih.gov)
- 4) **The U.S. Fish and Wildlife Service** enforces federal wildlife laws, protects endangered species, manages migratory birds, restores nationally significant fisheries, and conserves and restores wildlife habitat such as wetlands.  
Mailing Address: 1849 C Street, NW Washington, DC 20240  
Phone: 1-800-344-WILD  
Website: [www.fws.gov](http://www.fws.gov)

## **Organizations**

- 1) **The National Animal Interest Alliance** is an association of business, agricultural, scientific, and recreational interests formed to protect and promote humane practices between people and animals. The site includes information on legal and legislative resources, including a guide to developing pet-friendly ordinances.  
Mailing Address: PO Box 66579 Portland, Oregon 97290-6579  
Phone: 503-761-8962  
Website: [www.naiaonline.org](http://www.naiaonline.org)
- 2) **The National Association for Biomedical Research, Animal Law Section** focus on animals used in the biomedical field. Its site provides summaries of legislation, regulations, case law, and institutional standards related to the use of animals in research and lists organizations, law school courses, and bar associations.  
Mailing Address: 1100 Vermont Avenue NW, Suite 1100  
Phone: 202-857-0540  
Website: [www.nabranimallaw.org](http://www.nabranimallaw.org)
- 3) **World Animal Net** was established to improve communication and coordination among the world's animal protection groups. Today, WAN is the world's largest network of animal protection societies, with over 3,000 affiliates in more than 100 countries and Consultative Status at the United Nations.  
Mailing Address: 19 Chestnut Square Boston, MA 02130, USA  
Phone: 617-524-3670  
E-mail: [info@worldanimalnet.org](mailto:info@worldanimalnet.org)  
Website: [www.worldanimal.net](http://www.worldanimal.net)

- 4) **The American Pet Products Association (APPA)** was founded in 1958 as a not-for-profit association serving the interests of American pet product manufacturers and importers. The value of this website lies in its "Products and the Law" section, providing access to a bill tracking service (for subscribers only), laws and regulations, and a variety of other types of information.

Mailing Address: 225 High Ridge Road, Suite W200, Stamford, CT 06905

Phone: 800-452-1225

Website: [www.americanpetproducts.org](http://www.americanpetproducts.org)

- 5) **The American Bar Association** has recognized the importance of animal law and now has a committee devoted to it. The ABA Animal Law Committee is a subgroup of the Tort, Trial and Insurance Law Section, and its website contains links to the committee's newsletter and legislative tracking projects.

Mailing Address: National Headquarters 321 North Clark Street, Chicago, IL 60654

Phone: 800-285-2221

Website: [www.americanbar.org](http://www.americanbar.org)

- 6) **The Animal Legal Defense Fund** was formed in 1979 and has an e-mail news service for cases and articles on legal issues related to animal law.

Mailing Address: National Headquarters 170 East Cotati Avenue, Cotati, CA 94931

Phone: 707-795-2533

E-mail: [info@aldf.org](mailto:info@aldf.org)

Website: [www.aldf.org](http://www.aldf.org)

## **Animal Specific Sites**

### **Dogs**

- 1) **The National Canine Research Council** provides detailed information and statistics on human and canine behaviors that have contributed to cases of severe and fatal dog attacks. The council investigates and analyzes the circumstances, behaviors, and environments that result in incidents of severe and fatal canine aggression.

Mailing Address: 433 Pugsley Hill Rd., Amenia, NY 12501

Phone: 845-705-7880

Website: [www.nationalcanineresearchcouncil.com](http://www.nationalcanineresearchcouncil.com)

## **Cats**

- 1) **The Cat Fancier's Association (CFA)** has a web page, *Changing Laws About Cat Ownership*, that covers feral cats, leash and limit laws (those laws or ordinances setting a limit on the number of animals allowed per household), rabies vaccinations, and more.

Mailing Address: 260 East Main Street, Alliance, OH 44601

Phone: 330-680-4070

Website: [www.cfainc.org](http://www.cfainc.org)

## **Horses**

- 1) **The National Agricultural Law Center** at the University of Arkansas School of Law has an Equine Law Page that collects law review and other journal articles related to horses.

Mailing Address: 2650 N. Young Ave. Fayetteville, AR 72704

Phone: 479-575-7646

Email: [NatAgLaw@uark.edu](mailto:NatAgLaw@uark.edu)

Website: <https://nationalaglawcenter.org/state-compilations/equineactivity/>

- 2) **Equine Legal Solutions** is a law firm website that deals primarily with horses and the law. The site contains a "Resources" page that directs users to more sources on legal issues and various breeds and also has a blog.

Phone: 866-385-2972

Website: [www.equinelegalsolutions.com](http://www.equinelegalsolutions.com)

## **Veterinary Practice**

- 1) **The American Veterinary Medical Law Association** is a national association of attorneys, veterinarians, and other individuals and organizations with an interest in veterinary medical law. The site has a useful set of links to other legal sites to keep track of the rising tide of new issues.

Mailing Address: 1750 K. Street NW, Ste. 700 Washington, DC 20006

Phone: 202-449-3818

E-mail: [info@avmla.org](mailto:info@avmla.org)

Website: [www.avmla.org](http://www.avmla.org)

## APPENDIX TWO: The Federal Court System: Functions & Jurisdictions

### The Federal Court System: When you should file in federal court

There are federal courts located in every state. Tennessee has three separate federal districts located in West, Middle, and East Tennessee. Tennessee is part of the Sixth Circuit, along with Kentucky, Ohio, and Michigan. Generally, in order for a case to be heard in federal court, the case must meet certain threshold requirements.

First, under the U.S. Constitution, federal courts exercise only judicial powers. This means that federal judges may interpret the law only by resolving actual legal disputes. A court cannot attempt to correct a legal problem just because it thinks one exists, nor can it answer a hypothetical legal question. Instead, an actual person or persons must be damaged by another or by a law. This person or persons must then bring a legal action in order to redress his or her wrong.

Second, assuming there is an actual case, the plaintiff in a federal lawsuit must have legal “standing” to ask the court for a decision. “Standing” refers to the requirement that the plaintiff suffer an actual harm by the defendant or by an applicable law.

Third, the case must present a type of dispute that the questionable law was designed to address. The case must also involve a complaint that the court has the power to remedy. In other words, the court must be authorized, under the Constitution or a federal law, to hear the case and grant appropriate relief to the plaintiff.

Finally, the case must present an ongoing problem that the court is permitted to resolve. The harm cannot be theoretical or without merit. Moreover, the federal courts only can decide the types of cases allowed by Congress under, or otherwise identified in, the Constitution. The details of federal jurisdiction are complex and beyond the scope of this brief description.

However, federal courts hear two main types of cases: (1) cases involving federal law questions, and (2) cases involving diversity jurisdiction.

**a. Federal Question Jurisdiction:** A case that involves a question of federal law may be filed in a federal court. In general, federal courts may decide cases that involve the U.S. government, the U.S. Constitution, federal laws, or controversies between states or between the United States and foreign governments.

**b. Diversity Jurisdiction:** A case may be filed in federal court based on diversity of citizenship, where the parties are citizens of different states, or citizens of the United States and another country. To make sure the court is fair to the out-of-state party, the U.S. Constitution allows these cases to be heard in federal court.

**\*\*Only Diversity Jurisdiction cases involving more than \$75,000 in potential damages for each plaintiff may be filed in federal court. Claims below that amount must be pursued in state court.**

Additionally, any Diversity Jurisdiction case, regardless of the amount of money involved, may be brought in a state court rather than a federal court. For a more complete explanation of who may file in federal court and when, see Rules 8, 12, and 17(b) of the Federal Rules of Civil Procedure.

Although federal courts are located in every state, they are not the only forum available

to those who want to file suit. In fact, the great majority of legal disputes in American courts are addressed in the state courts. For example, state courts have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters, and they handle most criminal cases, contract disputes, traffic violations, and personal injury cases. (See Appendix One.)

### **The Federal Courts: How They Work**

**Trial Courts:** The United States District Courts are the general trial courts in the federal court system. There also are two special federal trial courts that have the authority to hear certain types of cases throughout the country: the Court of International Trade and the United States Court of Federal Claims.

1. **District Court:** Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are ninety-four federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico. Each district also includes a United States Bankruptcy Court. Three territories of the United States — the Virgin Islands, Guam, and the Northern Mariana Islands — have district courts that hear federal cases, including bankruptcy cases.
2. **Court of International Trade:** The Court of International Trade addresses cases involving international trade and customs issues only.
3. **The United States Court of Federal Claims:** The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States, disputes over federal contracts, unlawful “takings” of private property by the federal government, and a variety of other claims against the United States.

**Appellate Courts:** The ninety-four judicial districts are organized into twelve regional circuits, each of which has a United States Court of Appeals. A thirteenth Court of Appeals hears cases involving certain specialized matters.

1. **Court of Appeals:** A Court of Appeals hears cases appealed from the district courts located within its circuit, as well as appeals from decisions of federal administrative agencies. There are twelve regional branches of the Court of Appeals.
2. **Court of Appeals for the Federal Circuit:** The Federal Circuit Court of Appeals can hear specialized cases from anywhere in the country, such as those involving patent laws and cases decided by the Court of International Trade and the United States Court of Federal Claims. There is only one Court of Appeals for the Federal Circuit.

### **The United States Supreme Court**

The United States Supreme Court consists of the Chief Justice of the United States and eight associate justices. The United States Supreme Court may decide which cases it wishes to hear, as long as it abides by certain guidelines established by Congress. The United States Supreme Court only hears a fraction of the cases it is asked to decide each year. Those cases may begin in the federal or state courts, and they usually involve important questions about the U.S. Constitution or federal law. (See *“Understanding the Federal Courts,”* [www.uscourts.gov/understand03/index.html](http://www.uscourts.gov/understand03/index.html))

## **APPENDIX THREE: Federal Animal Protection Statutes**

### **Airborne Hunting Act 16 U.S.C. §742j-1 (2008)**

The Airborne Hunting Act criminalizes shooting any bird, fish, or other animal while in an aircraft, using an aircraft to harass any bird, fish, or other animal, or knowingly participating in these activities. People employed or authorized by either the state or federal government to administer or protect “land, water, wildlife, domesticated animals, human life, or crops” are exempted from this statute.

### **Animal Damage Control Act 7 U.S.C. §8351 (2008)**

This statute authorizes the Secretary of Agriculture to conduct wildlife services programs concerning injurious animal species and to take any action necessary to conduct those programs. It also authorizes the Secretary of Agriculture to enter agreements with states, individuals, public and private agencies, and others in order to control mammals and birds that are a nuisance or harbor zoonotic diseases. Urban rodent control is exempted from the scope of this program.

### **Animal Enterprise Terrorism 18 U.S.C. §43 (2008)**

This statute criminalizes using or conspiring to interstate or foreign commerce or the mail to physically disrupt animal enterprises. Criminal disruptions include loss of property (including animals and records), criminal trespass, harassment, and intentionally placing a person in fear of death or serious bodily injury. The statute also delineates types of penalties, which include fines, imprisonment, and restitution.

### **Animal Fighting Prohibition Enforcement Act of 2007 18 U.S.C §49 (2014)**

This statute amends the federal criminal code to impose a fine or prison term of up to five years on someone who violated with Animal Welfare Act by doing any of the following: (1) sponsoring or exhibiting an animal in an animal fighting venture; (2) buying, selling, transporting, delivering, or receiving for purposes of transportation, in interstate or foreign commerce, any dog or other animal for participation in an animal fighting venture; and (3) using the mails or other instrumentality of interstate commerce to promote or further an animal fighting venture; and (4) buying, selling, delivering, or transporting sharp instruments for use in animal fighting venture. Someone who knowingly attends an animal fight can be fined or imprisoned for up to one year. Furthermore, someone who causes someone under the age of 16 to attend an animal fight can be fined and imprisoned for up to 3 years.

### **Animal Welfare Act 7 U.S.C. §2131-2159 (2014)**

This statute criminalizes (felony) knowingly creating, selling, or possessing a depiction of animal cruelty (maiming, mutilating, torturing, wounding, or killing an animal if illegal under state or federal law) and intending to use the depiction for commercial gain in interstate or foreign commerce. However, depictions with “serious religious, political, scientific, educational, journalistic, historical, or artistic value” are exempt. A US District Court and a US Appeals Court ruled that this statute was unconstitutional in *U.S. v. Stevens*.

### **Bald and Golden Eagle Protection Act 16 U.S.C. §668-668d (2008)**

This act creates both civil and criminal liability for knowingly, or with wanton disregard for the consequences, engaging in the taking, possessing, transporting, exporting, importing, selling, purchasing, bartering or offering to sell, purchase, or barter any American or golden eagle, alive or dead, or any part of a nest or egg. Furthermore, this act abrogates the right of Indian tribes to take bald and golden eagles for religious



purposes, so that such taking is illegal unless the Secretary of the Interior has determined that “it is compatible with the preservation” of the species.

### **Depictions of Animal Cruelty 18 U.S.C. §48 (2008)**

This statute criminalizes (felony) knowingly creating, selling, or possessing a depiction of animal cruelty (maiming, mutilating, torturing, wounding, or killing an animal if illegal under state or federal law) and intending to use the depiction for commercial gain in interstate or foreign commerce. However, depictions with “serious religious, political, scientific, educational, journalistic, historical, or artistic value” are exempt. A US District Court and a US Appeals Court ruled that this statute was unconstitutional in *U.S. v. Stevens*. The US Supreme Court agreed to hear the case in April 2009.

