Tennessee
eBook of Criminal and Traffic Laws

Selected Statutes
2024

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2024 eBook of Tennessee Criminal and Traffic Laws

Foreword

This book is intended as a convenient guide to the laws of this state. It is not a replacement for a full text version of the statutes. Although our intent is to provide a more compact form, the full text version is the ultimate authority.

Every attempt has been made to ensure the accuracy of the sections contained herein. However, no express or implied warranties or guarantees are made.

Not all laws are contained in this book.

Conventions Used in this Book

Notes such as "Note: See..." mean to refer to that section in this book if provided, or otherwise to refer to the full text version of the statutes for complete information.

Sections in this book which were amended or added by act of the latest session of the legislature denote that following the title of the section.

Amendments–Text amended in the current year is denoted by ***bold italics***.

Added sections–Sections added by the latest legislative session have ADDED on the title line, AND are shown in ***bold italics***.

Deletions–Material deleted by legislative change is generally not included or identified. If deletions are the only change in the sections, a note will indicate that.

Information included within brackets [ ] is added for clarification and is not an inherent part of the section itself.

Time Dependent Material

Contents of this book are applicable until the effective date of the next legislative enactments. In addition, material may be affected by existing or future appellate court decisions.

Sections affected in 2023		
36-3-601	Domestic abuse–Definitions	***Amended***
39-11-106	General provisions–Definitions	***Amended***
39-13-102	Aggravated assault	***Amended***
39-13-111	Domestic assault	***Amended***
39-13-116	Assault and aggravated assault against a first responder or nurse	***Amended***
39-13-211	Voluntary manslaughter	***Amended***
39-13-305	Especially aggravated kidnapping	***Amended***
39-13-306	Custodial interference	***Amended***
39-13-502	Aggravated rape	***Amended***
39-13-503	Rape	***Amended***
39-13-529	Solicitation of minor to observe sexual conduct	***Amended***
39-14-127	Deceptive business practices	***Amended***
39-14-202	Cruelty to animals	***Amended***
39-14-212	Aggravated cruelty to animal	***Amended***
39-14-411	Critical infrastructure vandalism	***Amended***
39-14-705	Key fob programming equipment	***Added***
39-15-302	Incest	***Amended***
39-15-506	Financial exploitation of elderly or vulnerable person—Penalties	***Amended***
39-16-304	Misrepresentation of a service animal or a support animal	***Amended***
39-17-311	Desecration; honored places or flags	***Amended***
39-17-315	Stalking	***Amended***
39-17-417	Controlled substance offenses	***Amended***
39-17-456	Xylazine—Possess, manufacture, sell	***Added***
39-17-501	Gambling–Definitions	***Amended***
39-17-902	Obscene material or exhibition–Distribution to or employment of minors	***Amended***
39-17-1309	Carrying or possession weapons on school property	***Amended***
39-17-1351	Handgun carry permits	***Amended***
40-39-202	Sex offender registration–Definitions	***Amended***
43-27-202	Hemp-derived cannabinoid—Definitions	***Added***
43-27-203	Hemp-derived cannabinoid products—Offenses	***Added***
43-27-210	Hemp-derived cannabinoid products—Limitations on use	***Added***
44-8-408	Dog at large	***Amended***
55-7-119	Ladder falling from truck bed or trailer into roadway causing accident	***Added***
55-8-101	General definitions	***Amended***
55-8-110	Traffic-control signals	***Amended***
55-8-127	Restrictions on use of controlled-access roadway	***Amended***
55-8-132	Operation near emergency vehicles	***Amended***
55-8-151	Passing school or church bus	***Amended***
55-8-152	Speed limits	***Amended***
55-8-155	Special speed limitation on motor-driven cycles	***Amended***
55-8-185	Use of OHV on highways	***Amended***
55-8-188	High occupancy vehicle lanes	***Amended***
55-8-192	Use of cell phone by school bus driver	***Amended***
55-8-199	Text messaging while operating a motor vehicle	***Amended***
55-9-101	Lighting–Definitions	***Amended***
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55-9-302	Motorcycle & motor-driven cycle–Helmets	***Amended***
55-9-303	Motorcycle & motor-driven cycle–Seat for passenger	***Amended***

55-9-304	Motorcycle & motor-driven cycle–Windshield/eye protection	***Amended***
55-9-305	Motorcycle & motor-driven cycle–Rearview mirror, footrests & handlebars	***Amended***
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55-9-402	Lights–Motor vehicles	***Amended***
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55-10-427	Provide motor vehicle to intoxicated person or person with suspended license	***Added***
55-50-313	Motorcycle learner's permit for minors	***Added***
55-50-351	Failure to display license	***Amended***
55-50-404	Commercial driver license required	***Amended***

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Title 7
Consolidated Governments and Local Governmental Functions and Entities
Chapter 86
Emergency Communications

7-86-316 911 calls in non-emergency situations–Definitions

(a) Contacting 911 for some purpose other than to report an emergency or an event that the person contacting 911 reasonably believes to be an emergency is a Class C misdemeanor.

(b)(1) Aggravated nonemergency contact of 911 is contacting 911 as described in subsection (a) where:

(A) An individual makes nonemergency contact to 911 in an offensively repetitious manner;

(B) The nonemergency contact of 911 creates a delay in the response to an emergency; or

(C) The nonemergency contact of 911 results in harm to person or property.

(2) An aggravated nonemergency contact of 911 is a Class A misdemeanor.

(c)(1) Harassing noninitialized 911 phone calls are ten (10) or more nonemergency calls within a one-hour period or twenty (20) or more nonemergency calls within a twenty-four-hour period made to 911 from a handset that is not registered for service with any commercial mobile radio service (CMRS) carrier.

(2) A public safety answering point (PSAP) or a district may authorize the emergency communications board to divert harassing noninitialized 911 phone calls, for a period of no more than twelve (12) hours, to an entity designated by the emergency communications board to receive such calls.

(3) Repetitive harassing noninitialized 911 phone calls are phone calls from a handset from which calls have previously been diverted pursuant to subdivision (c)(2).

(4) A PSAP or a district may authorize the emergency communications board to indefinitely divert repetitive harassing noninitialized 911 phone calls to an entity designated by the emergency communications board to receive such calls; provided, that the entity notifies the caller that the caller may contact the PSAP or district to request it rescind its authorization to divert 911 calls from the caller's handset.

(5) The emergency communications board, CMRS service providers, providers of non-wireline service, and PSAPs, and their employees, vendors, agents, and authorizing government entities, if any, shall have immunity from liability for diverting or not diverting harassing noninitialized 911 phone calls to an entity designated by the emergency communications board to receive such calls.

(6) An entity designated by the emergency communications board to receive diverted harassing noninitialized 911 phone calls shall have immunity from liability for receiving and processing such calls.

Title 36
Domestic Relations
Chapter 3
Marriage

36-3-601 Domestic abuse–Definitions

Amended 2023

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

(1) "Abuse" means***:***

(A) Inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means;

(B) Placing an adult or minor in fear of, or in, physical harm or physical restraint;

(C) Causing malicious damage to the personal property of the abused party; or

(D) Intentionally engaging in behavior that amounts to financial abuse;

(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) "Financial abuse" means behavior that is coercive, that is deceptive, or that unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which the person is entitled, including using coercion, fraud, or manipulation to:

(A) Restrict a person's access to money, assets, credit, or financial information;

(B) Unfairly use a person's economic resources, including money, assets, and credit, to gain an advantage; or

(C) Exert undue influence over a person's financial behavior or decisions, including forcing default on joint or other financial obligations; exploiting powers of attorney, guardianship, or conservatorship; or failing or neglecting to act in the best interest of the person to whom a fiduciary duty is owed;

(***7***) "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;

(***8***) "Petitioner" means the person alleging domestic abuse, stalking, sexual exploitation of a minor, sexual assault, or a human trafficking offense in a petition for an order for protection;

(***9***) "Preferred response" means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;

(***10***) "Respondent" means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;

(***11***) "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;

(***12***) "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

(*13*) "Weapon" means a firearm or a device listed in §39-17-1302(a)(1)-(7).

36-3-611 Arrest for violation of protection order

(a) An arrest for violation of an order of protection issued pursuant to this part may be with or without warrant. Any law enforcement officer shall arrest the respondent without a warrant if:

(1) The officer has proper jurisdiction over the area in which the violation occurred;

(2) The officer has reasonable cause to believe the respondent has violated or is in violation of an order for protection; and

(3) The officer has verified whether an order of protection is in effect against the respondent. If necessary, the police officer may verify the existence of an order for protection by telephone or radio communication with the appropriate law enforcement department.

(b) No ex parte order of protection can be enforced by arrest under this section until the respondent has been served with the order of protection or otherwise has acquired actual knowledge of such order.

Title 37
Juveniles
Chapter 1
Juvenile Courts and Proceedings

37-1-156 Contributing to or encouraging delinquency or unruly behavior of child

(a)(1) Any adult who contributes to or encourages the delinquency or unruly behavior of a child, whether by aiding or abetting or encouraging the child in the commission of an act of delinquency or unruly conduct or by participating as a principal with the child in an act of delinquency, unruly conduct or by aiding the child in concealing an act of delinquency or unruly conduct following its commission, commits a Class A misdemeanor, triable in the circuit or criminal court.

(2) An adult convicted of a violation of this section shall be sentenced to the county jail or workhouse to serve one hundred percent (100%) of the maximum authorized sentence for a Class A misdemeanor if:

(A) The adult's conduct constituting a violation of this section involves supplying, giving, furnishing, selling, or permitting a child to buy or obtain, a product or substance that is unlawful for the child to possess; and

(B) As a proximate result of the product or substance, the child engages in conduct that causes the death of another.

(b) When any juvenile judge shall have reasonable ground to believe that any person is guilty of having contributed to the delinquency or unruly conduct of a child, such judge shall cause the person to be arrested and brought before such judge. In such case, when the defendant pleads not guilty, the juvenile court judge has the power to bind the defendant over to the grand jury or to proceed to hear the case on its merits without the intervention of a jury if the defendant requests the hearing in juvenile court and expressly waives in writing an indictment, presentment, grand jury investigation and jury trial. In the event the defendant enters a plea of guilty, the juvenile court judge has the same power as the circuit or criminal court in making final disposition of the case.

(c)(1) If a child is found delinquent a second or subsequent time for conduct that constitutes the offense of vandalism under §39-14-408, and the property vandalized is owned, operated, maintained or used by a governmental or other public entity, the parent or legal guardian of that child is in violation of this section.

(2) It is a defense to a violation of this subsection (c) if the parent or guardian demonstrates to the court that all reasonable means available were taken to prevent the child from engaging in the prohibited conduct.

(3) In lieu of the punishment prescribed in subsection (a), if the court finds that the parent or guardian of the delinquent child is in violation of this subsection (c), it may order the parent or guardian to repair, repaint, clean, refurbish or replace the property damaged as a result of the vandalism. If the damage does not lend itself to repair or cleaning, or if there is a legitimate reason why the parent or guardian is unable to do so, the court, in its discretion, may allow the parent or guardian to pay to have the damage repaired or replaced. If the parent or guardian is indigent and cannot afford to replace the damaged property, the court shall order the indigent parent or guardian to perform other community service work for which the parent or guardian is better suited.

(4) A violation of this subsection (c) may be heard and determined by the juvenile court.
(5) As a dispositional option for the delinquent act of vandalism, the court may also require the child responsible for the vandalism to assist in the repair or cleaning of the damage along with the child's parent or guardian.

37-1-157 Contributing to dependency and neglect

(a) When any child is alleged to be a dependent and neglected child, the parent, guardian or other person who by any willful act causes, contributes to or encourages such dependency and neglect commits a Class A misdemeanor, triable in the circuit or criminal court.
(b) In such a case when the defendant pleads not guilty, the juvenile court judge has the power to bind the defendant over to the grand jury as in cases of misdemeanors under the criminal laws of this state. In such case, when the defendant pleads not guilty, the juvenile court judge has the power to bind the defendant over to the grand jury or to proceed to hear the case on its merits without the intervention of a jury if the defendant requests the hearing in juvenile court and expressly waives in writing an indictment, presentment, grand jury investigation and jury trial. In the event the defendant enters a plea of guilty, the juvenile court judge has the same power as the circuit or criminal court in making final disposition of the case.
(c) Reliance by a parent, guardian or custodian upon remedial treatment, other than medical or surgical treatment for a child, when such treatment is legally recognized or legally permitted under the laws of this state, shall not subject such parent, guardian or custodian to any of the penalties hereunder.
(d) Subsection (a) shall not be construed to impose criminal liability upon a mother based solely upon her act of voluntarily delivering a newborn infant to a facility pursuant to §68-11-255.

Title 39
Criminal Offenses
Chapter 11
General Provisions

39-11-106 General provisions–Definitions

Amended 2023

(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)***(A)*** "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:

(***i***) Maintain public order; or

(***ii***) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(***iii***) Investigate the commission or suspected commission of offenses;

(B) "Law enforcement officer" includes a sheriff, sheriff's deputy, and, only for purposes of the enhancement of a crime, a deputy jailer;

(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 twelve (12) 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)(38) or a specific statute exists covering the same or similar conduct; and

(39) "Value":

(A) Subject to the additional criteria of subdivisions (a)(39)(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)(39)(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)(39)(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.

39-11-301 Requirement of culpable mental state

(a)(1) A person commits an offense who acts intentionally, knowingly, recklessly or with criminal negligence, as the definition of the offense requires, with respect to each element of the offense.

(2) When the law provides that criminal negligence suffices to establish an element of an offense, that element is also established if a person acts intentionally, knowingly or recklessly. When recklessness suffices to establish an element, that element is also established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, that element is also established if a person acts intentionally.

(b) A culpable mental state is required within this title unless the definition of an offense plainly dispenses with a mental element.
(c) If the definition of an offense within this title does not plainly dispense with a mental element, intent, knowledge or recklessness suffices to establish the culpable mental state.

39-11-302 Culpable mental state–Definitions

(a) "Intentional" refers to a person who 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.
(b) "Knowing" refers to a person who 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.
(c) "Reckless" refers to a person who 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.
(d) "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.

39-11-401 Parties to offenses

(a) A person is criminally responsible as a party to an offense, if the offense is committed by the person's own conduct, by the conduct of another for which the person is criminally responsible, or by both.
(b) Each party to an offense may be charged with commission of the offense.

39-11-402 Criminal responsibility for conduct of another

A person is criminally responsible for an offense committed by the conduct of another, if:
(1) Acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense;
(2) Acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or
(3) Having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.

39-11-403 Criminal responsibility for facilitation of felony

(a) A person is criminally responsible for the facilitation of a felony, if, knowing that another intends to commit a specific felony, but without the intent required for criminal responsibility under §39-11-402(2), the person knowingly furnishes substantial assistance in the commission of the felony.
(b) The facilitation of the commission of a felony is an offense of the class next below the felony facilitated by the person so charged.

39-11-407 Defenses excluded

In a prosecution in which a person's criminal responsibility is based upon the conduct of another, the person may be convicted on proof of commission of the offense and that the person was a party to or facilitated its commission, and it is no defense that:
(1) The other belongs to a class of persons who by definition of the offense is legally incapable of committing the offense in an individual capacity; or

(2) The person for whose conduct the defendant is criminally responsible has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or different type or class of offense, or is immune from prosecution.

39-11-411 Accessory after the fact

(a) A person is an accessory after the fact who, after the commission of a felony, with knowledge or reasonable ground to believe that the offender has committed the felony, and with the intent to hinder the arrest, trial, conviction or punishment of the offender:
(1) Harbors or conceals the offender;
(2) Provides or aids in providing the offender with any means of avoiding arrest, trial, conviction or punishment; or
(3) Warns the offender of impending apprehension or discovery.
(b) This section shall have no application to an attorney providing legal services as required or authorized by law.
(c) Accessory after the fact is a Class E felony.

39-11-502 Ignorance or mistake of fact

(a) Except in prosecutions for violations of §§39-13-504(a)(4) and 39-13-522, ignorance or mistake of fact is a defense to prosecution if the ignorance or mistake negates the culpable mental state of the charged offense.
(b) Although a person's ignorance or mistake of fact may constitute a defense to the offense charged, the person may be convicted of the offense for which the person would be guilty if the fact were as the person believed.
(c) It is not a defense to prosecution for a violation of §39-13-309, §39-13-514, or §39-13-529(a), (b)(1), or (b)(2) that the person charged was ignorant or mistaken as to the age of a minor.

39-11-503 Intoxication

(a) Except as provided in subsection (c), intoxication itself is not a defense to prosecution for an offense. However, intoxication, whether voluntary or involuntary, is admissible in evidence, if it is relevant to negate a culpable mental state.
(b) If recklessness establishes an element of an offense and the person is unaware of a risk because of voluntary intoxication, the person's unawareness is immaterial in a prosecution for that offense.
(c) Intoxication itself does not constitute a mental disease or defect within the meaning of §39-11-501. However, involuntary intoxication is a defense to prosecution, if, as a result of the involuntary intoxication, the person lacked substantial capacity either to appreciate the wrongfulness of the person's conduct or to conform that conduct to the requirements of the law allegedly violated.
(d) The following definitions apply in this part, unless the context clearly requires otherwise:
(1) "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body;
(2) "Involuntary intoxication" means intoxication that is not voluntary; and
(3) "Voluntary intoxication" means intoxication caused by a substance that the person knowingly introduced into the person's body, the tendency of which to cause intoxication was known or ought to have been known.

39-11-504 Duress

(a) Duress is a defense to prosecution where the person or a third person is threatened with harm that is present, imminent, impending and of such a nature to induce a well-grounded apprehension of death, serious bodily injury, or grave sexual abuse if the act is not done. The threatened harm must be continuous throughout the time the act is being committed, and must be one from which the person cannot withdraw in safety. Further, the desirability and urgency of avoiding the harm must clearly outweigh the harm sought to be prevented by the law proscribing the conduct, according to ordinary standards of reasonableness.
(b) This defense is unavailable to a person who intentionally, knowingly, or recklessly becomes involved in a situation in which it was probable that the person would be subjected to compulsion.

39-11-505 Entrapment

It is a defense to prosecution that law enforcement officials, acting either directly or through an agent, induced or persuaded an otherwise unwilling person to commit an unlawful act when the person was not predisposed to do so. If a defendant intends to rely on the defense of entrapment, the defendant shall give to the district attorney general a notice comparable to that required for an insanity defense under Rule 12.2 of the Tennessee Rules of Criminal Procedure.

39-11-601 Justification a defense

It is a defense to prosecution that the conduct of the person is justified under this part.

39-11-602 Justification–Definitions

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

(1) "Custody" means under arrest by a law enforcement officer, or under restraint by an officer, employee or agent of government pursuant to an order of a court;

(2) "Deadly force" means force that is intended or known by the defendant to cause or, in the manner of its use or intended use, is capable of causing death or serious bodily injury; and

(3) "Escape" means unauthorized departure from custody or failure to return to custody following temporary leave for a specific purpose of limited period, but does not include a violation of conditions of probation or parole.

39-11-603 Confinement as justifiable force

Confinement is justified when force is justified by this part if the person takes reasonable measures to terminate the confinement as soon as the person knows it can be done safely, unless the individual confined has been arrested for an offense.

39-11-604 Reckless injury of innocent third person

Even though a person is justified under this part in threatening or using force or deadly force against another, the justification afforded by this part is unavailable in a prosecution for harm to an innocent third person who is recklessly injured or recklessly killed by the use of such force.

39-11-609 Necessity

Except as provided in §§39-11-611--39-11-616, 39-11-620 and 39-11-621, conduct is justified, if:

(1) The person reasonably believes the conduct is immediately necessary to avoid imminent harm; and

(2) The desirability and urgency of avoiding the harm clearly outweigh the harm sought to be prevented by the law proscribing the conduct, according to ordinary standards of reasonableness.

39-11-610 Public duty

(a) Except as qualified by subsections (b) and (c), conduct is justified if the person reasonably believes the conduct is required or authorized by law, by the judgment or order of a competent court or other tribunal, or in the execution of legal process.

(b) The following sections of this part control:

(1) When force is threatened or used against a person to protect persons, pursuant to §§39-11-611--39-11-613;

(2) To protect property, pursuant to §§39-11-614--39-11-616; or

(3) For law enforcement, pursuant to §39-11-620.

(c) The justification afforded by this section is available if:

(1) The person reasonably believes the court or tribunal has jurisdiction or the process is lawful, even though the court or tribunal lacks jurisdiction or the process is unlawful; or

(2) The person reasonably believes the conduct is required or authorized to assist a public servant in the performance of the public servant's official duty, even though the public servant exceeds the public servant's lawful authority.

39-11-611 Self-defense

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

(1) "Business" means a commercial enterprise or establishment owned by a person as all or part of the person's livelihood or is under the owner's control or who is an employee or agent of the owner with

responsibility for protecting persons and property and shall include the interior and exterior premises of the business;

(2) "Category I nuclear facility" means a facility that possesses a formula quantity of strategic special nuclear material, as defined and licensed by the United States nuclear regulatory commission, and that must comply with the requirements of 10 CFR Part 73;

(3) "Curtilage" means the area surrounding a dwelling that is necessary, convenient and habitually used for family purposes and for those activities associated with the sanctity of a person's home;

(4) "Deadly force" means the use of force intended or likely to cause death or serious bodily injury;

(5) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, that has a roof over it, including a tent, and is designed for or capable of use by people;

(6) "Nuclear power reactor facility" means a reactor designed to produce heat for electric generation, for producing radiation or fissionable materials, or for reactor component testing, and does not include a reactor used for research purposes;

(7) "Nuclear security officer" means a person who meets the requirements of 10 CFR Part 73, Appendix B, who is an employee or an employee of a contractor of the owner of a category I nuclear facility or nuclear power reactor facility, and who has been appointed or designated by the owner of a category I nuclear facility or nuclear power reactor facility to provide security for the facility;

(8) "Residence" means a dwelling in which a person resides, either temporarily or permanently, or is visiting as an invited guest, or any dwelling, building or other appurtenance within the curtilage of the residence; and

(9) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

(b)(1) Notwithstanding § 39-17-1322, a person who is not engaged in conduct that would constitute a felony or Class A misdemeanor and is in a place where the person has a right to be has no duty to retreat before threatening or using force against another person when and to the degree the person reasonably believes the force is immediately necessary to protect against the other's use or attempted use of unlawful force.

(2) Notwithstanding § 39-17-1322, a person who is not engaged in conduct that would constitute a felony or Class A misdemeanor and is in a place where the person has a right to be has no duty to retreat before threatening or using force intended or likely to cause death or serious bodily injury, if:

(A) The person has a reasonable belief that there is an imminent danger of death, serious bodily injury, or grave sexual abuse;

(B) The danger creating the belief of imminent death, serious bodily injury, or grave sexual abuse is real, or honestly believed to be real at the time; and

(C) The belief of danger is founded upon reasonable grounds.

(3) For purposes of this subsection (b), a person is not engaged in conduct that would constitute a felony or Class A misdemeanor or in a place where the person does not have a right to be if the person is engaged in the activity or in the place due to the person's status as a victim of human trafficking. The person must prove the person's status as a victim of human trafficking by clear and convincing evidence. The person may provide clear and convincing evidence of the person's status as a victim of human trafficking through testimony.

(c) Any person using force intended or likely to cause death or serious bodily injury within a residence, business, dwelling or vehicle is presumed to have held a reasonable belief of imminent death or serious bodily injury to self, family, a member of the household or a person visiting as an invited guest, when that force is used against another person, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence, business, dwelling or vehicle, and the person using defensive force knew or had reason to believe that an unlawful and forcible entry occurred.

(d) The presumption established in subsection (c) shall not apply, if:

(1) The person against whom the force is used has the right to be in or is a lawful resident of the dwelling, business, residence, or vehicle, such as an owner, lessee, or titleholder; provided, that the person is not

prohibited from entering the dwelling, business, residence, or occupied vehicle by an order of protection, injunction for protection from domestic abuse, or a court order of no contact against that person;

(2) The person against whom the force is used is attempting to remove a person or persons who is a child or grandchild of, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

(3)(A) Notwithstanding § 39-17-1322, the person using force is engaged in conduct that would constitute a felony or Class A misdemeanor or is using the dwelling, business, residence, or occupied vehicle to further an unlawful activity;

(B) For purposes of subdivision (d)(3)(A), a person is not engaged in conduct that would constitute a felony or Class A misdemeanor or using a dwelling, business, residence, or occupied vehicle to further unlawful activity if the person is engaged in the activity or using the dwelling, business, residence, or occupied vehicle due to the person's status as a victim of human trafficking. The person must prove the person's status as a victim of human trafficking by clear and convincing evidence. The person may provide clear and convincing evidence of the person's status as a victim of human trafficking through testimony; or

(4) The person against whom force is used is a law enforcement officer, as defined in § 39-11-106, who enters or attempts to enter a dwelling, business, residence, or vehicle in the performance of the officer's official duties, and the officer identified the officer in accordance with any applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(e) The threat or use of force against another is not justified:

(1) If the person using force consented to the exact force used or attempted by the other individual;

(2) If the person using force provoked the other individual's use or attempted use of unlawful force, unless:

(A) The person using force abandons the encounter or clearly communicates to the other the intent to do so; and

(B) The other person nevertheless continues or attempts to use unlawful force against the person; or

(3) To resist a halt at a roadblock, arrest, search, or stop and frisk that the person using force knows is being made by a law enforcement officer, unless:

(A) The law enforcement officer uses or attempts to use greater force than necessary to make the arrest, search, stop and frisk, or halt; and

(B) The person using force reasonably believes that the force is immediately necessary to protect against the law enforcement officer's use or attempted use of greater force than necessary.

(f) A nuclear security officer is authorized to use deadly force under the following circumstances:

(1) Deadly force appears reasonably necessary to prevent or impede an act, or attempted act, of radiological sabotage at a category I nuclear facility or nuclear power reactor facility, including, but not limited to, situations where a person is attempting to, or has, unlawfully or forcefully entered a category I nuclear facility or nuclear power reactor facility, and where adversary tactics are employed to attempt an act of radiological sabotage, such as, but not limited to:

(A) Use of firearms or small arms;

(B) Use of explosive devices;

(C) Use of incendiary devices;

(D) Use of vehicle borne improvised explosive devices;

(E) Use of water borne improvised explosive devices;

(F) Breaching of barriers; and

(G) Use of other adversary or terrorist tactics which could be employed to attempt an act of radiological sabotage;

(2) Deadly force appears reasonably necessary to protect the nuclear security officer or another person if the nuclear security officer reasonably believes there is an imminent danger of death, serious bodily injury, or grave sexual abuse;

(3) Deadly force appears reasonably necessary to prevent the imminent infliction or threatened infliction of death, serious bodily injury, or grave sexual abuse or the sabotage of an occupied facility by explosives;

(4) Deadly force appears reasonably necessary to prevent the theft, sabotage, or unauthorized control of special nuclear material from a nuclear power reactor facility or of a nuclear weapon or nuclear explosive device or special nuclear material from a category I nuclear facility; or

(5) Deadly force reasonably appears to be necessary to apprehend or prevent the escape of a person reasonably believed to:

(A) Have committed an offense of the nature specified under this subsection (f); or

(B) Be escaping by use of a weapon or explosive or who otherwise poses an imminent danger of death, serious bodily injury, or grave sexual abuse to nuclear security officers or others unless apprehended without delay.

39-11-612 Defense of third person

A person is justified in threatening or using force against another to protect a third person, if:

(1) Under the circumstances as the person reasonably believes them to be, the person would be justified under §39-11-611 in threatening or using force to protect against the use or attempted use of unlawful force reasonably believed to be threatening the third person sought to be protected; and

(2) The person reasonably believes that the intervention is immediately necessary to protect the third person.

39-11-613 Protection of life or health

A person is justified in threatening or using force, but not deadly force, against another, when and to the degree the person reasonably believes the force is immediately necessary to prevent the other from committing suicide or from the self-infliction of serious bodily injury.