### **Dog and Cat Protection Act of 2000 19 U.S.C. §1308 (2008)**

This statute creates civil and criminal liabilities for importing or exporting any dog or cat fur product, introducing such products into interstate commerce, and advertising or offering to sell such products in interstate commerce.

### **Endangered Species Act 16 U.S.C. §1531-44 (2008)**

This act attempts to preserve species in recognition of their “esthetic, ecological, educational, historical, recreational, and scientific value to the Nation.” The act allows the Secretary of the Interior, and in some cases the Secretary of Commerce, to determine which species are threatened or endangered (“any species which is in danger of extinction throughout all or a significant portion of its range”), to designate the critical habitats of these species, and to create protective regulations and recovery plans. The Secretary of the Interior is generally charged with the establishment and implementation of recovery plans, although such duties fall to the Secretary of Agriculture with respect to the National Forest System. Such conservation measures could include land acquisition and management, while the act also generally prohibits the possession, transportation, delivery, or sell of threatened or endangered species in interstate or foreign commerce. Furthermore, the act requires the federal government to cooperate with the several states “to the maximum extent practicable” to conserve threatened and endangered species.

### **Fair Housing Act 42 U.S.C. §3604 (2008)**

This statute requires that all public and private housing (with exceptions) allow Seeing Eye dogs, even if the housing otherwise has a “no pets” policy. Federal Law Enforcement Animal Protection Act of 2000 18 U.S.C. §1368 (2004).

### **Federal Law Enforcement Animal Protection Act of 2000 18. U.S.C. §1368 (2008)**

This statute criminalizes willful and malicious harm to any police animal, or any conspiracy or attempt to do the same. Such activity results in one year of imprisonment, unless the police animal suffers serious bodily injury, in which case the penalty is ten years of imprisonment.

### **Fish and Wildlife Conservation Act 16 U.S.C. §2901-12 (2008)**

This act focuses on nongame wildlife, which have been neglected because past programs focused instead on commercially important species. The act requires states to create detailed conservation plans for “nongame fish and wildlife” that must be approved by the Secretary of the Interior. The act also allots reimbursement to the states.

**Fish and Wildlife Coordination Act 16 U.S.C. §661-667 (2008)**

This act authorizes the Secretary of the Interior to assist and cooperate with federal agencies and public and private organizations to develop, protect, rear, and stock all species of wildlife and to protect their habitats in order to control losses from disease and minimize the damage of overpopulation. Both the US Fish and Wildlife Service and the Department of the Interior must be consulted whenever a body of water is to be diverted in order to determine the possible losses and benefits to wildlife. The act also focuses on administering certain lands and wildlife refuges in order to conserve, maintain, and manage the wildlife thereon.

**Horse Protection Act 15 U.S.C. §1821-31 (2008)**

Finding that “the soring of horses is cruel and inhumane,” this act prohibits shipping, delivering, receiving, selling, or showing a sore horse. A horse is considered sore if: a blistering, irritating, chemical, or other agent has been applied to any limb; any limb has been burned, cut, or lacerated; or a tack, screw, or nail has been injected into any limb. The act sets up an inspection system for horse shows, exhibitions, and auctions. The Secretary of Agriculture enforces this act. Common or contract carriers are exempt unless they had reason to believe that the horse that they carried was sore.

**Humane Slaughter Act 7 U.S.C. §1901-1906 (2008)**

This act requires slaughter houses to employ humane techniques in the slaughter of cattle, calves, horses, mules, sheep, swine, and other livestock. A technique is considered to be humane if the animal is “rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective.” The Secretary of Agriculture is authorized to foster research to develop new methods of humane slaughter. Religious slaughter, including the requisite handling or preparation of livestock for religious purposes, is exempted from this act.

**Lacey Act 18 U.S.C. §41-49 (2008)**

This act prohibits hunting, trapping, disturbing, or injuring wildlife on any land set aside as a sanctuary, refugee, or breeding ground for that wildlife, while also prohibiting the destruction of U.S. property in such lands and waters. It also outlaws the importation of any species that the Secretary of the Interior has declared to be injurious to humans, agriculture, horticulture, or wildlife. The act prohibits polluting watering holes on public land for the purpose of trapping, killing, wounding, or maiming animals. It is also illegal to damage or interfere with the operation of an animal enterprise via interstate or foreign commerce or the mail. The act also refers to specific species, such as by prohibiting the transportation, delivery, sell, or purchase of water hyacinths and prohibiting the use of aircraft or motor vehicles to hunt, capture, or kill any wild and unbranded horse or burro.

**National Agricultural Research, Extension, 7 U.S.C. §3191-3202 (2008) and Teaching Policy Act of 1977**

This act promotes the general welfare through “the improved health and productivity of domestic livestock, poultry, aquatic animals,” and other animals essential to the food supply; improves horse health; facilitates effective treatment of animal and poultry diseases; improves ways to control organisms and residue in human food of animal origin; improves housing and management for well being of livestock; minimizes losses of livestock and poultry because of transportation; controls animal diseases to protect humans; improves animal birth control; and improves animal health and the general welfare of animals.

**Sikes Act 16 U.S.C. §670a-670o (2008)**

This act authorizes the Secretary of the Interior, the Director of the United States Fish and Wildlife Service, and the head of each state's Fish and Wildlife Agency to enact conservation and rehabilitation programs for natural resources. The first part of the act describes such programs on military installations, with the cooperation of the Secretary of Defense, while the second part of the act creates similar programs on public lands. The act deals with issues such as hunting and the creation of recreational sites that provide access for disabled veterans.

**Tariff Act of 1930 19 U.S.C. §1527 (2008)**

This section of the Tariff Act of 1930 prohibits importing into the United States any wild mammal or bird, alive or dead, or any part or product of any wild mammal or bird, if the laws or regulations of the wild mammal or bird's country of origin restrict its "taking, killing, possession, or exportation to the United States," unless accompanied by a certification from the United States Consul that the mammal or bird "has not been acquired or exported in violation of the laws or regulations of such country." Anything imported in violation of this statute is subject to seizure and forfeiture under customs laws. This statute excludes importation prohibited by any other law, items imported for science or education, and importation of certain migratory game birds brought into the country by sportspeople returning from hunting trips.

**Twenty-Eight Hour Law 49 U.S.C. §80502 (2008)**

This law requires that animals being transported on any type of vehicle or vessel must not be confined for more than 28 consecutive hours without being unloaded for food, water, and rest.

The law applies in interstate travel and travel between the U.S. and its territories and possessions. Sheep may be confined for as long as 36 consecutive hours. Animals may be confined for more than 28 hours if: unloading must be postponed due to accidental or unavoidable causes; or the custodian of the animals makes a written request for an extension to 36 hours. The law also makes an exception for animals that are transported in a way that provides food, water, space, and opportunities to rest.

**Wild Bird Conservation Act of 1992 16 U.S.C. §4901-4916 (2008)**

This act attempts to protect "wild-caught exotic birds" in order to meet international treaty obligations concerning endangered species and to respect and protect habitats in foreign nations. The United States assists conservation and management programs in the foreign nations that are points of origin for exotic birds. The act also limits or prohibits the importation of certain species of wild birds into the United States, while capture and transportation methods are monitored to insure that wild birds are treated humanely.

## APPENDIX FOUR: TN Court System: Functions and Jurisdictions

### Tennessee Court System: When you file in State Court

The great majority of legal disputes in American courts are handled in state courts. State courts have the exclusive power to exercise control over certain cases in certain geographical and subject areas. This power is known as *jurisdiction*. For example, state courts have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters. State courts also handle most criminal cases, contract disputes, traffic violations, and personal injury cases in the state of Tennessee.

### Tennessee Court System: How it Works

#### (a) Courts of Limited Jurisdiction

Courts of Limited Jurisdiction are funded at the county level and only can hear certain types of cases. Below are examples of Courts of Limited Jurisdiction:

- a. **Juvenile Court** handles cases dealing with juvenile mental health, paternity, and cases involving minors that are alleged to be delinquent, unruly, dependent, and neglected. If a county has no Juvenile Court, the General Sessions Court hears cases involving juveniles. In some cases, Juvenile Court may also have concurrent, or simultaneous, jurisdiction with Circuit, Chancery, and Probate Courts. This means that both the Juvenile and other courts have the ability to hear the same case.
- b. **General Sessions Court** deals with cases about mental health, preliminary hearings in civil matters, domestic relations, estate/probate, small claims, misdemeanors, Driving While Intoxicated/Driving Under the Influence, traffic, and some juvenile matters. This court's jurisdiction varies from county to county, depending on local ordinance.
  - i. **Civil Jurisdiction** is restricted by certain monetary limits and types of actions determined by local ordinance.
  - ii. **Criminal Jurisdiction** is limited to preliminary hearings in felony cases and trials in misdemeanor cases where the defendant waives the right to a grand jury investigation and a trial in either Circuit Court or Criminal Court.
  - iii. **Juvenile Jurisdiction** cases are heard in General Sessions Court, except in those counties where the legislature has established a separate Juvenile Court.
- c. **Municipal Court, or "city court,"** hears minor criminal cases. Approximately three hundred Tennessee cities have a Municipal Court. A Municipal Court's jurisdiction is limited to violations of city ordinances, most commonly and traffic violations. Many crimes involving animals are heard by Municipal Courts.

#### (b) Trial Courts

The Tennessee state trial courts consist of the Probate Court, Chancery Court, Circuit Court, and Criminal Court. Tennessee's ninety-five counties are divided into thirty-one judicial districts. As provided in the state constitution, each judicial district contains a Circuit Court and Chancery Court. About one-third of the judicial districts feature specialized Criminal Courts, and a few districts have separate Probate Courts to handle wills and estates. Trial Courts are the lowest level of court review for most cases, but

some cases may begin in Courts of Limited Jurisdiction. (See Courts of Limited Jurisdiction, above.)

- a. **Probate Court** hears cases on estates, wills, conservatorships, and guardianships. These courts do not exist in every county. If a county does not have a Probate Court, these cases are handled in Circuit Court.
- b. **Chancery Court** hears domestic relations and civil cases. Generally, presiding Chancellors will hear and decide cases before the Chancery Court, but jury trials are available in certain cases.
- c. **Circuit Court** hears domestic relations, civil, and, in some jurisdictions, criminal cases. Circuit Courts also hear appeals from Courts of Limited Jurisdiction.
- d. **Criminal Court** hears only criminal cases. The Criminal Court also may hear misdemeanor appeals from lower courts. Criminal Courts do not exist in all Tennessee counties. In counties lacking a Criminal Court, the Circuit Court hears criminal cases at the trial level.

### **(c) Intermediate Appellate Courts**

The Court of Appeals and Court of Criminal Appeals review civil and criminal decisions made by the Trial Courts.

- a. **The Court of Appeals** hears civil appeals. Additionally, the court holds oral argument in administrative agency, and juvenile appeals. Currently composed of twelve judges, the Court of Appeals hears most appeals of civil cases from lower courts. The Court of Appeals meets in Knoxville, Nashville, and Jackson. Normally, the Court of Appeals hears cases in panels of three judges. Because it is strictly an appellate body, the Court of Appeals does not take testimony or admit evidence. It merely reviews the records of lower courts to determine whether there is reversible error. In reviewing lower court proceedings, the Court of Appeals is guided by the briefs submitted by attorneys which appear before it to make arguments orally and answer questions from the judges. Like most court proceedings, these oral arguments are open to the public. Cases are decided in private conferences, but the court releases its decision to the public in the form of a written opinion. Decisions of the Court of Appeals may be appealed to the Tennessee Supreme Court, but that court hears appeals only at its discretion. Thus, the decision of the Court of Appeals is final in most instances.
- b. **The Court of Criminal Appeals** hears capital, criminal, and juvenile appeals. These matters include felony and misdemeanor convictions, as well as postconviction petitions. Composed of twelve judges, the Court of Criminal Appeals operates in essentially the same way as its civil counterpart (the Court of Appeals), but its jurisdiction is limited to criminal actions.

### **(d) The Tennessee Supreme Court**

The Tennessee Supreme Court is the highest court in the state. The majority of the Supreme Court's caseload comes from appeals from lower state court decisions. Also known as the "Court of Last Resort," the Tennessee Supreme Court consists of five justices who hear civil and criminal appeals. The Tennessee Supreme Court also has a special panel that hears only Worker's Compensation cases. The Tennessee Supreme

Court has the final word on all questions of state law. The state constitution requires that the Tennessee Supreme Court meet in Knoxville, Nashville, and Jackson. While sitting in each of these cities, the Tennessee Supreme Court hears appeals from its respective division of the state. The creation of the intermediate appellate courts to handle routine civil and criminal appeals has enabled the Tennessee Supreme Court to concentrate on the most important issues of state law. The only cases that may bypass the intermediate level are those in which the principal question is whether a state statute or a local ordinance is constitutional. There is often a special need for a speedy decision in cases involving state taxes, the right to hold or retain public office, or issues of constitutional law. In such cases, the Tennessee Supreme Court may decide to hear a case even without a decision by the Court of Appeals as long as one of the parties to the case requests Tennessee Supreme Court review. The only cases in which the Tennessee Supreme Court *must* grant review are those involving the death penalty, disciplinary actions against attorneys, and tenure of teachers. Thus, for the most part, the Tennessee Supreme Court has control over its agenda. In addition to supervising how other judges interpret state law, the Tennessee Supreme Court plays an important role in supervising the administration of the state court system. To this end, the Tennessee Supreme Court determines the rules of procedure for itself and all the other state courts.