39-11-614 Protection of property

(a) A person in lawful possession of real or personal property is justified in threatening or using force against another, when and to the degree it is reasonably believed the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with the property.

(b) A person who has been unlawfully dispossessed of real or personal property is justified in threatening or using force against the other, when and to the degree it is reasonably believed the force is immediately necessary to reenter the land or recover the property, if the person threatens or uses the force immediately or in fresh pursuit after the dispossession:

(1) The person reasonably believes the other had no claim of right when the other dispossessed the person; and

(2) The other accomplished the dispossession by threatening or using force against the person.

(c) Unless a person is justified in using deadly force as otherwise provided by law, a person is not justified in using deadly force to prevent or terminate the other's trespass on real estate or unlawful interference with personal property.

39-11-615 Protection of third person's property

A person is justified in threatening or using force against another to protect real or personal property of a third person, if, under the circumstances as the person reasonably believes them to be, the person would be justified under §39-11-614 in threatening or using force to protect the person's own real or personal property.

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.

39-11-620 Use of deadly force by law enforcement

(a) A law enforcement officer, after giving notice of the officer's identity as such, may use or threaten to use force that is reasonably necessary to accomplish the arrest of an individual suspected of a criminal act who resists or flees from the arrest.

(b) Notwithstanding subsection (a), the officer may use deadly force to effect an arrest only if all other reasonable means of apprehension have been exhausted or are unavailable, and where feasible, the officer has given notice of the officer's identity as such and given a warning that deadly force may be used unless resistance or flight ceases, and:

(1) The officer has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury or grave sexual abuse; or

(2) The officer has probable cause to believe that the individual to be arrested poses a threat of serious bodily injury or grave sexual abuse, either to the officer or to others unless immediately apprehended.

39-11-621 Use of deadly force by private citizen

A private citizen, in making an arrest authorized by law, may use force reasonably necessary to accomplish the arrest of an individual who flees or resists the arrest; provided, that a private citizen cannot use or threaten to use deadly force except to the extent authorized under self-defense or defense of third person statutes, §§39-11-611 and 39-11-612.

Chapter 12
General Offenses

39-12-101 Criminal attempt

(a) A person commits criminal attempt who, acting with the kind of culpability otherwise required for the offense:

(1) Intentionally engages in action or causes a result that would constitute an offense, if the circumstances surrounding the conduct were as the person believes them to be;

(2) Acts with intent to cause a result that is an element of the offense, and believes the conduct will cause the result without further conduct on the person's part; or

(3) Acts with intent to complete a course of action or cause a result that would constitute the offense, under the circumstances surrounding the conduct as the person believes them to be, and the conduct constitutes a substantial step toward the commission of the offense.

(b) Conduct does not constitute a substantial step under subdivision (a)(3), unless the person's entire course of action is corroborative of the intent to commit the offense.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

39-12-102 Solicitation

(a) Whoever, by means of oral, written or electronic communication, directly or through another, intentionally commands, requests or hires another to commit a criminal offense, or attempts to command, request or hire another to commit a criminal offense, with the intent that the criminal offense be committed, is guilty of the offense of solicitation.

(b) It is no defense that the solicitation was unsuccessful and the offense solicited was not committed. It is no defense that the person solicited could not be guilty of the offense solicited, due to insanity, minority, or other lack of criminal responsibility or incapacity. It is no defense that the person solicited was unaware of the criminal nature of the conduct solicited. It is no defense that the person solicited is unable to commit the offense solicited because of the lack of capacity, status, or characteristic needed to commit the offense solicited, so long as the person soliciting or the person solicited believes that either or both have such capacity, status, or characteristic.

39-12-103 Criminal conspiracy

(a) The offense of conspiracy is committed if two (2) or more people, each having the culpable mental state required for the offense that is the object of the conspiracy, and each acting for the purpose of promoting or facilitating commission of an offense, agree that one (1) or more of them will engage in conduct that constitutes the offense.

(b) If a person guilty of conspiracy, as defined in subsection (a), knows that another with whom the person conspires to commit an offense has conspired with one (1) or more other people to commit the same offense, the person is guilty of conspiring with the other person or persons, whether or not their identity is known, to commit the offense.

(c) If a person conspires to commit a number of offenses, the person is guilty of only one (1) conspiracy, so long as the multiple offenses are the object of the same agreement or continuous conspiratorial relationship.

(d) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuance of the conspiracy is alleged and proved to have been done by the person or by another with whom the person conspired.

(e)(1) Conspiracy is a continuing course of conduct that terminates when the objectives of the conspiracy are completed or the agreement that they be completed is abandoned by the person and by those with whom the person conspired. The objectives of the conspiracy include, but are not limited to, escape from the crime, distribution of the proceeds of the crime, and measures, other than silence, for concealing the crime or obstructing justice in relation to it.

(2) Abandonment of a conspiracy is presumed if neither the person nor anyone with whom the person conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to that person only if and when the person, advises those with whom the person conspired of the abandonment, or the person informs law enforcement authorities of the existence of the conspiracy and of the person's participation in the conspiracy.

(f) It is no defense that the offense that was the object of the conspiracy was not committed.

(g) Nothing in this section is intended to modify the evidentiary rules allowing statements of co-conspirators in furtherance of a conspiracy.

39-12-104 Renunciation–Defenses

It is an affirmative defense to a charge of criminal attempt, solicitation or conspiracy that the person, after committing the criminal attempt, solicitation or conspiracy, prevented the successful commission of the offense attempted, solicited or conspired, under circumstances manifesting a complete and voluntary renunciation of the person's criminal purpose.

39-12-105 Incapacity, irresponsibility or immunity of party to attempt, solicitation or conspiracy

(a) Except as provided in subsection (c), it is immaterial to the liability of a person who solicits another to commit an offense that:

(1) The person or the one whom the person solicits does not occupy a particular position or have a particular characteristic that is an element of the offense, if the person believes that one of them does; or

(2) The one whom the person solicits is not legally responsible or has an immunity to prosecution or conviction for the commission of the offense.

(b) Except as provided in subsections (c) and (d), it is immaterial to the liability of a person who conspires with another to commit an offense that the one with whom the person conspires is not legally responsible or, after the formation of the conspiracy, has been given immunity to prosecution or conviction for the commission of the offense.

(c) It is a defense to a charge of attempt, solicitation or conspiracy to commit an offense that if the criminal object were achieved, the person would not be guilty of an offense under the law defining the offense or as an accomplice under §39-11-402.

(d) It is a defense to a charge of conspiracy that the person or the one with whom the person conspires does not occupy a particular position or have a particular characteristic which is an element of such offense, if the person believes one of them does.

39-12-107 Attempt, solicitation and conspiracy–Penalties

(a) Criminal attempt is an offense one (1) classification lower than the most serious crime attempted, unless the offense attempted was a Class C misdemeanor, in which case the attempt would not be an offense.

(b) Solicitation is an offense two (2) classifications lower than the most serious offense solicited, unless the offense solicited was a Class B or C misdemeanor, in which case the solicitation would not be an offense.
(c) Except as provided in §39-17-417(i) and (j), conspiracy is an offense one (1) classification lower than the most serious offense that is the object of the conspiracy, unless the offense conspired was a Class C misdemeanor, in which case the conspiracy would not be an offense.

Chapter 13
Offenses Against Person

39-13-101 Assault

(a) A person commits assault who:
(1) Intentionally, knowingly or recklessly causes bodily injury to another;
(2) Intentionally or knowingly causes another to reasonably fear imminent bodily injury; or
(3) Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.
(b)(1) Assault under:
(A) Subdivision (a)(1) is a Class A misdemeanor, punishable by incarceration and a fine not to exceed fifteen thousand dollars ($15,000);
(B) Subdivision (a)(2) is a Class A misdemeanor; and
(C) Subdivision (a)(3) is a Class B misdemeanor.
(2) Any conduct by an inmate against a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse, that would constitute an assault under subdivision (a)(1) shall be reported by the managing authority of the institution to the appropriate district attorney general for prosecution.
(3) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a domestic abuse victim as defined in §36-3-601, and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but no less than one hundred dollars ($100) and not in excess of two hundred dollars ($200). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to §67-4-411.
(c) For purposes of this section and §39-13-102, "health care provider" means a person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business in the practicing of a profession.

39-13-102 Aggravated assault

Amended 2023

(a)(1) A person commits aggravated assault who:
(A) Intentionally or knowingly commits an assault as defined in §39-13-101, and the assault:
(i) Results in serious bodily injury to another;
(ii) Results in the death of another;
(iii) Involved the use or display of a deadly weapon; or
(iv) Involved strangulation or attempted strangulation; or
(B) Recklessly commits an assault as defined in §39-13-101(a)(1), and the assault:
(i) Results in serious bodily injury to another;
(ii) Results in the death of another; or
(iii) Involved the use or display of a deadly weapon.
(2) For purposes of subdivision (a)(1)(A)(iv), "strangulation" means intentionally or knowingly impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the

nose and mouth of another person, regardless of whether that conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

(b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect the child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in §39-15-402.

(c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against the individual or individuals.

(d) [Deleted].

(e)(1)(A) Aggravated assault under:

(i) [Deleted];

(ii***(a) Except as provided in subdivision (e)(1)(A)(ii)(b), subdivision*** (a)(1)(A)(i), (iii), or (iv) is a Class C felony; ***and***

(b) If the victim is pregnant at the time of the offense, subdivision (a)(1)(A)(iv) is a Class B felony;

(iii) Subdivision (a)(1)(A)(ii) is a Class C felony;

(iv) Subdivision (b) or (c) is a Class C felony;

(v) Subdivision (a)(1)(B)(i) or (iii) is a Class D felony;

(vi) Subdivision (a)(1)(B)(ii) is a Class D felony.

(B) Notwithstanding the authorized fines established in § 40-35-111, a violation of this section is punishable by a fine not to exceed fifteen thousand dollars ($15,000), in addition to any other punishment authorized by § 40-35-111.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a domestic abuse victim as defined in §36-3-601, and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars ($200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars ($200). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to §67-4-411.

(3)(A) In addition to any other punishment authorized by this section, the court shall order a person convicted of aggravated assault under the circumstances set out in this subdivision (e)(3) to pay restitution to the victim of the offense. Additionally, the judge shall order the warden, chief operating officer, or workhouse administrator to deduct fifty percent (50%) of the restitution ordered from the inmate's commissary account or any other account or fund established by or for the benefit of the inmate while incarcerated. The judge may authorize the deduction of up to one hundred percent (100%) of the restitution ordered.

(B) Subdivision (e)(3)(A) applies if:

(i) The victim of the aggravated assault is a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse;

(ii) The offense occurred while the victim was in the discharge of official duties and within the victim's scope of employment; and

(iii) The person committing the assault was at the time of the offense, and at the time of the conviction, serving a sentence of incarceration in a public or private penal institution as defined in §39-16-601.

(4) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a domestic abuse victim as defined in §36-3-601, the court shall assess each person convicted an electronic monitoring indigency fee of ten dollars ($10.00). All proceeds collected pursuant to this subdivision (e)(4) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund, established in §55-10-419.

(5) Notwithstanding this subsection (e), a person convicted of a violation of subdivision (a)(1)(A)(i), (a)(1)(A)(ii), (a)(1)(B)(i), or (a)(1)(B)(ii) shall be punished one (1) classification higher than is otherwise provided if:

(A) The violation was committed by discharging a firearm from within a motor vehicle, as defined by § 55-1-103; and

(B) The victim was a minor at the time of the violation.

(6) Notwithstanding this subsection (e), a person convicted of a violation of subdivision (a)(1)(A)(iii) or (a)(1)(B)(iii) shall be punished one (1) classification higher than is otherwise provided if the violation was committed by discharging a firearm from within a motor vehicle, as defined in § 55-1-103.

(f) A violation of subdivision (a)(1)(A)(iv), in which the victim of the offense loses consciousness due to strangulation, may be prosecuted as attempted first degree murder, under §39-13-202, or attempted second degree murder, under §39-13-210.

39-13-103 Reckless endangerment

(a) A person commits an offense who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.

(b)(1) Reckless endangerment is a Class A misdemeanor.

(2) Reckless endangerment committed with a deadly weapon is a Class E felony.

(3) Reckless endangerment by discharging a firearm or antique firearm into a habitation, as defined under § 39-14-401, is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.

(4) Reckless endangerment by discharging a firearm from within a motor vehicle, as defined by § 55-1-103, is a Class C felony.

(5) In addition to the penalty authorized by this subsection (b), the court shall assess a fine of fifty dollars ($50.00) to be collected as provided in § 55-10-412(b) and distributed as provided in § 55-10-412(c).

39-13-104 Effective consent

When conduct is charged to constitute an offense under this part because it causes or threatens bodily injury, effective consent to such conduct or to the infliction of such injury is a defense, if:

(1) The bodily injury consented to or threatened by the conduct consented to is not serious bodily injury; or

(2) The conduct and the harm are reasonably foreseeable hazards:

(A) Of joint participation in a lawful athletic contest or competitive sport; or

(B) For any concerted activity of a kind not forbidden by law.

39-13-105 Crimes against person–Definition

In addition to the enumerated offenses, crimes against the person shall be any violent offense that results or could have resulted in physical injury to the victim, including, but not limited to, rape, sexual battery, kidnapping, aggravated burglary, and especially aggravated burglary.

39-13-106 Vehicular assault

(a) A person commits vehicular assault who, as the proximate result of the person's intoxication as set forth in § 55-10-401 or § 69-9-219(a), recklessly causes serious bodily injury to another person by the operation of a motor vehicle or vessel subject to registration. For the purposes of this section, "intoxication" includes alcohol intoxication as defined by § 55-10-411(a), drug intoxication, or both.

(b)(1) Vehicular assault is a Class D felony.

(2) Any sentence imposed for a first violation of this section shall include a mandatory minimum sentence of forty-eight (48) consecutive hours of incarceration. The person shall not be eligible for release from confinement on probation pursuant to § 40-35-303 until the person has served the entire forty-eight-hour minimum mandatory sentence.

(3) If at the time of sentencing for a violation of this section, the person has one (1) prior conviction for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of forty-five (45) consecutive days of incarceration. The person shall not be eligible for release from confine-

ment on probation pursuant to § 40-35-303 until the person has served the entire forty-five-day minimum mandatory sentence.