## **APPENDIX FIVE: Tennessee Sentencing Guidelines**

The Tennessee Sentencing Guidelines consist of statutes and related comments that help judges decide what sentences to give defendants if they are found guilty in a Tennessee court of law. Sections of the Tennessee Sentencing Commission's Comments have been included only where the Editors deemed them necessary.

### **Tenn. Code Ann. §40-35-101 (2008): Short Title**

This chapter shall be known and may be cited as the "Tennessee Criminal Sentencing Reform Act of 1989."

#### **SENTENCING COMMISSION COMMENTS:**

. . . [A]ll felony offenses are classified based on severity of offense with letter designations: the most serious felonies graded as Class A and the least serious as Class E. Misdemeanors are similarly graded. The substantive criminal code revision sets forth the class of each felony or misdemeanor based on the nature of the offense. One attribute of this classification system is to treat like offenses the same for punishment purposes. Thus, all theft and theft related offenses are "graded" based on the amount of property taken.

The classification of offenses also permits the construction of a sentencing grid so that the potential sentence for each offender can be rapidly ascertained. Each felony class carries a maximum and minimum sentence. Thus, a Class A felony can be punished from between 15 and 60 years. See §40-35-112. The 15 to 60 year span is divided into three ranges called Range I, Range II and Range III. The "range" determination is based upon the number of prior convictions which, in turn, determines the potential span for that particular offender. Thus, a Range I sentence for a Class A felony is 15 to 25 years. A Range II sentence for a Class A felony is 25 to 40 years, and a Range III sentence is from 40 to 60 years. . .

### **Tenn. Code Ann. §40-35-102 (2008): Purpose of chapter**

The foremost purpose of this chapter is to promote justice, as manifested by § 40-35-103. In so doing, the following principles are adopted:

- (1) Every defendant shall be punished by the imposition of a sentence justly deserved in relation to the seriousness of the offense;
- (2) This chapter is to assure fair and consistent treatment of all defendants by eliminating unjustified disparity in sentencing and providing a fair sense of predictability of the criminal law and its sanctions;
- (3) Punishment shall be imposed to prevent crime and promote respect for the law by:
  - (A) Providing an effective general deterrent to those likely to violate the criminal laws of this state;
  - (B) Restraining defendants with a lengthy history of criminal conduct;
  - (C) Encouraging effective rehabilitation of those defendants, where reasonably feasible, by promoting the use of alternative sentencing and correctional programs that elicit voluntary cooperation of defendants; and
  - (D) Encouraging restitution to victims where appropriate;
- (4) Sentencing should exclude all considerations respecting race, gender, creed, religion, national origin and social status of the individual;
- (5) In recognition that state prison capacities and the funds to build and maintain them are limited, convicted felons committing the most severe offenses, possessing criminal histories evincing a clear disregard for the laws and morals of society and evincing failure of past efforts at rehabilitation shall be given first priority regarding

sentencing involving incarceration; and

(6)

- (A) A defendant who does not fall within the parameters of subdivision (5), and who is an especially mitigated or standard offender convicted of a Class C, D or E felony, should be considered as a favorable candidate for alternative sentencing options in the absence of evidence to the contrary; however, a defendant's prior convictions shall be considered evidence to the contrary and, therefore, a defendant who is being sentenced for a third or subsequent felony conviction involving separate periods of incarceration or supervision shall not be considered a favorable candidate for alternative sentencing;
- (B) As used in subdivision (6)(A), "separate periods of incarceration or supervision" means that the defendant serves and is released or discharged from a period of incarceration or supervision for the commission of a felony prior to committing another felony;
- (C) If a defendant with at least three (3) felony convictions is otherwise eligible, that defendant may still be considered a favorable candidate for any alternative sentencing that is within the jurisdiction of and deemed appropriate by a drug court;
- (D) A court shall consider, but is not bound by, the advisory sentencing guideline in this subdivision (6).

**Tenn. Code Ann. §40-35-103 (2008): Sentencing considerations**

To implement the purposes of this chapter, the following principles apply:

- (1) Sentences involving confinement should be based on the following considerations:
  - (A) Confinement is necessary to protect society by restraining a defendant who has a long history of criminal conduct;
  - (B) Confinement is necessary to avoid depreciating the seriousness of the offense or confinement is particularly suited to provide an effective deterrence to others likely to commit similar offenses; or
  - (C) Measures less restrictive than confinement have frequently or recently been applied unsuccessfully to the defendant;
- (2) The sentence imposed should be no greater than that deserved for the offense committed;
- (3) Inequalities in sentences that are unrelated to a purpose of this chapter should be avoided;
- (4) The sentence imposed should be the least severe measure necessary to achieve the purposes for which the sentence is imposed;
- (5) The potential or lack of potential for the rehabilitation or treatment of the defendant should be considered in determining the sentence alternative or length of a term to be imposed. The length of a term of probation may reflect the length of a treatment or rehabilitation program in which participation is a condition of the sentence;
- (6) Trial judges are encouraged to use alternatives to incarceration that include requirements of reparation, victim compensation, community service or all of these; and
- (7) Available community-based alternatives to confinement and the benefits that imposing such alternatives may provide to the community should be considered when the offense is nonviolent and the defendant is the primary caregiver of a dependent child.

**Tenn. Code Ann. §40-35-104 (2008): Sentencing alternatives**

(a) A defendant convicted of a felony or a misdemeanor in this state shall be sentenced in accordance with this chapter.



- (b)
- (1) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to a total sentence of at least one (1) year but not more than three (3) years, shall not be sentenced to serve the sentence in the department of correction, if the legislative body for the county from which the defendant is being sentenced has either contracted with the department, or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, the defendant must be sentenced to the local jail or workhouse and not to the department.
  - (2) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to at least one (1) year but not more than six (6) years, shall not be sentenced to serve the sentence in the department of correction if the defendant is being sentenced from a county with a population of not less than four hundred seventy-seven thousand eight hundred eleven (477,811), according to the 1980 federal census or any subsequent federal census, and the legislative body for the county has contracted with the department or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, the defendant must be sentenced to the local jail or workhouse and not to the department.
- (c) The following sentencing alternatives in any appropriate combination are authorized for defendants otherwise eligible under this chapter:
- (1) Payment of a fine either alone or in addition to any other sentence authorized by this subsection (c);
  - (2) Payment of restitution to the victim or victims either alone or in addition to any other sentence authorized by this subsection (c);
  - (3) A sentence of confinement that is suspended upon a term of probation supervision that may include community service or restitution, or both;
  - (4) A sentence of periodic confinement that may be served in a local jail or workhouse in conjunction with a term of probation;
  - (5) A sentence of continuous confinement to be served in a local jail or workhouse in conjunction with a term of probation;
  - (6) A sentence of continuous confinement in a local jail or workhouse;
  - (7) Work release in accordance with § 40-35-315;
  - (8) A sentence of continuous confinement in the department of correction if the conviction is for a felony and the sentence is at least one (1) year, unless:
    - (A) The sentence is prohibited by subsection (b); or
    - (B) The defendant is convicted of a violation of § 39-14-103, involving property valued at less than two thousand five hundred dollars (\$2,500), and the defendant is sentenced as an especially mitigated offender as defined in § 40-35-109 or a standard offender as defined in § 40-35-105; or
  - (9) A community-based alternative to incarceration as a condition of probation, such as participation in a day reporting center program, a recovery and treatment program, or another appropriate community-based program. A defendant may be ordered to participate in a recovery and treatment program only if such a program is indicated by the results of a clinical assessment.
- (d) This chapter does not deprive a court of any authority conferred by law, including, but not limited to, § 40-35-313, to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose costs and other monetary obligations if specifically authorized by law.

- (e) This chapter does not prevent a court from imposing a sentence of death specifically authorized by law.
- (f) The court shall strongly consider utilizing available and appropriate sentencing alternatives for any defendant who, as appropriately documented, including through a validated risk and needs assessment under § 40-35-207(a)(10), has a behavioral health need, such as a mental illness as defined in § 33-1-101, or is chemically dependent as defined in § 16-22-103. The court has sole discretion whether to utilize available sentencing alternatives under this subsection (f).

**Tenn. Code Ann. §40-35-110 (2008): Classification of offenses**

- (a) Felonies are classified, for the purpose of sentencing, into five (5) categories:
  - (1) Class A felonies;
  - (2) Class B felonies;
  - (3) Class C felonies;
  - (4) Class D felonies; and
  - (5) Class E felonies.
- (b) An offense designated a felony without specification as to category is a Class E felony.
- (c) Misdemeanors are classified, for the purpose of sentencing, into three (3) categories:
  - (1) Class A misdemeanors;
  - (2) Class B misdemeanors; and
  - (3) Class C misdemeanors.
- (d) An offense designated as a misdemeanor without specification as to category is a Class A misdemeanor.

**Tenn. Code Ann. §40-35-111: Authorized terms of imprisonment and fines for felonies and misdemeanors**

- (a) A sentence for a felony is a determinate sentence.
- (b) The authorized terms of imprisonment and fines for felonies are:
  - (1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;
  - (2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;
  - (3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;
  - (4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and
  - (5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.
- (c)
  - (1) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:
    - (A) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;
    - (B) Three hundred thousand dollars (\$300,000) for a Class B felony;
    - (C) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;
    - (D) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and
    - (E) Fifty thousand dollars (\$50,000) for a Class E felony.

- (2) If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.
- (d) A sentence for a misdemeanor is a determinate sentence.
- (e) The authorized terms of imprisonment and fines for misdemeanors are:
  - (1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;
  - (2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and
  - (3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.
- (f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

**Tenn. Code Ann. §40-35-112: Sentence ranges**

- (a) A "Range I" sentence is as follows:
  - (1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;
  - (2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;
  - (3) For a Class C felony, not less than three (3) nor more than six (6) years;
  - (4) For a Class D felony, not less than two (2) nor more than four (4) years; and
  - (5) For a Class E felony, not less than one (1) nor more than two (2) years.
- (b) A "Range II" sentence is as follows:
  - (1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;
  - (2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;
  - (3) For a Class C felony, not less than six (6) nor more than ten (10) years;
  - (4) For a Class D felony, not less than four (4) nor more than eight (8) years; and
  - (5) For a Class E felony, not less than two (2) nor more than four (4) years.
- (c) A "Range III" sentence is as follows:
  - (1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;
  - (2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;
  - (3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;
  - (4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and
  - (5) For a Class E felony, not less than four (4) nor more than six (6) years.

**Tenn. Code Ann. §40-35-117 (2008): Applicability of chapter**

- (a) All persons who commit crimes on or after November 1, 1989, shall be tried and sentenced under the provisions of this chapter.
- (b) Unless prohibited by the United States or Tennessee constitutions, any person sentenced on or after November 1, 1989, for an offense committed between July 1, 1982, and November 1, 1989, shall be sentenced under the provisions of this chapter.
- (c) For all persons who committed crimes prior to July 1, 1982, prior law shall apply and remain in full force and effect in every respect, including, but not limited to, sentencing, parole and probation.

**Tenn. Code Ann. §40-35-118 (2008): Classification of repealed pre-1989 offenses**

- (a) For the purpose of determining the classification of felony offenses in title 39 committed prior to November 1, 1989, the following classifications shall be used:

Code Section Offense Class

**A:**

39-3703	First degree criminal sexual conduct
39-1-604, 606	Conspiracy to take a human life
39-2-103	Assault with intent to commit first degree murder
39-2-202	First degree murder
39-2-212	Second degree murder
39-2-301(c)	Aggravated kidnapping
39-2-305	Prisoners holding hostages
39-2-304	Unlawful representation to obtain ransom
39-2-603	Aggravated rape
39-2-640	Abduction of female from parents or guardian for purposes of prostitution
39-3-201	Aggravated
39-3-701	Willful injury by explosives
39-5-803	Treason
39-6-109	Adulteration of foods, liquors or pharmaceuticals (death occurs)
39-6-204	Obstruction or damage to railroad tracks resulting in death
39-6-619(a)	Killing an officer while arresting a person on a charge of unlawful gaming
39-6-915(a)	Furnishing intoxicating liquor which results in death (second degree murder)

**B:**

39-3704	Second degree criminal sexual conduct
39-1-607	Conspiracy to sabotage a nuclear production facility
39-1-609	Conspiracy to commit illegal act capable of destroying human life by possession, use or transportation of explosives
39-1-610	Conspiracy by convicts to kill
39-2-301(e)	Assault with intent to commit or attempt commit aggravated kidnapping
39-2-303	Kidnapping child under 16
39-2-501	Robbery by use of a deadly weapon
39-2-502	Bank robbery
39-2-604	Rape
39-2-606	Aggravated sexual battery
39-3-210	Causing injury to person by use of fire bomb
39-4-422	Aggravated child abuse

- 39-5-712 Rebellion by convict with intent to kill or escape
  - 39-6-109 Adulteration of food product or drug (injury)
  - 39-6-203 Obstruction or damage to railroad tracks resulting in injury
  - 39-6-417(a)(1)(A) Manufacture, delivery, sale or possession with intent to do same of Schedule I controlled substance
  - 39-6-417(c) Manufacture, delivery or sale of certain amount of controlled substances
  - 39-6-417(d) Habitual drug offender
  - 39-6-418 Person over 18 distributing Schedule I controlled substance to person under 18 who is at least 3 years such person's junior
  - 39-6-418 Person over 18 distributing Schedule II controlled substance to person under 18 who is at least 3 years such person's junior
  - 39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule I
  - 39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule II
  - 39-6-619(b) Wounding officer while arresting person on charge of unlawful gaming
  - 39-6-1137 Using minors for obscene purposes
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**C:**

- 39-1-503 Attempt to commit sabotage
- 39-1-606 Conspiracy to inflict punishment, take human life or burn or destroy property
- 39-1-610 Conspiracy by convicts to escape
- 39-2-101 Aggravated assault
- 39-2-107 Assault from ambush with a deadly weapon
- 39-2-109 Assault with deadly weapon while in disguise
- 39-2-110 Assault by a juvenile 16 or older confined in an institution
- 39-2-112 Mayhem
- 39-2-115 Malicious shooting or stabbing
- 39-2-115 Shooting or throwing missile calculated to cause death or bodily injury at or into a dwelling or vehicle
- 39-2-116 Throwing object at common carrier vehicle with intent to do bodily harm where bodily harm occurs
- 39-2-117 Injury to person during state of emergency
- 39-2-118 Negligence by steamboat operator causing death
- 39-2-222 Voluntary manslaughter
- 39-2-231(a) Vehicular homicide as a result of conduct creating substantial risk of death or serious bodily injury
- 39-2-231(b) Vehicular homicide as a result of driver's intoxication
- 39-2-234 Negligence by train operator resulting in death
- 39-2-302 Kidnapping
- 39-2-501 Robbery
- 39-2-608(a) Assault with intent to commit rape
- 39-2-612 Crimes against nature
- 39-2-613 Forcible marriage or abduction of female
- 39-3-202 Setting fire or procuring same on building or structure
- 39-3-205 Burning of insured property
- 39-3-401 Burglary of dwelling by night
- 39-3-403 Burglary of dwelling by day
- 39-3-702 Manufacture/possession of explosives for burglarious purposes or burglary with explosives
- 39-3-703 Malicious injury to structures with explosives
- 39-4-306 Incest
- 39-5-101 Bribery or offering to bribe officer

- 39-5-102 Officer accepting bribe
- 39-5-103 Bribing or offering to bribe peace officer or state, county or municipal employee
- 39-5-105 Bribery of court official or juror
- 39-5-106 Court official or juror accepting bribe
- 39-5-108 Offering bribe to officer selecting or summoning jury
- 39-5-109 Officer accepting bribe or permitting deputy to violate § 39-5-108 or § 39- 5-420
- 39-5-112(a) Bargaining sales in regard to public office
- 39-5-112(b) Sale of public office
- 39-5-112(c) Offer to buy public office
- 39-5-112(d) Refusal to qualify and discharge duties of public office by reason of pecuniary consideration
- 39-5-112(e) Procuring resignation of officer
- 39-5-115 Bribery of witness in felony prosecution
- 39-5-201 Introduction of prohibited items upon or onto grounds of penal institution
- 39-5-202 Introduction of weapons or drugs in the local jail or workhouse
- 39-5-408 Use of public money by state treasurer or other public officer
- 39-5-409 Embezzlement of public money or property
- 39-5-508 Corruptly stealing, withdrawing or avoiding records and judicial proceedings
- 39-5-522 Juror agreeing to give verdict or receiving improper evidence
- 39-5-804 Misprision of treason
- 39-5-805 Sedition
- 39-5-813 Destruction, injury or interference with property so as to hinder preparation for defense or war
- 39-5-814 Causing defects in war preparation
- 39-6-417(a)(1)(B) Manufacture, delivery, sale or possession of Schedule II controlled substances
- 39-6-418 Person over 18 distributing Schedule III controlled substances to person under 18 who is 3 years such person's junior
- 39-6-418 Person over 18 distributing Schedule IV controlled substances to person under 18 who is 3 years such person's junior
- 39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule III
- 39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule IV
- 39-6-915(a) Furnishing intoxicating liquor which causes death (voluntary manslaughter)
- 39-6-915(b) Furnishing intoxicating liquor which causes paralysis or impairment of sight
- 39-6-1138(b) Promoting performances which include sexual conduct by child
- 39-6-1138(c) Parents consenting to child's participation in performance which includes sexual conduct

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**D:**

- 39-3705 Third degree criminal sexual conduct
- 39-1-504 Attempt to destroy property by fire bomb
- 39-1-604(a) Conspiracy to commit felony on person of another
- 39-1-604 Conspiracy to indict or prosecute innocent person for felony
- 39-1-605 Conspiracy to commit offense against state or violate election laws
- 39-1-606 Conspiracy to destroy property
- 39-1-608 Conspiracy to commit arson
- 39-1-609 Conspiracy to commit illegal act capable of destroying property by possession, use or transportation of explosives
- 39-1-613 Conspiracy to use fire bomb
- 39-2-104 Assault with intent to commit robbery

39-2-701	Threats for purpose of extortion or obtaining action
39-2-702	Use of intimidation or coercion to influence state official
39-2-707	Night riders using intimidation to prevent disposal of farm products
39-2-708	Night riders using intimidation to compel dismissal of laborers
39-2-709	Inciting or conspiring to commit offense under § 39-2-707 or § 39-2-708
39-2-710	Burning of cross or religious symbol
39-3-125	Stealing livestock
39-3-129	Receiving stolen livestock
39-3-204	Setting fire to any material or thing with intent to burn building or other thing
39-3-402	Breaking after entry into dwelling
39-3-404	Burglary of business
39-3-505	Misuse of credit card over \$200
39-3-506	Misrepresentation of amount of money, goods, and services furnished on credit card where difference exceeds \$100
39-3-512	Obtaining goods, property or services by false or fraudulent use of credit card over \$200
39-3-607	Interference with E.F.T.S. system
39-3-703(a)	Malicious injury to structures with explosives
39-3-901	Obtaining property by false pretense over \$200
39-3-902	Receiving property obtained under false pretense over \$200
39-3-906	Fraudulent breach of trust by disposition of collateral or proceeds under security agreement over \$200
39-3-907	Fraudulent breach of trust over \$200
39-3-927(a)	Disposal of consumer goods subject to UCC security interest over \$200
39-3-927(b)	Disposal of property covered by mortgage or trust deed over \$200
39-3-932	Destruction or concealment of public records over \$200
39-3-946	False impersonation to obtain property over \$200
39-3-1104	Grand larceny
39-3-1106	Larceny from the person
39-3-1107	Feloniously stealing or taking by robbery any public records or valuable papers
39-3-1109	Corruptly stealing, withdrawing or avoiding public papers
39-3-1111	Severing and carrying away fixtures, products or minerals from land over \$200
39-3-1112	Receiving stolen goods valued over \$200
39-3-1114	Receiving personal property stolen out of state over \$200
39-3-1115	Bringing stolen property into state over \$200
39-3-1116	Receiving stolen public records or valuable papers
39-3-1117	Wrongful appropriation of property found over \$200
39-3-1118	Appropriation of property by person having custody over \$200
39-3-1119	Contract of bailment or agency to make wrongful appropriation over \$200
39-3-1120	Conversion of trust fund by executor, administrator, guardian or trustee over \$200
39-3-1121	Embezzlement by private officer, clerk or employee over \$200
39-3-1123	Receiving embezzled property over \$200
39-3-1132	Transfer of recorded devices or manufacture or distribution without consent of owner (second offense)
39-3-1404(b)	Intentionally damaging or destroying computer system
39-3-1404(c)	Concealing proceeds of computer crime
39-4-206	Failure to preserve life of infant prematurely born alive during abortion

39-5-104	Peace officer or state, county or municipal employee accepting bribe
39-6-211	Destruction of steamboat of value over \$500
39-6-417(a)(1)(C)	Manufacture, delivery or sale of Schedule III controlled substance
39-6-417(a)(1)(D)	Manufacture, delivery or sale of Schedule IV controlled substance
39-6-418	Person over 18 distributing Schedule V controlled substances to person under 18 who is 3 years such person's junior
39-6-418	Person over 18 distributing Schedule VI controlled substance to person under 18 who is 3 years such person's junior
39-6-418	Person over 18 distributing Schedule VII controlled substance to person under 18 who is 3 years such person's junior
39-6-419	Second or subsequent conviction for violation of § 39-6-417, Schedule V
39-6-419	Second or subsequent conviction for violation of § 39-6-417, Schedule VI
39-6-419	Second or subsequent conviction for violation of § 39-6-417, Schedule VII

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# **E:**

39-1-307	Accessories after the fact
39-1-504	Attempt to destroy property by fire bomb
39-1-506	Attempt to destroy property by placing explosives
39-1-611	Conspiracy by juvenile 16 or older confined in an institution to commit offenses outlined in § 39-1-110 (assault by juvenile 16 or older confined in institution), § 39-2-344 (participation in riot by juvenile 16 or older confined in an institution)
39-1-614	Conspiracy to commit sabotage
39-1-615	Conspiracy to riot
39-2-102	Assault with intent to commit felony
39-2-118	Negligence by steamboat operator causing injury
39-2-223	Involuntary manslaughter
39-2-605	Statutory rape
39-2-607	Sexual battery
39-2-608(b)	Assault with intent to commit sexual battery
39-2-635	Procuring female for prostitution
39-2-639	Enticing female, previously reputed virtuous, to house of ill fame
39-3-102	Unlawful killing of horses, cattle, or sheep
39-3-105	Animal fighting other than cocks
39-3-203	Setting fire to property other than building or structure
39-3-206	Maliciously setting a fire on land of another
39-3-209	Causing fire of personal property by use of fire bomb
39-3-211	Possession of fire bomb or materials
39-3-212	Manufacture or disposal of fire bomb
39-3-301	Knowingly drawing check or order in excess of \$100 without sufficient funds
39-3-306	Employer giving employee check in excess of \$100 with fraudulent intent
39-3-406	Breaking into vehicles
39-3-408	Carrying burglary tools
39-3-503	False statement to procure credit card
39-3-504	Credit card theft or forgery
39-3-505	Misuse of credit card under \$200
39-3-506	Misrepresentation of amount of money, goods or services furnished on credit card where difference does not exceed \$100
39-3-507	Completion of incomplete credit card or duplication without consent of owner
39-3-508	Receipt of money, goods or services obtained in violation of credit card



	laws
39-3-512	Obtaining goods, property or services by false or fraudulent use of credit card under \$200
39-3-603	Making false statements to obtain issuance of debit card
39-3-604	Debit card offenses under \$200
39-3-605	Misuse of debit cards under \$200
39-3-606	Completion of incomplete or duplication of debit card without consent of owner
39-3-608	Use of stolen cards or illegally possessed debit card
39-3-609	Misrepresentation of amount of money, goods or services furnished on debit card
39-3-610	Card holder using card after reporting it stolen or lost
39-3-703(b)	Malicious injury to personal property over \$25.00 with explosives
39-3-706	Unauthorized possession or transportation of explosives
39-3-710	False or malicious reports of explosives in building or structure
39-3-711	Convicted felon carrying explosives
39-3-803	Forging or counterfeiting of instrument or currency
39-3-804	Transfer of forged paper
39-3-805	Making counterfeit instrument of fictitious corporation or person
39-3-806	Affixing fictitious signature to instrument of fictitious corporation or company
39-3-807	Passing counterfeit bank bill which circulates as currency
39-3-808	Possession of counterfeit bank bill
39-3-809	Completing counterfeit bills or instruments
39-3-810	Altering counterfeit bills or instruments
39-3-811	Preparation of counterfeit bills or plate
39-3-812	Possession of counterfeit stamp or plate
39-3-813	Making bank paper
39-3-814	Making or mending paper, molds, or machines used in preparing bank paper
39-3-815	Counterfeiting coin
39-3-816	Adulteration of coin
39-3-817	Possession or passing of counterfeit coin
39-3-818	Making or concealing counterfeit machines
39-3-819	Making or possessing adulterated metal for conversion into counterfeit coin
39-3-901	Obtaining property by false pretense under \$200
39-3-902	Receiving property obtained under false pretense under \$200
39-3-906	Fraudulent breach of trust by disposition of collateral proceeds under security agreement under \$200
39-3-907	Fraudulent breach of trust under \$200
39-3-913	Selling animal under false representation of pedigree
39-3-914	Giving false impression of death
39-3-919(a)	Packing foreign objects in cotton or tobacco
39-3-919(b)	Person from adjoining state selling cotton containing foreign objects in this state
39-3-926(b)	Removal from state of personal property subject to UCC security interest
39-3-926(c)	Removal from state of property embraced by mortgage or trust deed
39-3-926(d)	Removal from state of property the title to which is retained under conditional sales contract