(4) If at the time of sentencing for a violation of this section, the person has any combination of two (2) prior convictions for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of one hundred twenty (120) consecutive days of incarceration. The person shall not be eligible for release from confinement on probation pursuant to § 40-35-303 until the person has served the entire one hundred twenty-day mandatory minimum sentence.

(5) If at the time of sentencing for a violation of this section, the person has any combination of three (3) or more prior convictions for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of one hundred fifty (150) consecutive days of incarceration. The person shall not be eligible for release from confinement on probation pursuant to § 40-35-303 until the person has served the entire one hundred fifty-day mandatory minimum sentence.

(6) As used in this subsection (b), "alcohol-related offense" means a conviction for a violation of § 55-10-401, § 69-9-219(a), this section, § 39-13-213(a)(2), or § 39-13-218.

(7) For purposes of sentencing under this subsection (b), a prior conviction for an alcohol-related offense may be used to enhance the mandatory minimum sentence regardless of whether it occurred before or after July 1, 2015, as long as the violation of this section occurs on or after July 1, 2015.

(c) Upon the conviction of a person for the first offense of vehicular assault, the court shall prohibit the convicted person from driving a vehicle or operating a vessel subject to registration in this state for a period of one (1) year. For the second such conviction, the court shall prohibit the convicted person from driving a vehicle or operating a vessel subject to registration in this state for a period of two (2) years. For the third such conviction, the court shall prohibit the convicted person from driving a vehicle or operating a vessel subject to registration in this state for a period of three (3) years. For fourth and subsequent convictions, the court shall prohibit the person from driving a vehicle or operating a vessel subject to registration in this state for a period of five (5) years.

39-13-107 Viable fetus as victim

(a) For the purposes of this part, "another," "individuals," and "another person" include a human embryo or fetus at any stage of gestation in utero, when any such term refers to the victim of any act made criminal by this part.

(b) Nothing in this section shall be construed to amend §39-15-201, or §§39-15-203--39-15-205 and 39-15-207.

(c) Nothing in subsection (a) shall apply to any act or omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant, or to any lawful medical or surgical procedure to which a pregnant woman consents, performed by a health care professional who is licensed to perform such procedure.

39-13-108 Escape from HIV quarantine

(a) The department of health, acting pursuant to §68-10-109, shall promulgate rules regarding transmission of human immunodeficiency virus (HIV). The rules shall include specific procedures for quarantine or isolation, as may be necessary, of any person who clearly and convincingly demonstrates willful and knowing disregard for the health and safety of others, and who poses a direct threat of significant risk to the health and safety of the public regarding transmission of HIV.

(b) The department is authorized to quarantine or isolate a person within a secure facility, after exercising other appropriate measures, if the person continues to pose a direct threat of significant risk to the health and safety of the public. Any person so quarantined or isolated within a secure facility, who intentionally escapes from the facility, commits a Class E felony.

39-13-109 Criminal exposure of another to HIV, HBV, or HCV

(a) A person commits the offense of criminal exposure of another to human immunodeficiency virus (HIV), to hepatitis B virus (HBV), or to hepatitis C virus (HCV) when, knowing that the person is infected with HIV, with HBV, or with HCV, the person knowingly:

(1) Engages in intimate contact with another;

(2) Transfers, donates, or provides blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination, or other administration to another in any manner that presents a significant risk of HIV, HBV or HCV transmission; or

(3) Dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.

(b) As used in this section:

(1) "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome;

(2) "Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in any manner that presents a significant risk of HIV, HBV or HCV transmission; and

(3) "Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind that is peculiar to and marketed for use in injecting a substance into the human body.

(c)(1) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to HIV knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and gave advance consent to the action with that knowledge.

(2) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to HBV knew that the infected person was infected with HBV, knew that the action could result in infection with HBV, and gave advance consent to the action with that knowledge.

(3) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the person exposed to HCV knew that the infected person was infected with HCV, knew that the action could result in infection with HCV, and gave advance consent to the action with that knowledge.

(d)(1) Nothing in this section shall be construed to require the actual transmission of HIV in order for a person to have committed the offense of criminal exposure of another to HIV.

(2) Nothing in this section shall be construed to require the actual transmission of HBV in order for a person to have committed the offense of criminal exposure to HBV.

(3) Nothing in this section shall be construed to require the actual transmission of HCV in order for a person to have committed the offense of criminal exposure to HCV.

(e)(1) Criminal exposure of another to HIV is a Class C felony.

(2) Criminal exposure of another to HBV or HCV is a Class A misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000), restitution to the victim or victims, or both a fine and restitution. The clerk shall transmit all money collected from a fine imposed for a violation of this section to the criminal injuries compensation fund created pursuant to §40-24-107. In addition, a victim of criminal exposure to HBV or HCV may maintain an action for the expenses and the actual loss of service resulting from such exposure.

39-13-111 Domestic assault

Amended 2023

(a) As used in this section, "domestic abuse victim" means any person who falls within the following categories:

(1) Adults or minors who are current or former spouses;

(2) Adults or minors who live together or who have lived together;

(3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;

(4) Adults or minors related by blood or adoption;

(5) Adults or minors who are related or were formerly related by marriage; or

(6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5).

(b) A person commits domestic assault who commits an assault as defined in §39-13-101 against a domestic abuse victim.

(c)(1) A first conviction for domestic assault and a second or subsequent conviction for domestic assault committed in a manner prohibited by §39-13-101(a)(2) and (a)(3) is punishable the same as assault under §39-13-101, and additionally, as provided in subdivisions (c)(2) and (c)(3) and subsections (d) and (e) of this section.

(2) A second conviction for domestic assault committed in a manner prohibited by §39-13-101(a)(1) is punishable by a fine of not less than three hundred fifty dollars ($350) nor more than three thousand five hundred dollars ($3,500), and by confinement in the county jail or workhouse for not less than thirty (30) consecutive days, nor more than eleven (11) months and twenty-nine (29) days.

(3) A third or subsequent conviction for domestic assault committed in a manner prohibited by §39-13-101(a)(1) is punishable by a fine of not less than one thousand one hundred dollars ($1,100) nor more than five thousand dollars ($5,000), and by confinement in the county jail or workhouse for not less than ninety (90) consecutive days, nor more than eleven (11) months and twenty-nine (29) days; provided, however, that if the domestic assault victim's relationship with the defendant falls within the categories defined in subdivision (a)(1) or (a)(3), or the victim is the minor child of any person in such categories, and the defendant has at least two (2) prior convictions for domestic assault committed in a manner prohibited by §39-13-101(a)(1) prior to or at the time of committing the offense, the offense is a Class E felony, with a mandatory confinement of not less than ninety (90) consecutive days in the county jail or workhouse.

(4) For purposes of this section, a person who is convicted of a violation of §39-13-111 committed in a manner prohibited by §39-13-101(a)(1), shall not be subject to the enhanced penalties prescribed in this subsection (c), if ten (10) or more years have elapsed between the date of the present violation and the date of any immediately preceding violation of §39-13-111, committed in a manner prohibited by §39-13-101(a)(1), that resulted in a conviction for such offense.

(5) In addition to any other punishment that may be imposed for a violation of this section, if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred twenty-five dollars ($225), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred twenty-five dollars ($225). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. This appropriation shall be in addition to any amount appropriated pursuant to §67-4-411.

(6) If a defendant pleads guilty or is found guilty of a domestic violence offense, as defined by this section or in §40-14-109, the judge shall immediately order that the defendant:

(A) Terminate physical possession of all firearms in the defendant's possession within forty-eight (48) hours of the conviction by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms; and

(B)(i) Complete an affidavit of firearms dispossession form and return it to the court in which the defendant was convicted when all firearms have been lawfully dispossessed as required by subdivision (c)(6)(A);

(ii) The defendant may obtain the affidavit of dispossession from the court or court clerk or the defendant may be directed to obtain a copy from the website of the administrative office of the courts.

(7) In addition to all other fines, fees, costs, and punishments now prescribed by law, the court shall assess each person convicted of domestic assault an electronic monitoring indigency fee of ten dollars ($10.00). All proceeds collected pursuant to this subdivision (c)(7) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund, established in §55-10-419.

(d) As part of a defendant's alternative sentencing for a violation of this section, the sentencing judge may direct the defendant to complete a drug or alcohol treatment program or available counseling programs that address violence and control issues including, but not limited to, a batterer's intervention program that has been certified by the domestic violence state coordinating council. Completion of a noncertified batterer's intervention program shall only be ordered if no certified program is available in the sentencing county. No batterer's intervention program, certified or noncertified, shall be deemed complete until the full term of the program is complete, and a judge may not require a defendant to attend less than the full term of a program

as part of a plea agreement or otherwise. The defendant's knowing failure to complete such an intervention program shall be considered a violation of the defendant's alternative sentence program and the sentencing judge may revoke the defendant's participation in such program and order execution of sentence.

(e) A person convicted of a violation under this section shall be required to serve at least the minimum sentence day for day. All persons sentenced under this section shall, in addition to service of at least the minimum sentence, be required to serve the difference between the time actually served and the maximum sentence on supervised probation.

(f) A person convicted of a violation of this section involving strangulation or attempted strangulation shall be punished by a mandatory minimum sentence of thirty (30) days incarceration, which includes participation in programming that is evidence-based for domestic violence.

39-13-113 Violation of an order of protection, no contact order, or restraining order

(a) It is an offense to knowingly violate:

(1) An order of protection issued pursuant to title 36, chapter 3, part 6; or

(2) A restraining order issued to a victim as defined in §36-3-601.

(b) A person violating this section may be arrested with or without a warrant as provided in §36-3-611, and the arrest shall be conducted in accordance with the requirements of §36-3-619.

(c) A person who is arrested for a violation of this section shall be considered within the provisions of §40-11-150(a) and subject to the twelve-hour holding period authorized by §40-11-150(h).

(d) After a person has been arrested for a violation of this section, the arresting officer shall inform the victim that the person has been arrested and that the person may be eligible to post bond for the offense and be released until the date of trial for the offense.

(e) Neither an arrest nor the issuance of a warrant or capias for a violation of this section in any way affects the validity or enforceability of any order of protection, restraining order, or no contact order.

(f) In order to constitute a violation of subsection (a):

(1) The person must have received notice of the request for an order of protection or restraining order;

(2) The person must have had an opportunity to appear and be heard in connection with the order of protection or restraining order; and

(3) The court made specific findings of fact in the order of protection or restraining order that the person committed domestic abuse, sexual assault, or stalking as defined in § 36-3-601 or was convicted of a felony offense under chapter 13, part 1, 2, 3, or 5 of this title.

(g) A violation of subsection (a) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), a violation of subsection (a) is punishable by a fine of not less than one hundred dollars ($100) nor more than two thousand five hundred dollars ($2,500), and any sentence of incarceration imposed shall be served consecutively to the sentence for any other offense that is based in whole or in part on the same factual allegations. However, the sentencing judge or magistrate may specifically order the sentences for the offenses arising out of the same facts to be served concurrently.

(h)(1) It is an offense and a violation of an order of protection for a person to knowingly possess a firearm while an order of protection that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect, or any successive order of protection containing the language of § 36-3-606(f) and that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect.

(2) For purposes of this subsection (h), the determination of whether a person possesses firearms shall be based upon the factors set out in § 36-3-625(f) if the firearms constitute the business inventory or are subject to the National Firearms Act, (26 U.S.C. § 5801 et seq.).

(3) A violation of this subsection (h) is a Class A misdemeanor and each violation constitutes a separate offense.

(4) If a violation of subsection (h) also constitutes a violation of § 36-3-625(h) or § 39-17-1307(f), the respondent may be charged and convicted under any or all such sections.

(i)(1) It is an offense to knowingly violate a no contact order, issued prior to a defendant's release on bond, following the defendant's arrest for any criminal offense defined in this chapter, in which the alleged victim of the offense is a domestic abuse victim as defined in § 36-3-601.

(2) A violation of subdivision (i)(1) is a Class A misdemeanor. A sentence imposed must be served consecutively to the sentence for the offense for which the defendant was originally arrested, unless the sentencing judge or magistrate specifically orders the sentences for the offenses to be served concurrently.

39-13-114 Death threat against school employee

(a) For purposes of this section, "school" means any:
(1) Elementary school, middle school or high school;
(2) College of applied technology or postsecondary vocational or technical school; or
(3) Two-year or four-year college or university.
(b) A person commits the offense of communicating a threat concerning a school employee if:
(1) The person communicates to another a threat to cause the death of or serious bodily injury to a school employee and the threat is directly related to the employee's scope of employment;
(2) The threat involves the use of a firearm or other deadly weapon;
(3) The person to whom the threat is made reasonably believes that the person making the threat intends to carry out the threat; and
(4) The person making the threat intentionally engages in conduct that constitutes a substantial step in the commission of the threatened act and the threatened act and the substantial step when taken together:
(A) Are corroborative of the person's intent to commit the threatened act; and
(B) Occur close enough in time to evidence an intent and ability to commit the threatened act.
(c) Communicating a death threat concerning a school employee is a Class B misdemeanor punishable by a maximum term of imprisonment of thirty (30) days.