- 39-3-927(a) Disposal of consumer goods subject to UCC security interest under \$200
- 39-3-927(b) Disposal of property covered by mortgage or trust deed under \$200
- 39-3-930 Granting of security interest in personal property without title
- 39-3-932 Destruction or concealment of public record under \$200
- 39-3-933 Destruction or concealment of will
- 39-3-936 Second or subsequent conviction for possession, sale or transfer of any apparatus for theft of telecommunication service
- 39-3-944 Falsification of medical records or hospital bill
- 39-3-946 False personation to obtain property under \$200
- 39-3-948 False or fraudulent insurance claim
- 39-3-949 False entries in books or records with intent to defraud
- 39-3-951 Issuing false stock certificates
- 39-3-1104 Petit larceny
- 39-3-1111 Severing and carrying away fixtures, products or minerals from land under \$100
- 39-3-1113 Receiving stolen goods valued under \$200
- 39-3-1114 Receiving personal property stolen out of state under \$200
- 39-3-1115 Bringing stolen property into state under \$200
- 39-3-1117 Wrongful appropriation of property found under \$200
- 39-3-1118 Appropriation of property by person having custody under \$200
- 39-3-1119 Contract of bailment or agency to make wrongful appropriation under \$200
- 39-3-1120 Conversion of trust fund by executor, administrator, guardian or trustee under \$200
- 39-3-1121 Embezzlement by private officer, clerk or employee under \$200
- 39-3-1123 Receiving embezzled property under \$200
- 39-3-1124 Third or subsequent shoplifting conviction
- 39-3-1125 Third or subsequent conviction for concealment of unpurchased goods (regardless of value of merchandise concealed)
- 39-3-1126 Theft, embezzlement or copying trade secret
- 39-3-1132 Transfer of recorded devices or manufacture or distribution without consent of owner
- 39-3-1134 Offenses against parking meter
- 39-3-1135 Third offense for unauthorized taking, concealing or possession of library material
- 39-3-1206 Malicious trespass on farmland
- 39-3-1311 Destruction of land or line marks
- 39-3-1313 Destruction of tobacco plant bed or other plant beds; aiding and abetting destruction of plant bed
- 39-3-1318 Cutting or removing timber from land of another for purpose of marketing
- 39-3-1320 Cutting or destroying building or fences on public land
- 39-3-1324 Tapping or entering telegraph, telephone, electric light and poles or gas lines
- 39-3-1327 Vandalism of houses of worship, graveyards, cemetery and excavation and archaeological sites
- 39-3-1404(a) Willfully gaining access to computer system with intent to defraud
- 39-4-111 Leaving state after abandoning wife
- 39-4-112 Leaving state after abandoning child
- 39-4-113 Leaving state after court order for support
- 39-4-201 Performance of criminal abortion
- 39-4-208 Failure to obtain consent before abortion
- 39-4-208 Unlawful research and experimentation upon aborted fetus

39-4-301	Bigamy
39-4-304	Marrying husband or wife of another
39-4-305	Teaching or inducing to practice polygamy
39-4-307	Begetting child on wife's sister
39-4-402	Exposing child to inclement weather
39-5-114	Bribery of or acceptance of bribe in connection with athletic sporting event
39-5-301	Personating another in judicial proceedings
39-5-407	State treasurer or other officer receiving interest or reward for deposit of public funds
39-5-415	Officer having custody of a convicted felon voluntarily permitting escape
39-5-416	Penitentiary official voluntarily permitting escape
39-5-420	Corruptly appointing jurors
39-5-421	False certification that conveyance of property was proven or acknowledged
39-5-422	False noting, recording, registering or certifying conveyance of property
39-5-433	Lobbying members of general assembly
39-5-434	Absence of legislator for purposes of obstruction of business of general assembly
39-5-435	Refusal of officer of bank or other corporation to deliver books or other documents to general assembly
39-5-501	Compounding offense punishable with death or life imprisonment
39-5-507	Encouraging disruption of communication to police and firefighters
39-5-509(a)	Interference with working of prisoners
39-5-509(b)	Leading mob to interfere with working of prisoners
39-5-521	Intimidation of juror's family
39-5-601	Perjury
39-5-604	Subornation of perjury
39-5-605	Perjury or subornation of perjury on trial for felony
39-5-606	Misstatement of facts in an affidavit for parole/pardon
39-5-701	Rescue of person in lawful custody for felony arrest or conviction
39-5-702	Escape or attempt to escape from penitentiary
39-5-703	Aiding and abetting escape or attempt to escape from penitentiary
39-5-706	Escape or attempt to escape from local jail or workhouse
39-5-708	Aiding or assisting prisoner to escape from place of confinement
39-5-711	Aiding inmate of state institution to escape
39-5-720	Bail jumping in case of felony
39-5-833	Membership in communist party
39-5-843	Mutilating or casting contempt on United States or Tennessee flag
39-5-847	Willful destruction or desecration of United States flag
39-5-848	Destruction of selective service card
39-6-108	Offering or giving poisonous treat, candy or gift to another
39-6-202	Obstruction of or injury to railroad tracks or equipment
39-6-208	Cutting or taking property of electric railway
39-6-210	Racing steamboat resulting in accident
39-6-212	Destruction of steamboat with value under \$500
39-6-310	Entering campuses, buildings, to incite public disturbance or violence
39-6-322	Participating in, organizing or inciting to riot
39-6-323	Interference with officers during riot
39-6-324	Looting
39-6-341	Entering school property to participate in riot
39-6-344	Participation in riot by juvenile 16 or older confined in an institution
39-6-345	Prisoners rioting or participating in riot

- 39-6-417 Third or subsequent conviction for possession of controlled substance without valid prescription
- 39-6-417(a)(1)(E) Manufacture, delivery or sale of Schedule V controlled substance
- 39-6-417(a)(1)(F) Manufacture, delivery or sale of Schedule VI controlled substance
- 39-6-417(a)(1)(G) Manufacture, delivery or sale of Schedule VII controlled substance
- 39-6-452 Sale of glue for intoxication
- 39-6-454(a) Sale of imitation controlled substance
- 39-6-454(b) Manufacture of imitation controlled substance
- 39-6-608 Professional gambling
- 39-6-613 Keeping room or table for certain gambling
- 39-6-622 Keeping place for betting on horse race
- 39-6-626 Promoting prostitution
- 39-6-635 Illegally transporting pinball machine into state after 6/30/80
- 39-6-701 Destruction of cemetery monument or marker
- 39-6-702 Improper disposition of dead human body
- 39-6-705 Removal or disinterment of dead human body for purpose of sale
- 39-6-904 Second or subsequent violation of § 39-6-902 (unlawful sale of alcoholic beverages) and § 39-6-903 (unlawful sale of intoxicating bitters)
- 39-6-908 Transportation of intoxicating liquors by common carrier (individual)
- 39-6-909 Personal transportation of intoxicating liquors
- 39-6-921 Second or subsequent conviction of unlawful storage of liquor for sale
- 39-6-1104 Third or subsequent conviction for importing, preparing, distributing, possessing or appearing in obscene material
- 39-6-1139 Solicitation of person to massage or expose erogenous area for compensation or permitting such solicitation
- 39-6-1504 Filing fraudulent solicitation statement with secretary of state
- 39-6-1522 Unauthorized interstate solicitation for police, judicial or safety association
- 39-6-1609 Cutting or causing break in levee
- 39-6-1713 Manufacture, possession or sale of sawed-off shotgun, sawed-off rifle or machine gun
- 39-6-1716 Convicted felon carrying a firearm
- 39-6-1717 Carrying dangerous weapon into establishment licensed to sell alcoholic beverages
- 39-6-1718 Possession of deadly weapon on school grounds
- 39-6-1719 Sale or possession of exploding bullets

(b) These classifications shall be used for sentencing after November 1, 1989, if the offense was committed on or after July 1, 1982, and prior to November 1, 1989, except first degree murder, which shall be punished by death or life imprisonment.

### **SENTENCING COMMISSION COMMENTS**

This section classifies felony offenses in title 39 which were in existence prior to November 1, 1989. This classification of prior offenses serves two purposes. First, prior felonies are used to determine whether and to what extent a defendant's sentence should be enhanced. Since felonies have only recently been classified, this section designates the appropriate grade of the pre-November 1, 1989 conviction for purposes of the classification determination. For example, if a defendant is convicted of aggravated arson and has pre-November 1, 1989 convictions for second degree murder and aggravated rape, it is necessary to ascertain the classification of those prior convictions to determine whether the defendant's aggravated arson sentence can be enhanced into Range II or Range III. Second degree murder and aggravated rape are

classified as Class A felonies. Under the criteria for sentencing as a persistent offender in § 40-35-107, the defendant must receive a Range III sentence.

Second, persons sentenced on or after November 1, 1989, for an offense committed between July 1, 1982 and November 1, 1989, must be sentenced under the provisions of this chapter. See, § 40-35-117(b). The new definitions and classifications cannot be utilized for offenses which occurred prior to November 1, 1989, because, in many instances, the elements of the offense are completely different. Consequently, except for first degree murder pursuant to § 39-11-117(b), this section sets forth the felony classification which is to be utilized for those offenses which occurred prior to November 1, 1989, when the sentencing takes place after that date. For example, if a defendant is convicted for the offense of first degree burglary which occurred prior to November 1, 1989, but the defendant is sentenced after that date, then this table of classification discloses that first degree burglary is punished as a Class C felony. As noted in § 40-35-111(b)(3), a Class C felony carries a sentence of not less than 3 nor more than 15 years. The precise sentence within that classification depends on the defendant's prior record which determines whether the defendant will be sentenced within Range I, II, or III.

The classification of prior offenses in this section determines sentencing for those offenses which were in existence prior to November 1, 1989, as set forth in title 39. It should be noted, however, that first degree murder is classified as a Class A felony in this section. However, pursuant to § 39-11-117(b), this classification is only utilized where the first degree murder conviction is part of the prior record of a defendant being sentenced for a subsequent offense. In all instances, both prior to November 1, 1989, and after that date, first degree murder is punished as a capital offense.

The offenses contained in titles other than title 39 have been amended directly by altering the punishment with specified felony or misdemeanor classifications. Since the elements of those offenses have not been changed, the punishment for those offenses can be ascertained by referring directly to the particular statute itself.

These classifications shall be used for sentencing after November 1, 1989, if the offense was committed on or after July 1, 1982, and prior to November 1, 1989, except first degree murder, which shall be punished by death or life imprisonment.

**Tenn. Code Ann. §40-35-119 (2008): Classification of prior unclassified felony offenses**

Any prior felony offense committed between July 1, 1982, and November 1, 1989, which has not been classified pursuant to § 40-35-118 or otherwise, is a Class E felony.

## **MITIGATING FACTORS**

The following statutes detail how a sentence may be reduced due to circumstances making a crime less severe. The statutes also explain who may have his or her sentences reduced.

### **Tenn. Code Ann. §40-34-108: Maximum reduction of sentence**

- (a)
  - (1)
    - (A) Notwithstanding any other law to the contrary, no sentence credits authorized by § 41-21-236 or any other provision of law, or no sentence contract authorized by this chapter or any other provision of law shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by the sentence credits, by more than thirty-five percent (35%).
    - (B) For inmates sentenced for offenses committed on or after January 1, 1988, no sentence credits or no sentence contract shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by the sentence credits, by more than thirty percent (30%).
  - (2) The sentencing commission shall review the effect of these provisions as part of its duties under law.
- (b) As used in this section, "sentence credits" includes any credit, whether called such or not, that results in a reduction of the amount of time an inmate must serve on the original sentence or sentences. This section shall not be applicable when the powers granted pursuant to title 41, chapter 1 are in effect to reduce prison overcrowding.

### **Tenn. Code Ann. §40-35-109: Especially mitigated offender**

- (a) The court may find the defendant is an especially mitigated offender, if:
  - (1) The defendant has no prior felony convictions; and
  - (2) The court finds mitigating, but no enhancement factors.
- (b) If the court finds the defendant an especially mitigated offender, the court shall reduce the defendant's statutory Range I minimum sentence by ten percent (10%), or reduce the release eligibility date to twenty percent (20%) of the sentence, or both reductions. If the court employs both reductions, the calculation for release eligibility shall be made by first reducing the sentence and then reducing the release eligibility to twenty percent (20%).
- (c) If the defendant is found to be an especially mitigated offender, the judgment of conviction shall so reflect.
- (d) The finding that a defendant is or is not an especially mitigated offender is appealable by either party.

### **SENTENCING COMMISSION COMMENTS:**

As noted in the comments to § 40-35-101, sentences have been divided into one of three ranges. The sentencing ranges are governed by the presence or absence of prior convictions. If a defendant has little or no prior criminal record, such defendant would normally be sentenced within Range I as a standard offender. See § 40-35-105. However, there are instances where the trial judge may desire to depart from even the minimum sentence for a Range I offender and impose lesser penalties. In such instances, the judge may designate the defendant as an "especially mitigated offender" under the provisions of this section. If the judge designates the defendant for this category, the judge has the option of reducing the minimum sentence by 10 percent or reducing the release eligibility date to 20 percent or both options. [ . . . ]

**Tenn. Code Ann. §40-35-113 (2008): Mitigating factors**

If appropriate for the offense, mitigating factors may include, but are not limited to:

- (1) The defendant's criminal conduct neither caused nor threatened serious bodily injury;
- (2) The defendant acted under strong provocation;
- (3) Substantial grounds exist tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- (4) The defendant played a minor role in the commission of the offense;
- (5) Before detection, the defendant compensated or made a good faith attempt to compensate the victim of criminal conduct for the damage or injury the victim sustained;
- (6) The defendant, because of youth or old age, lacked substantial judgment in committing the offense;
- (7) The defendant was motivated by a desire to provide necessities for the defendant's family or the defendant's self;
- (8) The defendant was suffering from a mental or physical condition that significantly reduced the defendant's culpability for the offense; however, the voluntary use of intoxicants does not fall within the purview of this factor;
- (9) The defendant assisted the authorities in uncovering offenses committed by other persons or in detecting or apprehending other persons who had committed the offenses;
- (10) The defendant assisted the authorities in locating or recovering any property or person involved in the crime;
- (11) The defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated the criminal conduct;
- (12) The defendant acted under duress or under the domination of another person, even though the duress or the domination of another person is not sufficient to constitute a defense to the crime; and
- (13) Any other factor consistent with the purposes of this chapter.

**SENTENCING COMMISSION COMMENTS:**

[. . .] It should be observed that the list is not exclusive and the final portion of this section provides that the trial judge may consider "any other factor consistent with the purposes of this chapter." There has been a tendency to perceive mitigating factors as "statutory" and "non-statutory" in the sense that the latter are somehow of less significance than the former. The commission believes that appropriate sentencing determinations should be made on the basis of all relevant information presented to the trial judge. [. . .]

**ENHANCEMENT FACTORS**

The following statutes define and categorize certain offenders for the purposes of sentencing. Generally, the more often the person breaks the law, the longer the sentence. If the enhancement factors are especially severe, bail may be revoked.

**Tenn. Code Ann. §40-35-105 (2008): Standard offender**

- (a) A "standard offender" is a defendant not sentenced as:
- (1) A multiple offender, as defined by § 40-35-106;
  - (2) A persistent offender, as defined by § 40-35-107;
  - (3) A career offender, as defined by § 40-35-108;
  - (4) An especially mitigated offender, as defined by § 40-35-109; or
  - (5) A repeat violent offender, as defined by § 40-35-120.

- (b) The sentence for a standard offender is within Range I.
- (c) If the judgment of conviction does not include a sentence range, it shall be returned to the sentencing court to be completed.

**Tenn. Code Ann. §40-35-106: Multiple offender**

- (a) A multiple offender is a defendant who has received:
  - (1) A minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes, where applicable; or
  - (2) One (1) Class A prior felony conviction if the defendant's conviction offense is a Class A or B felony.
- (b) In determining the number of prior convictions a defendant has received:
  - (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
  - (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
  - (3)
    - (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;
    - (B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions;
  - (4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims, or convictions for the offense of aggravated burglary under § 39-13-1003, convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
  - (5) Prior convictions include convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- (c) A defendant who is found by the court beyond a reasonable doubt to be a multiple offender shall receive a sentence within Range II.
- (d) The finding that a defendant is or is not a multiple offender is appealable by either party.

**Tenn. Code Ann. §40-35-107 (2008): Persistent offender**

- (a) A "persistent offender" is a defendant who has received:
  - (1) Any combination of five (5) or more prior felony convictions within the conviction class or higher, or within the next two (2) lower felony classes, where applicable; or
  - (2) At least two (2) Class A or any combination of three (3) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony.



- (b) In determining the number of prior convictions a defendant has received:
  - (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
  - (2) All prior felony convictions including those occurring prior to November 1, 1989, are included;
  - (3) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult, and which resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;
  - (4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury, or threatened bodily injury to the victim or victims, convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
  - (5) "Prior convictions" includes convictions under the laws of any other state, government or country which, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- (c) A defendant who is found by the court beyond a reasonable doubt to be a persistent offender shall receive a sentence within Range III.
- (d) The finding that a defendant is or is not a persistent offender is appealable by either party.

**Tenn. Code Ann. §40-35-108 (2008): Career offender**

- (a) A career offender is a defendant who has received:
  - (1) Any combination of six (6) or more Class A, B or C prior felony convictions, and the defendant's conviction offense is a Class A, B or C felony;
  - (2) At least three (3) Class A or any combination of four (4) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony; or
  - (3) At least six (6) prior felony convictions of any classification if the defendant's conviction offense is a Class D or E felony.
- (b) In determining the number of prior convictions a defendant has received:
  - (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
  - (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
  - (3)
    - (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134 or similar statutes of other states or jurisdictions shall not be considered as a prior conviction for the purposes of this section, unless the juvenile was convicted of a felony in a criminal court;
    - (B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions;
  - (4) Except for convictions for which the statutory elements include serious bodily injury,

- bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims or convictions for the offense of aggravated burglary under § 39-13-1003, convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
- (5) "Prior convictions" includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- (c) A defendant who is found by the court beyond a reasonable doubt to be a career offender shall receive the maximum sentence within the applicable Range III.
- (d) The finding that a defendant is or is not a career offender is appealable by either party.

**Tenn. Code Ann. §40-35-114 (2008): Enhancement factors**

If appropriate for the offense and if not already an essential element of the offense, the court shall consider, but is not bound by, the following advisory factors in determining whether to enhance a defendant's sentence:

- (1) The defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range;
- (2) The defendant was a leader in the commission of an offense involving two (2) or more criminal actors;
- (3) The offense involved more than one (1) victim;
- (4) A victim of the offense was particularly vulnerable because of age or physical or mental disability;
- (5) The defendant treated, or allowed a victim to be treated, with exceptional cruelty during the commission of the offense;
- (6) The personal injuries inflicted upon, or the amount of damage to property sustained by or taken from, the victim was particularly great;
- (7) The offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement;
- (8) The defendant, before trial or sentencing, failed to comply with the conditions of a sentence involving release into the community;
- (9) The defendant possessed or employed a firearm, explosive device or other deadly weapon during the commission of the offense;
- (10) The defendant had no hesitation about committing a crime when the risk to human life was high;
- (11) The felony resulted in death or serious bodily injury, or involved the threat of death or serious bodily injury, to another person, and the defendant has previously been convicted of a felony that resulted in death or serious bodily injury;
- (12) During the commission of the felony, the defendant intentionally inflicted serious bodily injury upon another person, or the actions of the defendant resulted in the death of, or serious bodily injury to, a victim or a person other than the intended victim;
- (13) At the time the felony was committed, one (1) of the following classifications was applicable to the defendant:
  - (A) Released on bail or pretrial release, if the defendant is ultimately convicted of the prior misdemeanor or felony;
  - (B) Released on parole;
  - (C) Released on probation;
  - (D) On work release;
  - (E) On community corrections;

- (F) On some form of judicially ordered release;
  - (G) On any other type of release into the community under the direct or indirect supervision of any state or local governmental authority or a private entity contracting with the state or a local government;
  - (H) On escape status; or
  - (I) Incarcerated in any penal institution on a misdemeanor or felony charge or a misdemeanor or felony conviction;
- (14) The defendant abused a position of public or private trust, or used a professional license in a manner that significantly facilitated the commission or the fulfillment of the offense;
  - (15) The defendant committed the offense on the grounds or facilities of a pre-kindergarten through grade twelve (pre-K-12) public or private institution of learning when minors were present;
  - (16) The defendant was adjudicated to have committed a delinquent act or acts as a juvenile that would constitute a felony if committed by an adult;
  - (17) The defendant intentionally selected the person against whom the crime was committed or selected the property that was damaged or otherwise affected by the crime, in whole or in part, because of the defendant's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry or gender of that person or the owner or occupant of that property; however, this subdivision (17) should not be construed to permit the enhancement of a sexual offense on the basis of gender selection alone;
  - (18) The offense was an act of terrorism or was related to an act of terrorism;
  - (19) If the defendant is convicted of the offense of aggravated assault pursuant to § 39-13-102, the victim of the aggravated assault was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, a state registered security guard/officer, an employee of the department of correction or the department of children's services, a uniformed member of the armed forces or national guard, an emergency medical or rescue worker, emergency medical technician or paramedic, whether compensated or acting as a volunteer; provided, that the victim was performing an official duty and the defendant knew or should have known that the victim was such an officer or employee;
  - (20) If the defendant is convicted of the offenses of rape pursuant to § 39-13-503, sexual battery pursuant to § 39-13-505 or rape of a child pursuant to § 39-13-522, the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance or controlled substance analogue;
  - (21) If the defendant is convicted of the offenses of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, rape of a child pursuant to § 39-13-522 or statutory rape pursuant to § 39-13-506, the defendant knew or should have known that, at the time of the offense, the defendant was HIV positive;
  - (22)
    - (A) If the defendant is convicted of the offenses of aggravated arson pursuant to § 39-14-302 or vandalism pursuant to § 39-14-408, the damage or destruction was caused to a structure, whether temporary or permanent in nature, used as a place of worship and the defendant knew or should have known that it was a place of worship;
    - (B) As used in subdivision (22)(A), "place of worship" means any structure that is:
      - (i) Approved, or qualified to be approved, by the state board of equalization for property tax exemption pursuant to § 67-5-212, based on ownership and use of the structure by a religious institution; and
      - (ii) Utilized on a regular basis by a religious institution as the site of

- congregational services, rites or activities communally undertaken for the purpose of worship;
- (23) The defendant is an adult and sells to or gives or exchanges a controlled substance, controlled substance analogue or other illegal drug with a minor;
  - (24) The offense involved the theft of property and, as a result of the manner in which the offense was committed, the victim suffered significant damage to other property belonging to the victim or for which the victim was responsible;
  - (25)
    - (A) The defendant commits an offense:
      - (i) During the time period between the first occurrence of events or conduct that later results in a declaration of a state of emergency by a county, the governor, or the president of the United States and the time the county, governor, or the president of the United States terminates the state of emergency, as provided in § 58-2-107;
      - (ii) Within the area or areas threatened by the emergency, as established by the county's, governor's, or president's declaration of a state of emergency; and
      - (iii) Knowing of the existence of the emergency;
    - (B) As used in this subdivision (25):
      - (i) "Emergency" means an occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, that results or may result in substantial injury or harm to the population, or substantial damage to or loss of property; provided, that natural threats may include disease outbreaks and epidemics; and
      - (ii) "Offense" means the defendant is convicted of a violation of § 39-14-103, § 39-14-104, § 39-14-408, or any other offense involving theft or vandalism that is graded by value pursuant to § 39-14-105, and the value of the property or service taken or property damaged is no greater than the value provided in § 39-14-105 for a Class E felony;
  - (26) The defendant committed the offense of robbery pursuant to § 39-13-401, aggravated robbery pursuant to § 39-13-402, or especially aggravated robbery pursuant to § 39-13-403, on the premises of a licensed pharmacy in an effort to unlawfully obtain, sell, give, or exchange a controlled substance, controlled substance analogue, or other illegal drug;
  - (27) The defendant commits a violent offense, as classified in § 40-35-120(b), against a uniformed law enforcement officer or uniformed member of the armed forces or national guard; and the defendant intentionally selected the person against whom the crime was committed, in whole or in part, because of the person's status as a law enforcement officer or member of the armed forces or national guard;
  - (28) At the time the instant offense was committed, the defendant was illegally or unlawfully in the United States; and
  - (29) The offense involved the theft of a firearm from a motor vehicle, as defined in § 55-1-103.

**Tenn. Code Ann. §40-35-115 (2008): Multiple convictions**

- (a) If a defendant is convicted of more than one (1) criminal offense, the court shall order sentences to run consecutively or concurrently as provided by the criteria in this section.
- (b) The court may order sentences to run consecutively if the court finds by a preponderance of the evidence that:
  - (1) The defendant is a professional criminal who has knowingly devoted the defendant's life to criminal acts as a major source of livelihood;
  - (2) The defendant is an offender whose record of criminal activity is extensive;

- (3) The defendant is a dangerous mentally abnormal person so declared by a competent psychiatrist who concludes as a result of an investigation prior to sentencing that the defendant's criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;
  - (4) The defendant is a dangerous offender whose behavior indicates little or no regard for human life, and no hesitation about committing a crime in which the risk to human life is high;
  - (5) The defendant is convicted of two (2) or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;
  - (6) The defendant is sentenced for an offense committed while on probation; or
  - (7) The defendant is sentenced for criminal contempt.
- (c) The finding concerning the imposition of consecutive or concurrent sentences is appealable by either party.
- (d) Sentences shall be ordered to run concurrently, if the criteria noted in subsection (b) are not met, unless consecutive sentences are specifically required by statute or the Tennessee Rules of Criminal Procedure.

**Tenn. Code Ann. §40-35-116 (2008): Revocation of bail on conviction**

- (a) If a defendant is convicted of first degree murder, a Class A felony, rape, aggravated robbery, aggravated sexual battery, aggravated kidnapping, aggravated child abuse, statutory rape by an authority figure, or a violation of § 39-17-417(b) or (i), the judge shall revoke bail immediately, notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings.
- (b) If a defendant is convicted of any other felony offense, the judge may revoke bail immediately, notwithstanding sentencing hearing, motion for a new trial and related postguilt determination hearings.
- (c) If the court revokes the defendant's bail, the defendant shall be housed in a local jail pending the sentencing determination. Following sentencing, the defendant shall be transferred to the custody of the authority to whom the defendant was sentenced.
- (d) If a defendant is convicted of first degree murder, the judge may house the defendant in a local jail or may transfer custody to the department of correction pending further proceedings in the trial court.

**Tenn. Code Ann. §40-35-120: Repeat violent offenders — "Three strikes"**

- (a) A "repeat violent offender" is a defendant who:
  - (1) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (b)(1) as a violent offense; and
  - (2) Has at least two (2) prior convictions for offenses classified in subdivision (b)(1) or (b)(2) as a violent offense; or
  - (3) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (c)(1) as a violent offense; and
  - (4) Has at least one (1) conviction for an offense classified in subdivision (c)(1) or (c)(2) as a violent offense; or
  - (5) Is convicted in this state on or after July 1, 1995, of any offense classified in subdivision (d)(1) as a violent offense; and
  - (6) Has at least one (1) prior conviction for an offense classified in subdivision (d)(1) or (d)(2) as a violent offense with the exception of the prior offense of robbery by

use of a deadly weapon as listed in § 40-35-118(a).