39-13-115 Aggravated vehicular assault

(a) As used in this section, "prior conviction" means an offense for which the person was convicted prior to the aggravated vehicular assault charge. This definition includes prior convictions from this state or any other state, district, or territory of the United States within the last twenty (20) years.
(b) A person commits aggravated vehicular assault who:
(1)(A) Commits vehicular assault, as defined in § 39-13-106; and
(B)(i) Has two (2) or more prior convictions for driving under the influence of an intoxicant, as defined in § 55-10-401, or boating under the influence, as defined in § 69-9-217(a); or
(ii) Has one (1) or more prior convictions for:
(a) Vehicular assault;
(b) Vehicular homicide, as defined in § 39-13-213(a)(2); or
(c) Aggravated vehicular homicide, as defined in § 39-13-218; or
(2)(A) Had an alcohol concentration in the person's blood or breath of twenty-hundredths of one percent (0.20%) or more at the time of the offense; and
(B) Has one (1) prior conviction for driving under the influence of an intoxicant, as defined in § 55-10-401, or boating under the influence, as defined in § 69-9-217(a).
(c) The indictment, in a separate count, shall specify, charge, and give notice of the required prior conviction or convictions. If the person is convicted of vehicular assault under § 39-13-106, the trier-of-fact shall separately consider whether the person has the required aggravating factors necessary to commit aggravated vehicular assault.
(d) For the purpose of determining if a person has sufficient aggravating factors to qualify for aggravated vehicular assault, applicable prior convictions occurring prior to July 1, 2015, may be used; provided, that the conduct constituting aggravated vehicular assault occurs on or after July 1, 2015.
(e) A violation of this section is a Class C felony, and there shall additionally be imposed a fine of not less than five thousand dollars ($5,000) nor more than fifteen thousand dollars ($15,000).
(f) Upon conviction for aggravated vehicular assault, the court shall prohibit the convicted person from driving a vehicle or operating a vessel subject to registration in this state pursuant to § 39-13-106(c).

39-13-116 Assault and aggravated assault against a first responder or nurse

Amended 2023

(a) A person commits assault against a first responder or nurse, who is discharging or attempting to discharge the first responder's or nurse's official duties, who:

(1) Knowingly causes bodily injury to a first responder or nurse; or

(2) Knowingly causes physical contact with a first responder or nurse and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of a first responder or nurse.

(b) A person commits aggravated assault against a first responder or nurse, who is discharging or attempting to discharge the first responder or nurse's official duties, who knowingly commits an assault under subsection (a), and the assault:

(1) Results in serious bodily injury to the first responder or nurse;

(2) Results in the death of the first responder or nurse;

(3) Involved the use or display of a deadly weapon; or

(4) Involved strangulation or attempted strangulation.

(c)(1) Assault under subsection (a) is a Class A misdemeanor, and shall be punished by a mandatory fine of five thousand dollars ($5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.

(2) Aggravated assault under subsection (b) is a Class C felony, and is punished by a mandatory fine of fifteen thousand dollars ($15,000) and a mandatory minimum sentence of ninety (90) days incarceration. The defendant is not eligible for release from confinement until the defendant has served the entire ninety-day mandatory minimum sentence.

(d) For purposes of this section:

(1) "First responder":

(A) Means a firefighter, emergency services personnel, POST-certified law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and

(B) Includes capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, ***deputy jailers,*** and park rangers employed by the division of parks and recreation in the department of environment and conservation; and

(2) "Nurse" means a person who is licensed, registered, or certificated under title 63, chapter 7.

39-13-117 Grave torture

(a) Grave torture is the infliction of severe physical and mental pain and suffering upon the victim with the intent to perpetrate first degree murder, in violation of § 39-13-202, and accompanied by three (3) or more of the following:

(1) The defendant also commits against the victim the offense of especially aggravated rape, as defined in § 39-13-534; aggravated rape, as defined in § 39-13-502; especially aggravated rape of a child, as defined in § 39-13-535; or aggravated rape of a child, as defined in § 39-13-531;

(2) The defendant also commits the offense of kidnapping, as defined in § 39-13-303, or false imprisonment, as defined in § 39-13-302, against the victim;

(3) The defendant has, at the time of the commission of the offense, more than one (1) prior conviction for a sexual offense or a violent sexual offense, as those terms are defined in § 40-39-202;

(4) The defendant mutilates the victim during the commission of the offense;

(5) Force or coercion is used to accomplish the act, and the defendant is armed with a weapon or an article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(6) The defendant's commission of the offense involved more than one (1) victim; or

(7) The defendant knows or has reason to know that the victim is:

(A) Mentally defective;

(B) Mentally incapacitated;

(C) Physically helpless; or
(D) A vulnerable adult, as defined in § 39-15-501.
(b) Grave torture is a Class A felony and shall be punished as follows:
(1) If the defendant was a juvenile at the time of the commission of the offense, then the sentence must be from Range III, as set forth in title 40, chapter 35; and
(2) If the defendant was an adult at the time of the commission of the offense, then the defendant shall be punished by:
(A) Imprisonment for life without possibility of parole; or
(B) Death; provided, that a punishment of death shall not be imposed until at least the thirtieth day following the occurrence of either of the following circumstances:
(i) The issuance of the judgment in a decision of the United States supreme court overruling, in whole or in relevant part, Kennedy v. Louisiana, 554 U.S. 407 (2008), thereby allowing the use of the death penalty as punishment for an offense involving the infliction of severe physical and mental pain and suffering upon the victim with the intent to perpetrate first degree murder that does not result in the death of the victim; or
(ii) The ratification of an amendment to the Constitution of the United States approving the use of the death penalty as punishment for the conviction of an offense involving the infliction of severe physical and mental pain and suffering upon the victim with the intent to perpetrate first degree murder that does not result in the death of the victim.
(c) A person may not be convicted of both a violation of this section and a violation of § 39-13-534, § 39-13-535, § 39-13-502, or § 39-13-531 if the facts supporting the prosecution arise out of the same criminal conduct.

39-13-201 Criminal homicide

Criminal homicide is the unlawful killing of another person, which may be first degree murder, second degree murder, voluntary manslaughter, criminally negligent homicide or vehicular homicide.

39-13-202 First degree murder

(a) First degree murder is:
(1) A premeditated and intentional killing of another;
(2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, arson, robbery, burglary, theft, kidnapping, aggravated abuse of an elderly or vulnerable adult in violation of § 39-15-511, aggravated neglect of an elderly or vulnerable adult in violation of § 39-15-508, aggravated child abuse, aggravated child neglect, or aircraft piracy;
(3) A killing of another committed as the result of the unlawful throwing, placing, or discharging of a destructive device or bomb;
(4) A killing of another in the perpetration or attempted perpetration of an act of terrorism in violation of § 39-13-805; or
(5) A killing of another in the perpetration or attempted perpetration of an aggravated rape, rape, rape of a child, or aggravated rape of child.
(b) No culpable mental state is required for conviction under subdivisions (a)(2)-(5), except the intent to commit the enumerated offenses or acts in those subdivisions.
(c)(1) Except as provided in subdivision (c)(2), a person convicted of first degree murder under subdivisions (a)(1)-(5) shall be punished by:
(A) Death;
(B) Imprisonment for life without possibility of parole; or
(C) Imprisonment for life.
(2) If a person convicted of first degree murder under subdivisions (a)(4) and (5) was an adult at the time of commission of the offense, then the person shall be punished by:
(A) Death; or
(B) Imprisonment for life without possibility of parole.

(d) Notwithstanding § 39-12-107, a person convicted of attempted first degree murder may be sentenced to imprisonment for life without possibility of parole if the court finds the person committed the offense against any law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter, who was engaged in the performance of official duties, and the person knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter engaged in the performance of official duties.

(e) As used in subdivision (a)(1), "premeditation" is an act done after the exercise of reflection and judgment. "Premeditation" means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill preexist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.

39-13-209 Discharging firearm from within motor vehicle, minor victim—Enhanced punishment

(a) Notwithstanding this part, a person convicted of a violation of § 39-13-211, § 39-13-212, or § 39-13-215 shall be punished one (1) classification higher than is otherwise provided if the violation occurred as provided in subsection (b).

(b) This section applies if:

(1) The violation was committed by discharging a firearm from within a motor vehicle, as defined by § 55-1-103; and

(2) The victim was a minor at the time of the violation.

39-13-210 Second degree murder

(a) Second degree murder is:

(1) A knowing killing of another;

(2) A killing of another that results from the unlawful distribution of any Schedule I or Schedule II drug, when the drug is the proximate cause of the death of the user; or

(3) A killing of another by unlawful distribution or unlawful delivery or unlawful dispensation of fentanyl or carfentanil, when those substances alone, or in combination with any substance scheduled as a controlled substance by the Tennessee Drug Control Act of 1989, compiled in chapter 17, part 4 of this title and in title 53, chapter 11, parts 3 and 4, including controlled substance analogs, is the proximate cause of the death of the user.

(b) In a prosecution for a violation of this section, if the defendant knowingly engages in multiple incidents of domestic abuse, assault or the infliction of bodily injury against a single victim, the trier of fact may infer that the defendant was aware that the cumulative effect of the conduct was reasonably certain to result in the death of the victim, regardless of whether any single incident would have resulted in the death.

(c)(1) Second degree murder is a Class A felony.

(2) Notwithstanding the Tennessee Criminal Sentencing Reform Act of 1989, compiled in title 40, chapter 35, a person convicted of a violation of subdivision (a)(2) where the victim is a minor shall be punished from within one (1) range higher than the sentencing range otherwise appropriate for the person.

39-13-211 Voluntary manslaughter

Amended 2023

(a) Voluntary manslaughter is the intentional or knowing killing of another in a state of passion produced by adequate provocation sufficient to lead a reasonable person to act in an irrational manner.

(b) Voluntary manslaughter is a ***Class B*** felony.

39-13-212 Criminally negligent homicide

(a) Criminally negligent conduct that results in death constitutes criminally negligent homicide.

(b) Criminally negligent homicide is a Class E felony.

39-13-213 Vehicular homicide

(a) Vehicular homicide is the reckless killing of another by the operation of an automobile, airplane, vessel subject to registration under title 69, chapter 9, part 2, or other motor vehicle, as the proximate result of:

(1) Conduct creating a substantial risk of death or serious bodily injury to a person;

(2) The driver's intoxication, as set forth in § 55-10-401, or the operator's intoxication, as set forth in § 69-9-217(a). For the purposes of this section, "intoxication" includes alcohol intoxication as defined by §55-10-411(a), drug intoxication, or both;

(3) As the proximate result of conduct constituting the offense of drag racing as prohibited by title 55, chapter 10, part 5; or

(4) The driver's conduct in a posted construction zone where the person killed was an employee of the department of transportation or a highway construction worker.

(b)(1) Vehicular homicide under subdivision (a)(1) or (a)(3) is a Class C felony.

(2)(A) Vehicular homicide under subdivision (a)(2) is a Class B felony.

(B) Any sentence imposed for a first violation of subdivision (a)(2) shall include a mandatory minimum sentence of forty-eight (48) consecutive hours of incarceration. The person shall not be eligible for release from confinement on probation pursuant to §40-35-303 until the person has served the entire forty-eight-hour minimum mandatory sentence.

(C) If at the time of sentencing for a violation of subdivision (a)(2), the person has one (1) prior conviction for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of forty-five (45) consecutive days of incarceration. The person shall not be eligible for release from confinement on probation pursuant to §40-35-303 until the person has served the entire forty-five-day minimum mandatory sentence.

(D) If at the time of sentencing for a violation of subdivision (a)(2), the person has any combination of two (2) prior convictions for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of one hundred twenty (120) consecutive days of incarceration. The person shall not be eligible for release from confinement on probation pursuant to §40-35-303 until the person has served the entire one hundred twenty-day mandatory minimum sentence.

(E) If at the time of sentencing for a violation of subdivision (a)(2), the person has any combination of three (3) or more prior convictions for an alcohol-related offense, any sentence imposed by the judge shall include a mandatory minimum sentence of one hundred fifty (150) consecutive days of incarceration. The person shall not be eligible for release from confinement on probation pursuant to §40-35-303 until the person has served the entire one hundred fifty-day mandatory minimum sentence.

(F) As used in this subdivision (b)(2), "alcohol-related offense" means a conviction for a violation of subdivision (a)(2), §55-10-401, §39-13-106, or §39-13-218.

(G) For purposes of sentencing under this subdivision (b)(2), a prior conviction for an alcohol-related offense may be used to enhance the mandatory minimum sentence regardless of whether it occurred before or after July 1, 2015, as long as the violation of this section occurs on or after July 1, 2015.

(3) Vehicular homicide under subdivision (a)(4) is a Class D felony.

(c) The court shall prohibit a defendant convicted of vehicular homicide from driving a vehicle or operating a vessel subject to registration in this state for a period of time not less than three (3) years nor more than ten (10) years.

39-13-214 Viable fetus as victim

(a) For the purposes of this part, "another" and "another person" include a human embryo or fetus at any stage of gestation in utero, when any such term refers to the victim of any act made criminal by this part.

(b) Nothing in this section shall be construed to amend §39-15-201, or §§39-15-203--39-15-205 and 39-15-207.

(c) Nothing in subsection (a) shall apply to any act or omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant, or to any lawful medical or surgical procedure to which a pregnant woman consents, performed by a health care professional who is licensed to perform such procedure.

39-13-215 Reckless homicide

(a) Reckless homicide is a reckless killing of another.

(b) Reckless homicide is a Class D felony.

39-13-216 Assisted suicide

(a) A person commits the offense of assisted suicide who:

(1) Intentionally provides another person with the means by which such person directly and intentionally brings about such person's own death; or

(2) Intentionally participates in a physical act by which another person directly and intentionally brings about such person's own death; and

(3) Provides the means or participates in the physical act with:

(A) Actual knowledge that the other person intends to bring about such person's own death; and

(B) The clear intent that the other person bring about such person's own death.

(b) It is not an offense under this section to:

(1) Withhold or withdraw medical care as defined by §32-11-103;

(2) Prescribe, dispense, or administer medications or perform medical procedures calculated or intended to relieve another person's pain or discomfort but not calculated or intended to cause death, even if the medications or medical procedures may hasten or increase the risk of death; or

(3) Fail to prevent another from bringing about that person's own death.

(c) This section shall not in any way affect, impair, impede, or otherwise limit or render invalid the rights, privileges, and policies set forth in the Tennessee Right to Natural Death Act, compiled in title 32, chapter 11; the provisions for the durable power of attorney for health care, compiled in title 34, chapter 6, part 2; or the do not resuscitate (DNR) regulations of the Tennessee board for licensing health care facilities issued pursuant to §68-11-224.

(d) A cause of action for injunctive relief may be maintained against any person who is reasonably believed about to violate or who is in the course of violating subsection (a), by any person who is:

(1) The spouse, parent, child, or sibling of the person who would bring about such person's own death;

(2) Entitled to inherit from the person who would bring about such person's own death;

(3) A health care provider or former health care provider of the person who would bring about such person's own death; or

(4) A public official with appropriate jurisdiction to prosecute or enforce the laws of this state.