(b)

(1) For purposes of subdivisions (a)(1) and (a)(2), the following offenses are classified as violent offenses:

- (A) First degree murder, including any attempt, solicitation or facilitation to commit first degree murder;
- (B) Second degree murder and any attempt or facilitation to commit second degree murder;
- (C) Especially aggravated kidnapping and any attempt or facilitation to commit especially aggravated kidnapping;
- (D) Especially aggravated robbery and any attempt or facilitation to commit especially aggravated robbery;
- (E) Aggravated rape and any attempt or facilitation to commit aggravated rape;
- (F) Rape of a child and any attempt or facilitation to commit rape of a child;
- (G) Aggravated arson and any attempt or facilitation to commit aggravated arson;
- (H) Aggravated kidnapping;
- (I) Aggravated robbery;
- (J) Rape;
- (K) Aggravated sexual battery;
- (L) Especially aggravated burglary;
- (M) Aggravated child abuse;
- (N) Aggravated sexual exploitation of minor; and
- (O) Especially aggravated sexual exploitation of a minor.

(2) For purposes of subdivision (a)(2), the offenses that were repealed on November 1, 1989, and are listed in § 40-35-118(a) as Class A or B felonies against a person are classified as violent offenses.

(c)

(1) For purposes of subdivisions (a)(3) and (a)(4), the following offenses are classified as violent offenses:

- (A) First degree murder including any attempt, solicitation or facilitation to commit first degree murder;
- (B) Second degree murder;
- (C) Especially aggravated kidnapping;
- (D) Especially aggravated robbery;
- (E) Aggravated rape;
- (F) Rape of a child; and
- (G) Aggravated arson.

(2) For purposes of subdivision (a)(4), the offenses that were repealed on November 1, 1989, and are listed in § 40-35-118(a) as Class A felonies against a person are classified as violent offenses.

(d)

(1) For purposes of subdivisions (a)(5) and (a)(6), the following offenses are classified as violent offenses:

- (A) First degree murder;
- (B) Second degree murder;
- (C) Especially aggravated kidnapping;
- (D) Especially aggravated robbery;
- (E) Aggravated rape;
- (F) Rape of a child;
- (G) Aggravated arson;
- (H) Aggravated kidnapping;
- (I) Rape;

- (J) Aggravated sexual battery;
  - (K) Especially aggravated burglary;
  - (L) Aggravated child abuse;
  - (M) Aggravated sexual exploitation of a minor; and
  - (N) Especially aggravated sexual exploitation of a minor.
- (2) For purposes of subdivision (a)(6), the offenses that were repealed on November 1, 1989, and are listed in § 40-35-118(a) as Class A or B felonies against a person, with the exception of the offense of robbery by use of a deadly weapon, are classified as violent offenses.
- (e) In determining the number of prior convictions a defendant has received:
- (1) "Prior conviction" means a defendant serves and is released from a period of incarceration for the commission of an offense or offenses so that a defendant must:
    - (A) To qualify under subdivision (a)(1) and (a)(2), have served two (2) separate periods of incarceration for the commission of at least two (2) of the predicate offenses designated in subdivision (b)(1) or (b)(2) before committing an offense designated in subdivision (b)(1);
    - (B) To qualify under subdivision (a)(3) and (a)(4), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (c)(1) or (c)(2) before committing an offense designated in subdivision (c)(1); or
    - (C) To qualify under subdivision (a)(5) and (a)(6), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (d)(1) or (d)(2), with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118(a), before committing an offense designated in subdivision (d)(1);
  - (2) "Separate period of incarceration" includes a sentence to a community correction program pursuant to chapter 36 of this title, a sentence to split confinement pursuant to § 40-35-306 or a sentence to a periodic confinement pursuant to § 40-35-307. Any offense designated as a violent offense pursuant to subsection (b), (c) or (d) that is committed while incarcerated or committed while the prisoner is assigned to a program whereby the prisoner enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release, medical furlough or that is committed while on escape status from any correctional institution shall be considered as a separate period of incarceration;
  - (3) A finding or adjudication that a defendant committed an act as a juvenile that is designated a predicate offense under subsection (b), (c) or (d) if committed by an adult, and that resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, shall not be considered a prior conviction for the purposes of this section unless the juvenile was convicted of the predicate offense in a criminal court and sentenced to confinement in the department of correction; and
  - (4) "Prior convictions" include convictions under the laws of any other state, government or country that, if committed in this state, would have constituted a predicate offense in subsection (b), (c) or (d) if there are separate periods of incarceration in the other state as required by subdivision (e)(1). If a felony from a jurisdiction other than Tennessee is not a named predicate offense specified in subsection (b), (c) or (d) in this state and if the elements of the felony are the same as a designated predicate offense, it shall be considered a prior conviction; provided, that there are separate periods of incarceration in the other state as required in subdivision (e)(1).

- (f) The court shall refuse to accept a plea agreement that fails to recommend that a defendant with a sufficient number of designated prior convictions be sentenced as a repeat violent offender. If the judge refuses to accept the plea agreement, this does not prevent the district attorney general, in accordance with Rule 7 of the Tennessee Rules of Criminal Procedure, from amending the indicted offense to an offense that is not designated as a violent offense in subsection (b) or (c).
- (g) The court shall sentence a defendant who has been convicted of any offense listed in subdivision (b)(1), (c)(1) or (d)(1) to imprisonment for life without possibility of parole if the court finds beyond a reasonable doubt that the defendant is a repeat violent offender as defined in subsection (a).
- (h) The finding that a defendant is or is not a repeat violent offender is appealable by either party.
- (i)
  - (1)
    - (A) A charge as a repeat violent offender shall be tried within one hundred eighty (180) days of the arraignment on the indictment pursuant to Rule 10 of the Tennessee Rules of Criminal Procedure unless delay is caused by:
      - (i) The defendant;
      - (ii) An examination for competency;
      - (iii) A competency hearing;
      - (iv) An adjudication of incompetency for trial;
      - (v) A continuance allowed after a court's determination of the defendant's physical incapacity for a trial; or
      - (vi) An interlocutory appeal.
    - (B) A continuance may be granted to any party, including the court, for good cause shown.
  - (2) The district attorney general shall file a statement with the court and the defense counsel within forty-five (45) days of the arraignment pursuant to Rule 10 of the Rules of Criminal Procedure that the defendant is a repeat violent offender. The statement, which shall not be made known to the jury determining the guilt or innocence of the defendant, shall set forth the dates of the prior periods of incarceration, as well as the nature of the prior conviction offenses. If the notice is not filed within forty-five (45) days of the arraignment, the defendant shall be granted a continuance so that the defendant will have forty-five (45) days between receipt of notice and trial.
  - (3) Failure to comply with this subsection (i) does not require release of a person from custody or a dismissal of charges.

## **SPECIAL OFFENSES**

Many times, the Sentencing Commission will set out special punishments for crimes it considers especially offensive or problematic, such as gang activity. Knowledge of this information may be useful if, for instance, the person involved in an animal crime is also a member of a gang and has prior such offenses that may or may not involve animals. In this case, a harsher punishment than that originally available may be sought.



**Tenn. Code Ann. §40-35-121: Criminal gang offenses — Enhanced punishment – Procedure**

(a) As used in this section, unless the context otherwise requires:

- (1) “Criminal gang” means a formal or informal ongoing organization, association or group consisting of three (3) or more persons that has:
  - (A) As one (1) of its primary activities, the commission of criminal gang offenses;
  - (B) Two (2) or more members who, individually or collectively, engage in or have engaged in a pattern of criminal gang activity;
- (2) “Criminal gang member” is a person who is a member of a criminal gang, as defined in subdivision (a)(1), who meets two (2) or more of the following criteria:
  - (A) Admits to criminal gang involvement;
  - (B) Is identified as a criminal gang member by a parent or guardian;
  - (C) Is identified as a criminal gang member by a documented reliable informant;
  - (D) Resides in or frequents a particular criminal gang's area, adopts their style or dress, their use of hand signs or their tattoos and associates with known criminal gang members;
  - (E) Is identified as a criminal gang member by an informant of previously untested reliability and the identification is corroborated by independent information;
  - (F) Has been arrested more than once in the company of identified criminal gang members for offenses that are consistent with usual criminal gang activity; or
  - (G) Is identified as a criminal gang member by physical evidence such as photographs or other documentation;
- (3) “Criminal gang offense” means:
  - (A) A criminal offense committed prior to July 1, 2013 that:
    - (i) During the perpetration of which the defendant knowingly causes, or threatens to cause, death or bodily injury to another person or persons and specifically includes rape of a child, aggravated rape and rape; or
    - (ii) Results, or was intended to result, in the defendant's receiving income, benefit, property, money or anything of value from the commission of any aggravated burglary, or from the illegal sale, delivery, or manufacture of a controlled substance, controlled substance analogue, or firearm; or
  - (B) The commission or attempted commission, facilitation of, solicitation of, or conspiracy to commit any of the following offenses on or after July 1, 2013:
    - (i) First degree murder, as defined in § 39-13-202;
    - (ii) Second degree murder, as defined in § 39-13-210;
    - (iii) Voluntary manslaughter, as defined in § 39-13-211;
    - (iv) Assault, as defined in § 39-13-101;
    - (v) Aggravated assault, as defined in § 39-13-102;
    - (vi) Kidnapping, as defined in § 39-13-303;
    - (vii) Aggravated kidnapping, as defined in § 39-13-304;
    - (viii) Especially aggravated kidnapping, as defined in § 39-13-305;
    - (ix) Robbery, as defined in § 39-13-401;
    - (x) Aggravated robbery, as defined in § 39-13-402;
    - (xi) Especially aggravated robbery, as defined in § 39-13-403;
    - (xii) Carjacking, as defined in § 39-13-404;
    - (xiii) Rape, as defined in § 39-13-503;
    - (xiv) Aggravated rape, as defined in § 39-13-502;
    - (xv) Rape of a child, as defined in § 39-13-522;
    - (xvi) Aggravated burglary, as defined in § 39-13-1003;
    - (xvii) Especially aggravated burglary, as defined in § 39-13-1004;
    - (xviii) Aggravated criminal trespass, as defined in § 39-14-406;
    - (xix) Coercion of witness, as defined in § 39-16-507;

- (xx) Retaliation for past action, as defined in § 39-16-510;
  - (xxi) Riot, as defined in § 39-17-302;
  - (xxii) Aggravated riot, as defined in § 39-17-303;
  - (xxiii) Inciting to riot, as defined in § 39-17-304;
  - (xxiv) The illegal sale, delivery or manufacture of a controlled substance or controlled substance analogue, as defined in §§ 39-17-417 and 39-17-454;
  - (xxv) Possession of a controlled substance or controlled substance analogue with intent to sell, deliver, or manufacture, as defined in § 39-17-417(a)(4) and § 39-17-454;
  - (xxvi) Unlawful carrying or possession of a weapon, as defined in § 39-17-1307;
  - (xxvii) Trafficking for commercial sex acts, as defined in § 39-13-309;
- (4)
- (A) "Pattern of criminal gang activity" means prior convictions for the commission or attempted commission of, facilitation of, solicitation of, or conspiracy to commit:
    - (i) Two (2) or more criminal gang offenses that are classified as felonies; or
    - (ii) Three (3) or more criminal gang offenses that are classified as misdemeanors; or
    - (iii) One (1) or more criminal gang offenses that are classified as felonies and two (2) or more criminal gang offenses that are classified as misdemeanors; and
    - (iv) The criminal gang offenses are committed on separate occasions; and
    - (v) The criminal gang offenses are committed within a five-year period;
  - (B)
    - (i) As used in this subsection (a), "prior conviction" means a criminal gang offense for which a criminal gang member was convicted prior to the commission of the instant criminal gang offense by the defendant and includes convictions occurring prior to July 1, 1997;
    - (ii) "Prior conviction" includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted a criminal gang offense. In the event that a conviction from a jurisdiction other than Tennessee is not specifically named the same as a criminal gang offense, the elements of the offense in the other jurisdiction shall be used by the Tennessee court to determine if the offense is a criminal gang offense;
    - (iii) Convictions for multiple criminal gang offenses committed as part of a single course of conduct within twenty-four (24) hours are not committed on "separate occasions." However, acts that constitute criminal gang offenses under subdivision (a)(3)(A) shall not be construed to be a single course of conduct.
- (b) A criminal gang offense committed by a defendant shall be punished one (1) classification higher than the classification established by the specific statute creating the offense committed if:
- (1) The defendant was a criminal gang member at the time of the offense; and
  - (2) The criminal gang offense was committed at the direction of, in association with, or for the benefit of the defendant's criminal gang or a member of the defendant's criminal gang.
- (c) A criminal gang offense committed by a defendant who was not a criminal gang member at the time of the offense but who committed the offense for the purpose of and with the intent to fulfill an initiation or other requirement for joining a criminal gang as defined in subdivision (a)(1) shall be punished one (1) classification higher than the classification established by the specific statute creating the offense committed.
- (d) If the criminal gang offense subject to enhancement under subsection (b) or (c) is a Class A felony, the presumptive sentence for the offense shall be the maximum sentence within the range from which the defendant is to be sentenced.
- (e) A criminal gang offense committed by a defendant shall be punished two (2)

classifications higher than the classification established by the specific statute creating the offense committed if, at the time the offense was committed:

- (1) The defendant was a criminal gang member;
  - (2) The defendant was also a leader or organizer of the criminal gang; and
  - (3) The offense was at the direction of, in association with, or for the benefit of the defendant's criminal gang or a member of the defendant's criminal gang.
- (f) If the criminal gang offense subject to enhancement under subsection (e) is a Class A or B felony, the criminal gang member shall be sentenced as a Class A felon and the presumptive sentence for the offense shall be the maximum sentence within the range from which the defendant is to be sentenced.
- (g) If the defendant is charged with a criminal gang offense and the district attorney general intends to seek enhancement of the punishment under subsection (b), (c) or (e), the indictment, in a separate count, shall specify, charge and give notice of the subsection under which enhancement is alleged applicable and of the required prior convictions constituting the gang's pattern of criminal gang activity.
- (h)
- (1) If the defendant is convicted of the underlying criminal gang offense, the jury shall then separately consider whether the defendant was at the time of the offense:
    - (A) A criminal gang member;
    - (B) A criminal gang member and a leader or organizer of the gang; or
    - (C) Not a criminal gang member but committed the offense for the purpose of joining a criminal gang.
  - (2) If the jury convicts the defendant under subdivision (h)(1)(A), (h)(1)(B) or (h)(1)(C), the court shall pronounce judgment and sentence the defendant as provided in this section.
- (i) For purposes of establishing a "pattern of criminal gang activity" the following offenses may be considered:
- (1) Criminal gang offenses, as defined by subdivision (a)(3)(A), committed prior to July 1, 2013; and
  - (2) Criminal gang offenses, as defined by subdivision (a)(3)(B), committed on or after July 1, 2013.