(e) A cause of action for civil damages against any person who violates or attempts to violate subsection (a) may be maintained by any person given standing by subsection (d) for compensatory damages and exemplary damages, whether or not the plaintiff consented to or had prior knowledge of the violation or attempt. Any compensatory damages awarded shall be paid as provided by law, but exemplary damages shall be paid over to the department of revenue for deposit in the criminal injuries compensation fund, pursuant to §40-24-107.

(f) Reasonable attorney's fees shall be awarded to the prevailing plaintiff in a civil action brought pursuant to this section. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous or brought in bad faith, the court shall award reasonable attorney's fees to the defendant.

(g) Assisted suicide is a Class D felony.

39-13-218 Aggravated vehicular homicide

(a) Aggravated vehicular homicide is vehicular homicide, as defined in §39-13-213(a)(2), where:

(1) The defendant has two (2) or more prior convictions for:

(A) Driving under the influence of an intoxicant or boating under the influence, as defined in § 69-9-217(a);

(B) Vehicular assault; or

(C) Any combination of such offenses;

(2) The defendant has one (1) or more prior convictions for the offense of vehicular homicide; or

(3) There was, at the time of the offense, twenty-hundredths of one percent (0.20%), or more, by weight of alcohol in the defendant's blood and the defendant has one (1) prior conviction for:

(A) Driving under the influence of an intoxicant or boating under the influence, as defined in § 69-9-217(a); or

(B) Vehicular assault.

(b)(1) As used in this section, unless the context otherwise requires, "prior conviction" means an offense for which the defendant was convicted prior to the commission of the instant vehicular homicide and includes convictions occurring prior to July 1, 1996.

(2) "Prior conviction" includes convictions under the laws of any other state, government, or country that, if committed in this state, would have constituted one (1) of the three (3) offenses enumerated in subdivision (a)(1) or (a)(2). In the event that a conviction from a jurisdiction other than Tennessee is not specifically named the same as one (1) of the three (3) offenses enumerated in subdivision (a)(1) or (a)(2), the elements of the offense in the other jurisdiction shall be used by the Tennessee court to determine if the offense constitutes one (1) of the prior convictions required by subsection (a).

(c) If the defendant is charged with aggravated vehicular homicide, the indictment, in a separate count, shall specify, charge and give notice of the required prior conviction or convictions. If the defendant is convicted of vehicular homicide under §39-13-213(a)(2), the jury shall then separately consider whether the defendant has the requisite number and types of prior offenses or level of blood alcohol concentration necessary to constitute the offense of aggravated vehicular homicide. If the jury convicts the defendant of aggravated vehicular homicide, the court shall pronounce judgment and sentence the defendant from within the felony classification set out in subsection (d).

(d) Aggravated vehicular homicide is a Class A felony.

39-13-301 Kidnapping and false imprisonment–Definitions

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

(1) "Advertisement" means a notice or an announcement in a public medium promoting a product, service, or event, or publicizing a job vacancy;

(2) "Blackmail" means threatening to expose or reveal the identity of another or any material, document, secret or other information that might subject a person to hatred, contempt, ridicule, loss of employment, social status or economic harm;

(3) "Coercion" means:

(A) Causing or threatening to cause bodily harm to any person, physically restraining or confining any person or threatening to physically restrain or confine any person;

(B) Exposing or threatening to expose any fact or information that, if revealed, would tend to subject a person to criminal or immigration proceedings, hatred, contempt or ridicule;

(C) Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person; or

(D) Providing a controlled substance, as defined in §39-17-402, or a controlled substance analogue, as defined in §39-17-454, to a person;

(4) "Commercial sex act" means:

(A) Any sexually explicit conduct for which anything of value is directly or indirectly given, promised to or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age; or

(B) Any sexually explicit conduct that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under eighteen (18) years of age;

(5) "Deception" means:

(A) Creating or confirming another person's impression of an existing fact or past event that is false and that the accused knows or believes to be false;

(B) Maintaining the status or condition of a person arising from a pledge by that person of personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing a person from acquiring information pertinent to the disposition of the debt; or

(C) Promising benefits or the performance of services that the accused does not intend to deliver or perform or knows will not be delivered or performed. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this part;

(6) "Financial harm" includes extortion as defined by §39-14-112, criminal violation of the usury laws as defined by §47-14-112 or employment contracts that violate the statute of frauds as defined by §29-2-101(b);

(7) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through the defendant's:

(A) Causing or threatening to cause serious harm to any person;

(B) Physically restraining or threatening to physically restrain another person;

(C) Abusing or threatening to abuse the law or legal process;

(D) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) Blackmail; or

(F) Causing or threatening to cause financial harm to in order to exercise financial control over any person;

(8) "Involuntary servitude" means the condition of a person who is compelled by force, coercion or imprisonment and against the person's will to labor for another, whether paid or not;

(9) "Labor" means work of economic or financial value;

(10) "Maintain" means, in relation to labor or services, to secure continued performance of labor or services, regardless of any initial agreement on the part of the victim to perform such type of service;

(11) "Minor" means an individual who is less than eighteen (18) years of age;

(12) "Obtain" means, in relation to labor or services, to secure performance of labor or services;

(13) "Services" means an ongoing relationship between a person and the defendant in which the person performs activities under the supervision of or for the defendant;

(14) "Sexually explicit conduct" means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area or buttocks or with a female's nude breasts;

(H) Defecation or urination for the purpose of sexual stimulation of the viewer; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure; and

(15) "Unlawful" means, with respect to removal or confinement, one that is accomplished by force, threat or fraud, or, in the case of a person who is under the age of thirteen (13) or incompetent, accomplished without the consent of a parent, guardian or other person responsible for the general supervision of the minor's or incompetent's welfare.

39-13-302 False imprisonment

(a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.

(b) False imprisonment is a Class A misdemeanor.

39-13-303 Kidnapping

(a) Kidnapping is false imprisonment as defined in §39-13-302, under circumstances exposing the other person to substantial risk of bodily injury.

(b) Kidnapping is a Class C felony.

39-13-304 Aggravated kidnapping

(a) Aggravated kidnapping is false imprisonment, as defined in §39-13-302, committed:

(1) To facilitate the commission of any felony or flight thereafter;

(2) To interfere with the performance of any governmental or political function;

(3) With the intent to inflict serious bodily injury on or to terrorize the victim or another;

(4) Where the victim suffers bodily injury; or

(5) While the defendant is in possession of a deadly weapon or threatens the use of a deadly weapon.

(b)(1) Aggravated kidnapping is a Class B felony.

(2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim's safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

39-13-305 Especially aggravated kidnapping

Amended 2023

(a) Especially aggravated kidnapping is false imprisonment, as defined in §39-13-302:

(1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon;

(2) Where the victim was under the age of thirteen (13) at the time of the removal or confinement;

(3) Committed to hold the victim for ransom or reward, or as a shield or hostage; or

(4) Where the victim suffers serious bodily injury.

(b)(1) Especially aggravated kidnapping is a Class A felony.

(2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim's safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

(3) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

39-13-306 Custodial interference

Amended 2023

(a) It is the offense of custodial interference for a natural or adoptive parent, step-parent, grandparent, brother, sister, aunt, uncle, niece, or nephew of a child younger than eighteen (18) years of age to:

(1) Remove the child from this state knowing that the removal violates a child custody determination as defined in §36-6-205, the rightful custody of a mother as defined in §36-2-303, or a temporary or permanent judgment or court order regarding the custody or care of the child;

(2) Detain the child within this state or remove the child from this state after the expiration of the noncustodial natural or adoptive parent or guardian's lawful period of visitation, with the intent to violate the rightful custody of a mother as defined in §36-2-303, or a temporary or permanent judgment or a court order regarding the custody or care of the child;

(3) Harbor or hide the child within or outside this state, knowing that possession of the child was unlawfully obtained by another person in violation of the rightful custody of a mother as defined in §36-2-303, or a temporary or permanent judgment or a court order;

(4) Act as an accessory to any act prohibited by this section;

(5) Detain the child within or remove the child from this state during the noncustodial parent's lawful period of visitation, with the intent to violate the court-ordered visitation of the noncustodial parent, or a temporary or permanent judgment regarding visitation with the child***; or***

(6) Harbor or hide the child within or outside this state, knowing that the child has been placed in the custody of the department of children's services pursuant to a protective custody order or an emergency custody order entered by a court. It is not a defense to a violation of this subdivision (a)(6) that the person harboring or hiding the child has not been served with an actual copy of a protective custody order or emergency custody order.

(b) It is also the offense of custodial interference for a natural or adoptive parent, step-parent, grandparent, brother, sister, aunt, uncle, niece, or nephew of an incompetent person to:
(1) Remove the incompetent person from this state knowing that the removal violates a temporary or permanent judgment or a court order regarding the custody or care of the incompetent person;
(2) Harbor or hide the incompetent person within or outside this state, knowing that possession of the incompetent person was unlawfully obtained by another person in violation of a temporary or permanent judgment or a court order; or
(3) Act as an accessory to any act prohibited by this section.
(c) It is a defense to custodial interference:
(1) That the person who removed the child or incompetent person reasonably believed that, at the time the child or incompetent was removed, the failure to remove the child or incompetent person would have resulted in a clear and present danger to the health, safety, or welfare of the child or incompetent person; or
(2) That the individual detained or moved in contravention of the rightful custody of a mother as defined in §36-2-303, or of the order of custody or care, was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.
(d) If conduct that is in violation of this section is also a violation of §39-13-304 or §39-13-305(a)(1), (a)(3), or (a)(4), the offense may be prosecuted under any of the applicable statutes.
(e)(1) Except as provided in subdivision (e)(2), custodial interference is a Class E felony, unless the person taken from lawful custody is returned voluntarily by the defendant, in which case custodial interference is a Class A misdemeanor.
(2) Custodial interference under subdivision (a)(5) is a Class C misdemeanor.

39-13-307 Involuntary labor servitude

(a) A person commits the offense of involuntary labor servitude who knowingly subjects, or attempts to subject, another person to forced labor or services by:
(1) Causing or threatening to cause serious bodily harm to the person;
(2) Physically restraining or threatening to physically restrain the person;
(3) Abusing or threatening to abuse the law or legal process;
(4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;
(5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person;
(6) Facilitating or controlling the person's access to an addictive controlled substance; or
(7) Controlling the person's movements through threats or violence.
(b) In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of:
(1) The gross income or value to the defendant of the victim's labor or services; or
(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) (29 U.S.C. § 201 et seq.), or the minimum wage required in this state, whichever is higher.
(c) Nothing in this section shall be construed as prohibiting the defendant from also being prosecuted for the theft of the victim's labor or services by involuntary servitude or for any other appropriate criminal statute violated by the defendant's conduct.
(d)(1) Involuntary servitude is a Class C felony.
(2) Involuntary servitude is a Class B felony if:
(A) The violation resulted in the serious bodily injury or death of a victim;
(B) The period of time during which the victim was held in servitude exceeded one (1) year; or
(C) The defendant held ten (10) or more victims in servitude at any time during the course of the defendant's criminal episode.

(3) Involuntary servitude is a Class A felony if the victim was more than twelve (12) years of age but less than eighteen (18) years of age.

39-13-308 Trafficking persons for forced labor or services

(a) A person commits the offense of trafficking persons for forced labor or services who knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or

(2) Benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act described in § 39-13-307.

(b) In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of:

(1) The gross income or value of the benefit received by the defendant as the result of the victim's labor or services; or

(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) (29 U.S.C. § 201 et seq.), or the minimum wage required in this state, whichever is higher.

(c)(1) Trafficking for forced labor or services is a Class C felony.

(2) Trafficking for forced labor or services is a Class A felony if the victim was more than twelve (12) years of age but less than eighteen (18) years of age.

39-13-309 Trafficking a person for a commercial sex act

(a) A person commits the offense of trafficking a person for a commercial sex act who:

(1) Knowingly subjects, attempts to subject, benefits from, or attempts to benefit from another person's provision of a commercial sex act;

(2) Recruits, entices, harbors, transports, provides, purchases, or obtains by any other means, another person for the purpose of providing a commercial sex act; or

(3) Commits the acts in this subsection (a) when the intended victim of the offense is a law enforcement officer or a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b) For purposes of subdivision (a)(2), such means may include, but are not limited to:

(1) Causing or threatening to cause physical harm to the person;

(2) Physically restraining or threatening to physically restrain the person;

(3) Abusing or threatening to abuse the law or legal process;

(4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;

(5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or

(6) Facilitating or controlling a person's access to a controlled substance.

(c)(1) A violation of subsection (a) is a Class B felony, except as provided in subdivision (c)(2).

(2) A violation of subsection (a) is a Class A felony if the victim of the offense is a child more than twelve (12) years of age but less than eighteen (18) years of age.

(d) It is not a defense to a violation of this section that:

(1) The intended victim of the offense is a law enforcement officer;

(2) The victim of the offense is a minor who consented to the act or acts constituting the offense;

(3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or the law enforcement officer could not engage in the solicited offense; or

(4) The person charged was ignorant or mistaken as to the age of a minor.

(e) Notwithstanding this section to the contrary, if it is determined after a reasonable detention for investigative purposes that a victim of trafficking for a commercial sex act under this section is under eighteen (18) years of age, then that person is immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody as a suspected victim

under this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the Tennessee human trafficking resource center hotline, notify the department of children's services, and release the minor to the custody of a parent or legal guardian or transport the minor to a shelter facility designated by the juvenile court judge to facilitate the release of the minor to the custody of a parent or guardian.

(f) It is a defense to prosecution under this section, including as an accomplice or co-conspirator, that a minor charged with a violation of this section was so charged for conduct that occurred because the minor is also a victim of an act committed in violation of this section or § 39-13-307, or because the minor is also a victim as defined by the federal Trafficking Victims Protection Act (22 U.S.C. § 7102).

39-13-315 Advertising commercial sexual abuse of a minor

(a) A person commits the offense of advertising commercial sexual abuse of a minor if the person knowingly sells or offers to sell an advertisement that would appear to a reasonable person to be for the purpose of engaging in what would be a commercial sex act, as defined in §39-13-301, with a minor.

(b)(1) Advertising commercial sexual abuse of a minor is a Class C felony.

(2) In addition to any authorized period of incarceration, advertising commercial sexual abuse of a minor is punishable by a minimum fine of ten thousand dollars ($10,000).

(c) In a prosecution under this section, it is not a defense that the defendant did not know the age of the minor depicted in the advertisement. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor appearing in the advertisement by requiring, prior to publication of the advertisement, production of a driver license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written allegations of the minor's age or the apparent age of the minor.

39-13-316 Aggravated human trafficking

(a) Aggravated human trafficking is the commission of an act that constitutes any of the following criminal offenses, if the victim of the criminal offense is under thirteen (13) years of age:

(1) Involuntary labor servitude, under § 39-13-307;

(2) Trafficking persons for forced labor or services, under § 39-13-308;

(3) Trafficking for commercial sex act, under § 39-13-309;

(4) Patronizing prostitution, under § 39-13-514; or

(5) Promoting prostitution, under § 39-13-515.

(b)(1) Aggravated human trafficking is a Class A felony.

(2) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon the person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

(3) Section 39-13-525(a) does not apply to a person sentenced for a violation of this section under subdivision (a)(3), (a)(4), or (a)(5).

(4) Notwithstanding another law to the contrary, the board of parole may require, as a mandatory condition of supervision for a person convicted of a violation of this section under subdivision (a)(3), (a)(4), or (a)(5), that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of supervision consistent with the requirements of § 40-39-302.

(c) Title 40, chapter 35, part 5, regarding release eligibility status and parole, does not apply to or authorize the release of a person convicted of a violation of this section prior to service of the entire sentence imposed by the court.

(d) Title 41, chapter 1, part 5, does not give either the governor or the board of parole the authority to release or cause the release of a person convicted of a violation of this section prior to the service of the entire sentence imposed by the court.

39-13-401 Robbery

(a) Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear.

(b) Robbery is a Class C felony.

39-13-402 Aggravated robbery

(a) Aggravated robbery is robbery as defined in §39-13-401:
(1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon; or
(2) Where the victim suffers serious bodily injury.
(b) Aggravated robbery is a Class B felony.

39-13-403 Especially aggravated robbery

(a) Especially aggravated robbery is robbery as defined in §39-13-401:
(1) Accomplished with a deadly weapon; and
(2) Where the victim suffers serious bodily injury.
(b) Especially aggravated robbery is a Class A felony.

39-13-404 Carjacking

(a) "Carjacking" is the intentional or knowing taking of a motor vehicle from the possession of another by use of:
(1) A deadly weapon; or
(2) Force or intimidation.
(b) Carjacking is a Class B felony.

39-13-501 Sexual Offenses–Definitions

As used in §§39-13-501--39-13-511, except as specifically provided in §39-13-505, unless the context otherwise requires:
(1) "Coercion" means threat of kidnapping, extortion, force or violence to be performed immediately or in the future or the use of parental, custodial, or official authority over a child less than fifteen (15) years of age;
(2) "Intimate parts" includes semen, vaginal fluid, the primary genital area, groin, inner thigh, buttock or breast of a human being;
(3) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct;
(4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent;
(5) "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act;
(6) "Sexual contact" includes the intentional touching of the victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification;
(7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required; and
(8) "Victim" means the person alleged to have been subjected to criminal sexual conduct and includes the spouse of the defendant.

39-13-502 Aggravated rape

Amended 2023

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;
(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and
(A) Force or coercion is used to accomplish the act; or
(B) The defendant knows or has reason to know that the victim is:
(i) Mentally defective;
(ii) Mentally incapacitated;
(iii) Physically helpless; or
(iv) A vulnerable adult, as defined in §39-15-501, with an intellectual disability.

(b)***(1)*** Aggravated rape is a Class A felony.

(2) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

39-13-503 Rape

Amended 2023

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:
(1) Force or coercion is used to accomplish the act;
(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;
(3) The defendant knows or has reason to know that the victim is:
(A) Mentally defective;
(B) Mentally incapacitated;
(C) Physically helpless; or
(D) A vulnerable adult, as defined in § 39-15-501, with an intellectual disability; or
(4) The sexual penetration is accomplished by fraud.

(b)***(1)(A) Except as provided in subdivision (b)(1)(B),*** rape is a Class B felony.

(B) If the victim of the offense is at least thirteen (13) years of age but less than eighteen (18) years of age, rape is a Class B felony and, notwithstanding title 40, chapter 35, the defendant shall be punished as a Range II offender; however, the sentence imposed upon the defendant may, if appropriate, be within Range III but in no case shall it be lower than Range II.

(2) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

39-13-504 Aggravated sexual battery

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;
(2) The defendant causes bodily injury to the victim;
(3) The defendant is aided or abetted by one (1) or more other persons; and
(A) Force or coercion is used to accomplish the act; or
(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or
(4) The victim is less than thirteen (13) years of age.

(b) Aggravated sexual battery is a Class B felony.

39-13-505 Sexual battery

(a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:
(1) Force or coercion is used to accomplish the act;
(2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual contact is accomplished by fraud.

(b) As used in this section, "coercion" means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.

(c) For purposes of this section, a victim is incapable of consent if:

(1) The sexual contact with the victim occurs during the course of a consultation, examination, ongoing treatment, therapy, or other provision of professional services described in subdivision (c)(2); and

(2) The defendant, whether licensed by the state or not, is a member of the clergy, healthcare professional, or alcohol and drug abuse counselor who was treating the victim for a mental, emotional, or physical condition.

(d) Sexual battery is a Class E felony.

39-13-506 Mitigated statutory rape; statutory rape; aggravated statutory rape

(a) Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.

(b) Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:

(1) The victim is at least thirteen (13) but less than fifteen (15) years of age and the defendant is at least four (4) years but less than ten (10) years older than the victim; or

(2) The victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.

(c) Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

(d)(1) Mitigated statutory rape is a Class E felony.

(2)(A) Statutory rape is a Class E felony.

(B) In addition to the punishment provided for a person who commits statutory rape for the first time, the trial judge may order, after taking into account the facts and circumstances surrounding the offense, including the offense for which the person was originally charged and whether the conviction was the result of a plea bargain agreement, that the person be required to register as a sexual offender pursuant to title 40, chapter 39, part 2.

(3) Aggravated statutory rape is a Class D felony.

39-13-509 Sexual contact by an authority figure–Minors

(a) It is an offense for a defendant to engage in unlawful sexual contact with a minor when:

(1) The minor is less than eighteen (18) years of age;

(2) The defendant is at least four (4) years older than the victim; and

(3) The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary power over the minor by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual contact; or

(4) The defendant had, at the time of the offense, parental or custodial authority over the minor and used the authority to accomplish the sexual contact.

(b) As used in this section, "sexual contact" means the defendant intentionally touches or kisses the minor's lips with the defendant's lips if such touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

(c) Sexual contact by an authority figure is a Class A misdemeanor with a mandatory minimum fine of one thousand dollars ($1,000).

(d) Each instance of unlawful sexual contact shall be considered a separate offense.

39-13-511 Public indecency–Indecent exposure

(a)(1) A person commits the offense of indecent exposure who:

(A) In a public place or on the private premises of another, or so near thereto as to be seen from the private premises:

(i) Intentionally:

(a) Exposes the person's genitals or buttocks to another; or

(b) Engages in sexual contact or sexual penetration as defined in §39-13-501; and

(ii) Reasonably expects that the acts will be viewed by another and the acts:

(a) Will offend an ordinary viewer; or

(b) Are for the purpose of sexual arousal and gratification of the defendant; or

(B)(i) Knowingly invites, entices or fraudulently induces the child of another into the person's residence for the purpose of attaining sexual arousal or gratification by intentionally engaging in the following conduct in the presence of the child:

(a) Exposure of such person's genitals, buttocks or female breasts; or

(b) Masturbation; or

(ii) Knowingly engages in the person's own residence, in the intended presence of any child, for the defendant's sexual arousal or gratification the following intentional conduct:

(a) Exposure of the person's genitals, buttocks or female breasts; or

(b) Masturbation.

(2) No prosecution shall be commenced for a violation of subdivision (a)(1)(B)(ii)(a) based solely upon the uncorroborated testimony of a witness who shares with the accused any of the relationships described in §36-3-601(5).

(3) For subdivision (a)(1)(B)(i) or (a)(1)(B)(ii) to apply, the defendant must be eighteen (18) years of age or older and the child victim must be less than thirteen (13) years of age.

(b)(1) "Indecent exposure", as defined in subsection (a), is a Class B misdemeanor, unless subdivision (b)(2), (b)(3) or (b)(4) applies.

(2) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, indecent exposure is a Class A misdemeanor.

(3) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, and the defendant has any combination of two (2) or more prior convictions under this section or §39-13-517, or is a sexual offender, violent sexual offender or violent juvenile sexual offender, as defined in §40-39-202, the offense is a Class E felony.

(4) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, and the offense occurs on the property of any public school, private or parochial school, licensed day care center or other child care facility during a time at which a child or children are likely to be present on the property, the offense is a Class E felony.

(c)(1) A person confined in a penal institution, as defined in § 39-16-601, commits the offense of indecent exposure who with the intent to abuse, torment, harass or embarrass a guard or staff member:

(A) Intentionally exposes the person's genitals or buttocks to the guard or staff member; or

(B) Engages in sexual contact as defined in § 39-13-501.

(2) For purposes of this subsection (c):

(A) "Guard" means any sheriff, jailer, guard, correctional officer, or other authorized personnel charged with the custody of the person; and

(B) "Staff member" means any other person employed by a penal institution or who performs ongoing services in a penal institution, including, but not limited to, clergy, educators, and medical professionals.

(3) Notwithstanding subsection (b), a violation of this subsection (c) is a Class A misdemeanor.

(d) This section does not apply to a mother who is breastfeeding her child in any location, public or private.

(e) As used in this section, "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, and a restroom, locker room, dressing

room, or shower, designated for multi-person, single-sex use. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

39-13-512 Prostitution–Definitions

As used in §§39-13-512--39-13-515, unless the context otherwise requires:

(1) "House of prostitution" means any place where prostitution or the promotion of prostitution is regularly carried on by one (1) or more persons under the control, management or supervision of another;

(2) "Inmate" means, within the meaning of this part concerning prostitution, a person who engages in prostitution in or through the agency of a house of prostitution;

(3) "Patronizing prostitution" means soliciting or hiring another person with the intent that the other person engage in prostitution, or entering or remaining in a house of prostitution for the purpose of engaging in sexual activity;

(4)(A) "Promoting prostitution" means:

(i) Owning, controlling, managing, supervising, or in any way keeping, alone or in association with others, a business for the purpose of engaging in prostitution, or a house of prostitution;

(ii) Procuring an inmate for a house of prostitution;

(iii) Encouraging, inducing, or otherwise purposely causing another to become a prostitute;

(iv) Soliciting a person to patronize a prostitute;

(v) Procuring a prostitute for a patron; or

(vi) Soliciting, receiving, or agreeing to receive any benefit for engaging in any of the activities defined in subdivisions (4)(A)(i)-(v); and

(B) "Promoting prostitution" does not include a person who solicits, procures, induces, encourages, or attempts to cause another to patronize a prostitute if:

(i) The person promoting the prostitute and the prostitute being promoted are the same person; and

(ii) The intent of the promotion is the solicitation of business for only the prostitute engaging in the promotion;

(5) "Promoting prostitution of a minor" means engaging in any of the activities described in subdivision (4) when one (1) or more of the persons engaged in prostitution is less than eighteen (18) years of age or has an intellectual disability;

(6) "Prostitution" means engaging in, or offering to engage in, sexual activity as a business or being an inmate in a house of prostitution or loitering in a public place for the purpose of being hired to engage in sexual activity; and

(7) "Sexual activity" means any sexual relations including homosexual sexual relations.

39-13-513 Prostitution

(a) A person commits an offense under this section who engages in prostitution.

(b)(1) Prostitution is a Class B misdemeanor.

(2) Prostitution committed within one hundred feet (100′) of a church or within one and one-half (1½) miles of a school, such distance being that established by §49-6-2101, for state-funded school transportation, is a Class A misdemeanor.

(3) A person convicted of prostitution within one and one-half (1½) miles of a school shall, in addition to any other authorized punishment, be sentenced to at least seven (7) days of incarceration and be fined at least one thousand dollars ($1,000).

(c) As used in subsection (b), "school" means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).

(d) Notwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person is immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the Tennessee human trafficking resource center hotline, notify the department of children's services, and release the minor to the custody of a parent or legal guardian or transport the minor to a

shelter care facility designated by the juvenile court judge to facilitate the release of the minor to the custody of a parent or legal guardian.

(e) It is a defense to prosecution under this section that a person charged with a violation of this section was so charged for conduct that occurred because the person was a victim of an act committed in violation of §39-13-307 or §39-13-309, or because the person was a victim as defined under the Trafficking Victims Protection Act (22 U.S.C. §7102).

39-13-514 Patronizing prostitution

(a) A person commits an offense under this section:

(1) Who patronizes prostitution; or

(2) When a person patronizes prostitution where the subject of the offense is a law enforcement officer or a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b)(1) Patronizing prostitution is a Class A misdemeanor.

(2) Patronizing prostitution within one and one-half (1.5) miles of a school shall, in addition to any other authorized punishment, be punished by no less than seven (7) days of incarceration and by a fine of not less than one thousand dollars ($1,000).

(3)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age, has an intellectual disability, or is a law enforcement officer posing as a minor is punishable as trafficking for commercial sex acts under §39-13-309.

(B) Nothing in this subdivision (b)(3) shall be construed as prohibiting prosecution under any other applicable law.

(c) As used in subsection (b), "school" means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).

(d) It is not a defense to a violation of this section that:

(1) The subject of the offense is a law enforcement officer;

(2) The victim of the offense is a minor and consented to the offense; or

(3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or the law enforcement officer could not engage in the solicited offense.

39-13-515 Promoting prostitution

(a) A person commits an offense under this section:

(1) Who promotes prostitution; or

(2) Who promotes prostitution where the subject of the offense is a law enforcement officer or is a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b) Except as provided in subsection (c), promoting prostitution is a Class E felony.