## **APPENDIX SIX: Where We Have Been & Where We Are Going**

### **Animal Fighting in the Volunteer State**

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#### **Introduction**

The controversies surrounding animal fighting are in no way new to the state of Tennessee. In order to appreciate how far reaching an impact there may be, it is important to consider the history underlying this issue. Understanding exactly what animal fighting means to the people and animals involved is also imperative.

Over the next few pages, this article will attempt to shed light on animal fighting. In addition to providing background and a legal perspective, proposals will be presented for consideration in an attempt to solve Tennessee's current issues. Although many issues affecting fighting animals are the same, there are distinct issues that vary between fighting cocks and dogs. For this reason, these two common species will be presented separately at times.

#### **Cockfighting: A Brief Explanation**

Cockfighting is described by The Humane Society of the United States as "a centuries-old blood sport in which two or more specially bred birds, known as gamecocks, are placed in an enclosure to fight, for the primary purposes of gambling and entertainment.

The fights can last over half an hour and often result in the death of one, if not both, of the birds involved.<sup>1</sup> Even birds that are not killed in the course of the fight suffer extreme pain and injuries. Punctured lungs, broken bones, and gouged eyes are not uncommon in the ring.<sup>2</sup> Many of these injuries are the result of gaffs, steel spikes affixed to the birds' legs to cause extra damage.<sup>3</sup>

The harm caused by cockfighting extends beyond the birds. Law enforcement officials have linked cockfighting rings to gambling and illegal drugs.<sup>4</sup> It is especially disturbing to note that young children are often present at these fights, engendering a conception of animals as worthless and insignificant.<sup>5</sup> Although cockfighting has long been part of many cultures, this cultural importance can often be overplayed. In a 1997 survey conducted in Arizona, only 34% of Anglos disagreed that "cockfighting is an important part of Hispanic culture." Conversely, 70% of Hispanics disagreed with the statement.<sup>6</sup> Additionally, 95% of Hispanics polled felt that cockfighting was "cruel and inhumane."<sup>7</sup> This survey demonstrates a clear misunderstanding in the cultural value of cockfighting but may also represent an inherent prejudice. Latin cultures are not the only ones with a

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<sup>1</sup> *Id.*

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> [www.idausa.org/campaigns/sport/cock/cockfighting.html](http://www.idausa.org/campaigns/sport/cock/cockfighting.html)

<sup>7</sup> *Id.*

reputation for cockfighting. Culture within the Southeastern United States also reflects the presence of such events. The most obvious sign may be the fact that the University of South Carolina still uses the gamecock as its mascot.

Cockfighting is currently a criminal offense in all 50 states and the District of Columbia. Severity of punishment differs widely from state to state. Some states provide for punishment of cockfighting, possession of birds for fighting, being present as a spectator at a fight, and possession of implements used for cockfighting all as felonies. Other states view some of these as misdemeanors, including cockfighting itself. Hawaii, Georgia, Idaho, Mississippi, and Alabama consider cockfighting the only crime in the list above.<sup>8</sup> The state of Tennessee considers cockfighting a Class A Misdemeanor, although this may soon be changing as discussed later in the article.

### **Dog Fighting: A Brief Explanation**

Dog fighting is similar in many respects to cockfighting. Two dogs, most frequently Pit Bulls, are placed in a ring and made to fight until one is unable to continue. These fights often result in serious injury and/or death. Even if the losing dog is not killed, they are often shot or abandoned by their owners.<sup>9</sup> Even winning dogs frequently suffer severe damage to their eyes, ears, nose, and mouth. Dogs that are seen as “useless” because of the injuries they have suffered are also shot, abandoned, or otherwise disposed of.

Like cockfighting, dog fighting is also linked to gambling rings and illegal drugs. Fights provide ample opportunity for such activities to take place in a secluded, often secretive environment. There have also been links between dog fighting and street gang activities, a major issue in large urban areas.<sup>10</sup> Although dog fighting does not share as many of the long-standing cultural influences of cockfighting, it is slowly being popularized within American pop culture. This connection seems especially true with the culture surrounding rap music. Jay-Z’s video for “99 Problems” contains images associated with dog fighting.<sup>11</sup> His video is not the only example. Artist DMX named his album, *Grand Champ*, in honor of fighting dogs.<sup>12</sup> The cover of the album portrays a Pit Bull showing marked signs of aggression. DMX had previously pled guilty to animal cruelty charges stemming from 13 neglected Pit Bulls in his possession.<sup>13</sup>

Dog fighting is currently a felony in all 50 states and the District of Columbia. Like cockfighting, severity of punishments varies widely between individual states. Although all states treat dog fighting as a crime, being a spectator to a fight or possession of dogs meant for fighting might be a misdemeanor or legal altogether. Both Montana and Hawaii provide no punishment for being a spectator at a dog fight.<sup>14</sup> Tennessee provides for punishment of dog fighting and possession of fighting dogs as a Class E Felony, but being a spectator is defined as merely a Class C Misdemeanor, the lowest classification in Tennessee’s statutory system.

<sup>8</sup> [www.hsus.org/web-files/PDF/cockfighting\\_statelaws.pdf](http://www.hsus.org/web-files/PDF/cockfighting_statelaws.pdf)

<sup>9</sup> [www.hsus.org/acf/fighting/dogfight/](http://www.hsus.org/acf/fighting/dogfight/)

<sup>10</sup> [www.animalsheltering.org/resource\\_library/magazine\\_articles/jul\\_aug\\_2006/dogfighting\\_investigations\\_where\\_we\\_stand.html](http://www.animalsheltering.org/resource_library/magazine_articles/jul_aug_2006/dogfighting_investigations_where_we_stand.html)

<sup>11</sup> [http://www.hsus.org/acf/news/jay-z\\_dogfighting.html](http://www.hsus.org/acf/news/jay-z_dogfighting.html)

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> [www.hsus.org/acf/fighting/dogfight/ranking\\_state\\_dogfighting\\_laws.html](http://www.hsus.org/acf/fighting/dogfight/ranking_state_dogfighting_laws.html)

## **Why Can't We Stop Animal Fighting Now?**

One of the most glaring issues in animal fighting today is the lack of prosecutions taking place in Tennessee. This is true in spite of the fact that animal fighting incidents are on the rise in rural and urban areas alike.<sup>15</sup> There are several problems, both social and political in nature, that have contributed to this problem.

One major problem with regulation within the state of Tennessee involves the inability of humane officers to effectively carry out their duties. Although Tennessee does provide these officers with the ability to intervene in crimes and arrest perpetrators, they are made to do this without the benefit of being armed.<sup>16</sup> As previously stated, animal fighting is linked to illegal gambling, drug distribution, and gang activity. Because of these connections, participants in animal fighting are often dangerous criminals in other respects. To deprive humane officers of the protection or force needed to affect such arrests is to effectively negate all their powers.

Another major obstacle to enforcement rests in the laws themselves. Criminal statutes relating to animal fighting vary widely from state to state. This causes not only confusion among citizens and law enforcement officials, but it also provides criminally-minded individuals with an opportunity to circumvent unfavorable laws. These issues frequently occur within an individual state as well. In Tennessee, dog fighting is punished as a Class E Felony.<sup>17</sup> Sentencing guidelines provide that this sort of crime should be punished with a prison sentence of not less than 1 year.<sup>18</sup> In contrast, cockfighting is considered a Class A Misdemeanor, one step lower in Tennessee's statutory scheme than dog fighting.<sup>19</sup> Consequently, cockfighting does not carry as harsh a punishment.<sup>20</sup> Beyond this, crimes such as being a spectator at such a fight, possession of fighting animals, or possession of implements carry even lower criminal penalties.<sup>21</sup>

These relatively low penalties pose another problem for enforcement. Large sums of money, often in the tens of thousands range, can change hands during animal fighting events.<sup>22</sup> Because the fines, sentences, and enforcement related to animal fighting laws are relatively low, individuals are provided with the possibility of a high reward for very little risk. Just for perspective, stealing an equivalent amount of money could be as high as a Class B Felony, some three classifications higher than the highest classification for any type of animal fighting found in Tenn. Code Ann. 39-14-203.<sup>23</sup>

## **The Impact Does Not End With Injured Animals**

The consequences of animal fighting extend beyond the physical injuries suffered by the animals. As previously cited, animal fighting rings have been linked with illegal gambling, drugs, and gang activity.<sup>24</sup> Despite the inherent evil posed by fighting animals, these effects are equally as disturbing. Fighting rings circulate large sums of

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<sup>15</sup> [www.hsus.org/hsus\\_field/animal\\_fighting\\_the\\_final\\_round/](http://www.hsus.org/hsus_field/animal_fighting_the_final_round/)

<sup>16</sup> Tenn. Code Ann. § 39-14-210

<sup>17</sup> Tenn. Code Ann. § 39-14-203(c)(1)

<sup>18</sup> Tenn. Code Ann. § 40-35-111(b)(5)

<sup>19</sup> Tenn. Code Ann. § 39-14-203(c)(2)

<sup>20</sup> Tenn. Code Ann. § 40-35-111(e)(1)

<sup>21</sup> Tenn. Code Ann. § 39-14-203

<sup>22</sup> [www.hsus.org/hsus\\_field/animal\\_fighting\\_the\\_final\\_round/cockfighting\\_fact\\_sheet/](http://www.hsus.org/hsus_field/animal_fighting_the_final_round/cockfighting_fact_sheet/)

<sup>23</sup> Tenn. Code Ann. § 39-14-105

<sup>24</sup> *Supra* notes 5,11

money that help to fund these other illegal activities. This helps to create a subculture where violence, animal cruelty, drug use, and moral complacency are readily accepted.

Animal fighting also has other effects on the animals involved. This is seen most commonly with the Pit Bulls that are a favorite of dog fighters. Pit Bulls have suffered physical pain in the ring and severe damage to their reputation within the community. They are often thought of as overly aggressive, which has led to two distinct problems for the breed.

One serious issue with Pit Bulls, namely those who were previously fighting dogs, is that they are difficult to place for adoption with humane services. These animals have often been so rigorously trained to fight that they are rendered incapable of normal social behavior. This frequently leads to these animals being put down. This is not always the case thankfully. In the recently publicized case of Michael Vick, only one of the 47 surviving dogs was euthanized.<sup>25</sup> This was the result of the judge ruling that all the dogs should be evaluated individually, in the face of expert opinion that they should all be put down.<sup>26</sup>

Another serious problem arising from dog fighting that is currently affecting Tennessee is the proposal of so-called “Dangerous Dog Laws.” These laws typically ban the possession and/or breeding of a certain breed of dog, almost always including the aforementioned Pit Bull. Although these laws criminalize the possession of dogs used for fighting, they also limit the freedom of dog owners who wish to own one of the breeds merely for pleasure and companionship. It is farfetched to believe these ordinances would have any effect of dog fighting. Fighting is itself a criminal offense of a more severe nature than possession. There is also the same issue of enforcement and prosecution by the state that limits the effectiveness of current animal fighting statutes.

There may also be some disparate impact on other pet owners. Theft of dogs, cats, and other small pets is a common practice amongst dog fighters.<sup>27</sup> These animals are used as “bait” to assist in training the dogs to kill another animal. The frequency of these financial and emotional losses is hard to estimate accurately.

### **What Are We Doing To Make a Change?**

There are efforts being made locally and nationally to stop animal fighting. Many of the major national organizations, such as the American Society for the Prevention of Cruelty to Animals (ASPCA) and the Humane Society of the United States (HSUS), have organized programs to raise awareness of dog fighting. These organizations also provide information to people willing to volunteer their time and money to stop such atrocities. More information can be found by visiting the websites of these organizations at [www.aspca.org](http://www.aspca.org) and [www.hsus.org](http://www.hsus.org) respectively.

On a local level, the Tennessee legislature is considering a bill that would raise cockfighting to a felony offense.<sup>28</sup> Although this increase in penalty is admirable, a

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

closer look at the bill might reveal that it still will not meet the need. This proposed legislation merely increases fines, without providing for prison sentences in association with cockfighting.<sup>29</sup> As previously mentioned, the amount of money involved in cockfighting renders fines nearly useless, unless they are of such an extreme amount to serve as an actual deterrent.

### **A Final Word**

Although steps have been made through education, legislations, and enforcement to limit the impact of animal fighting, there is still work to do. The ASPCA and HSUS can only do so much without the assistance of volunteers. It is important that individuals get involved if they ever hope to see these atrocious acts come to an end.



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