(c) Promoting prostitution of a person more than twelve (12) years of age but less than eighteen (18) years of age or a person with an intellectual disability as defined in §33-1-101 is a Class A felony.

(d) It is not a defense to a violation of this section that:

(1) The subject of the offense is a law enforcement officer;

(2) The victim of the offense is a minor and consented to the offense; or

(3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or a law enforcement officer could not engage in the solicited offense.

39-13-516 Aggravated prostitution

(a) A person commits aggravated prostitution when, knowing that such person is infected with HIV, the person engages in sexual activity as a business or is an inmate in a house of prostitution or loiters in a public place for the purpose of being hired to engage in sexual activity.

(b) For the purposes of this section, "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

(c) Nothing in this section shall be construed to require that an infection with HIV has occurred in order for a person to have committed aggravated prostitution.

(d) Aggravated prostitution is a Class C felony.

39-13-517 Public indecency

(a) As used in this section:

(1) "Nudity" or "state of nudity" means the showing of the bare human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of the areola, or the showing of the covered male genitals in a discernibly turgid state. Nudity or state of nudity does not include a mother in the act of nursing the mother's baby; and

(2)(A)(i) "Public place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public place includes, but is not limited to, streets, sidewalks, parks, beaches, business and commercial establishments, whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement, bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations;

(ii) For purposes of subdivision (b)(1) and (b)(2), "public place" includes a public restroom, whether single sex or not;

(B) Premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place. Public place does not include enclosed single sex functional showers, locker or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor does it include a person appearing in a state of nudity in a modeling class operated by a proprietary school, licensed by this state, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where such private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college. Public place does not include a private facility that has been formed as a family-oriented clothing optional facility, properly licensed by the state.

(b) A person commits the offense of public indecency who, in a public place, knowingly or intentionally:

(1) Engages in sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or other ultimate sex acts;

(2) Fondles the genitals of the person, or another person; or

(3) Appears in a state of nudity or performs an excretory function.

(c) A person does not violate subsection (b) if the person makes intentional and reasonable attempts to conceal the person from public view while performing an excretory function, and the person performs the function in an unincorporated area of the state.

(d) Public indecency is punishable as follows:

(1) A first or second offense is a Class B misdemeanor punishable only by a fine of five hundred dollars ($500) unless otherwise specified under subdivision (d)(3);

(2) Unless subdivision (d)(3) applies, a third or subsequent offense is a Class A misdemeanor punishable by a fine of one thousand five hundred dollars ($1,500) or confinement for not more than eleven (11) months and twenty-nine (29) days, or both; and

(3)(A) Notwithstanding subdivisions (d)(1) and (2), where the offense involves the defendant engaging in masturbation by self-stimulation, or the use of an inanimate object, on the property of any public school, private or parochial school, licensed day care center, or other child care facility, and the defendant knows or reasonably should know that a child or children are likely to be present on the property at the time of the conduct, the offense is a Class E felony;

(B) Where a person is charged with a violation under subdivision (d)(3)(A), and the court grants judicial diversion under §40-35-313, the court shall order, as a condition of probation, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of probation, in a manner consistent with the requirements of §40-39-302.

(e) If a person is arrested for public indecency while working as an employee or a contractor, the employer or principal may be held liable for a fine imposed by subdivision (d); provided, however, the employer may not be held liable under this section unless it is shown the employer knew or should have known the acts of the employee or contractor were in violation of this section.

(f) This section does not apply to any theatrical production that contains nudity performed in a theater by a professional or amateur theatrical or musical company that has serious artistic merit; provided, that the production is not in violation of chapter 17, part 9 of this title.

(g) This section shall not affect in any fashion the ability of local jurisdictions or this state to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption.

39-13-518 Continuous sexual abuse of a child

(a) As used in this section:

(1) "Multiple acts of sexual abuse of a child" means:

(A)(i) Engaging in three (3) or more incidents of sexual abuse of a child involving the same minor child on separate occasions; provided, that at least one (1) such incident occurred within the county in which the charge is filed and that one (1) such incident occurred on or after July 1, 2014;

(ii) Engaging in at least one (1) incident of sexual abuse of a child upon three (3) or more different minor children on separate occasions; provided, that at least one (1) such incident occurred within the county in which the charge is filed and that one (1) such incident occurred on or after July 1, 2014; or

(iii) Engaging in five (5) or more incidents of sexual abuse of a child involving two (2) or more different minor children on separate occasions; provided, that at least one (1) such incident occurred within the county in which the charge is filed and that one (1) such incident occurred on or after July 1, 2014; and

(B) The victims of the incidents of sexual abuse of a child share distinctive, common characteristics, qualities or circumstances with respect to each other or to the person committing the offenses, or there are common methods or characteristics in the commission of the offense, allowing otherwise individual offenses to merge into a single continuing offense involving a pattern of criminal activity against similar victims. Common characteristics, qualities or circumstances for purposes of this subdivision (a)(1)(B) include, but are not limited to:

(i) The victims are related to the defendant by blood or marriage;

(ii) The victims reside with the defendant; or

(iii) The defendant was an authority figure, as defined in § 39-13-527(a)(3), to the victims and the victims knew each other; and

(2) "Sexual abuse of a child" means to commit an act upon a minor child that is a violation of:

(A) Aggravated rape pursuant to § 39-13-502, if the child is more than thirteen (13) but less than eighteen (18) years of age;

(B) Rape pursuant to § 39-13-503, if the child is more than thirteen (13) but less than eighteen (18) years of age;

(C) Aggravated sexual battery pursuant to § 39-13-504;

(D) Rape of a child pursuant to § 39-13-522;

(E) Sexual battery by an authority figure pursuant to § 39-13-527;

(F) Soliciting sexual exploitation of a minor pursuant to § 39-13-529(a);

(G) Aggravated rape of a child pursuant to § 39-13-531;

(H) Statutory rape by an authority figure pursuant to § 39-13-532;

(I) Trafficking for a commercial sex act pursuant to § 39-13-309, if the victim is a minor; or

(J) Promoting prostitution pursuant to § 39-13-515, if the victim is a minor.

(b) A person commits continuous sexual abuse of a child who:

(1) Over a period of ninety (90) days or more, engages in multiple acts of sexual abuse of a child as defined in subdivision (a)(1)(A)(i) or (a)(1)(A)(ii); or

(2) Over a period of less than ninety (90) days, engages in multiple acts of sexual abuse of a child as defined in subdivision (a)(1)(A)(iii).

(c)(1) A violation of subsection (b) is a Class A felony if three (3) or more of the acts of sexual abuse of a child constitute violations of the following offenses:

(A) Aggravated rape pursuant to § 39-13-502, if the child is more than thirteen (13) but less than eighteen (18) years of age;

(B) Rape pursuant to § 39-13-503, if the child is more than thirteen (13) but less than eighteen (18) years of age;

(C) Aggravated sexual battery pursuant to § 39-13-504;

(D) Rape of a child pursuant to § 39-13-522;

(E) Soliciting sexual exploitation of a minor pursuant to § 39-13-529(a);

(F) Aggravated rape of a child pursuant to § 39-13-531;

(G) Trafficking for a commercial sex act pursuant to § 39-13-309, if the victim is a minor; or

(H) Promoting prostitution pursuant to § 39-13-515, if the victim is a minor.

(2) A violation of subsection (b) is a Class B felony if two (2) of the acts of sexual abuse of a child constitute violations of offenses listed in subdivision (c)(1).

(3) A violation of subsection (b) is a Class C felony if one (1) of the acts of sexual abuse of a child constitutes a violation of an offense listed in subdivision (c)(1).

(4) A violation of subsection (b) is a Class C felony if at least three (3) of the acts of sexual abuse of a child constitute violations of the offenses of sexual battery by an authority figure pursuant to §39-13-527 or statutory rape by an authority figure pursuant to §39-13-532.

(d) At least thirty (30) days prior to trial, the state shall file with the court a written notice identifying the multiple acts of sexual abuse of a child upon which the violation of this section is based. The notice shall include the identity of the victim and the statutory offense violated. Upon good cause, and where the defendant was unaware of the predicate offenses listed in the notice, the trial court may grant a continuance to facilitate proper notification of the incidents of sexual abuse of a child and for preparation by the defense of such incidents specified in the statement.

(e) The jury must agree unanimously that the defendant:

(1)(A) During a period of ninety (90) or more days in duration, committed three (3) or more acts of sexual abuse of a child; or

(B) During a period of less than ninety (90) days in duration, committed five (5) or more acts of sexual abuse of a child against at least two (2) different children; and

(2) Committed at least three (3) of the same specific acts of sexual abuse within the specified time period if prosecution is under subdivision (e)(1)(A) and at least five (5) of the same specific acts of sexual abuse within the specified time period if prosecution is under subdivision (e)(1)(B).

(f) The state may charge alternative violations of this section and of the separate offenses committed within the same time period. The separate incidents shall be alleged in separate counts and joined in the same action. A person may be convicted either of one (1) criminal violation of this section, or for one (1) or more of the separate incidents of sexual abuse of a child committed within the county in which the charges were filed, but not both. The state shall not be required to elect submission to the jury of the several counts. The jury shall be instructed to return a verdict on all counts in the indictment. In the event that a verdict of guilty is returned on a separate count that was included in the notice of separate incidents of sexual abuse of a child and the jury returns a verdict of guilty for a violation of this section, at the sentencing hearing the trial judge shall merge the separate count into the conviction under this section and only impose a sentence under this section. A conviction for a violation of this section bars the prosecution of the individual incidents of sexual abuse of a child as separate offenses described in the pretrial notice filed by the state and presented to the jury. A prosecution for a violation of this section does not bar a prosecution in the same action for individual incidents of sexual abuse not identified in the state's pretrial notice. The state shall be required to elect as to those individual incidents of sexual abuse not contained in the pretrial notice prior to submission to the jury. A conviction for such elected offenses shall not be subject to merger at sentencing.

(g) Notwithstanding any other law to the contrary, a person convicted of a violation of this section shall be punished by imprisonment and shall be sentenced from within the full range of punishment for the offense of which the defendant was convicted, regardless of the range for which the defendant would otherwise qualify.

39-13-522 Rape of child

(a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than eight (8) years of age but less than thirteen (13) years of age.

(b)(1) Rape of a child is a Class A felony.

(2)(A) Notwithstanding title 40, chapter 35, a person convicted of a violation of this section shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

(B) Section 39-13-525(a) shall not apply to a person sentenced under this subdivision (b)(2).

(C) Notwithstanding any law to the contrary, the board of parole may require, as a mandatory condition of supervision for any person convicted under this section, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of supervision consistent with the requirements of §40-39-302.

39-13-526 Violation of community supervision

(a) It is an offense for a person to knowingly violate a condition of community supervision imposed upon the person pursuant to §39-13-524.

(b)(1) If the conduct that is a violation of a condition of community supervision does not constitute a criminal offense, the violation is a Class A misdemeanor.

(2) If the conduct that is a violation of a condition of community supervision also constitutes a criminal offense that is classified as a misdemeanor, the violation is a Class A misdemeanor.

(3) If the conduct that is a violation of a condition of community supervision also constitutes a criminal offense that is classified as a felony, the violation is a Class E felony.

(4) Each violation of a condition of community supervision constitutes a separate offense.

(c) If the violation of community supervision involves the commission of a new offense, the sentence for a violation of this section shall be served consecutive to any sentence received for commission of the new offense.

(d)(1) The venue for a violation of community supervision shall be in the county where the person was being supervised at the time of the violation and this venue shall include those persons placed on supervision in this state but who are being monitored in another state.

(2) For purposes of prosecuting a violation of community supervision, the probation and parole officer assigned to the person may act as the affiant when seeking an affidavit of complaint against the person.

39-13-527 Sexual battery by authority figure

(a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances:

(1) The victim was, at the time of the offense, thirteen (13) years of age or older but less then eighteen (18) years of age; or

(2) The victim was, at the time of the offense, mentally defective, mentally incapacitated or physically helpless, regardless of age; and,

(3)(A) The defendant was at the time of the offense in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional or occupational status and used the position of trust or power to accomplish the sexual contact; or

(B) The defendant had, at the time of the offense, parental or custodial authority over the victim and used the authority to accomplish the sexual contact.

(b) Sexual battery by an authority figure is a Class C felony.

39-13-528 Solicitation of person under 18 years of age

(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or internet services, directly or through another, to intentionally command,

request, hire, persuade, invite or attempt to induce a person whom the person making the solicitation knows, or should know, is less than eighteen (18) years of age, or solicits a law enforcement officer posing as a minor, and whom the person making the solicitation reasonably believes to be less than eighteen (18) years of age, to engage in conduct that, if completed, would constitute a violation by the soliciting adult of one (1) or more of the following offenses:

(1) Rape of a child, pursuant to §39-13-522;
(2) Aggravated rape, pursuant to §39-13-502;
(3) Rape, pursuant to §39-13-503;
(4) Aggravated sexual battery, pursuant to §39-13-504;
(5) Sexual battery by an authority figure, pursuant to §39-13-527;
(6) Sexual battery, pursuant to §39-13-505;
(7) Statutory rape, pursuant to §39-13-506;
(8) Especially aggravated sexual exploitation of a minor, pursuant to §39-17-1005;
(9) Sexual activity involving a minor, pursuant to §39-13-529;
(10) Trafficking for commercial sex acts, pursuant to §39-13-309;
(11) Patronizing prostitution, pursuant to §39-13-514;
(12) Promoting prostitution, pursuant to §39-13-515; or
(13) Aggravated sexual exploitation of a minor, pursuant to §39-17-1004.

(b) It is no defense that the solicitation was unsuccessful, that the conduct solicited was not engaged in, or that the law enforcement officer could not engage in the solicited offense. It is no defense that the minor solicited was unaware of the criminal nature of the conduct solicited.

(c) A violation of this section shall constitute an offense one (1) classification lower than the most serious crime solicited, unless the offense solicited was a Class E felony, in which case the offense shall be a Class A misdemeanor.

(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person solicited the conduct of a minor located in this state, or solicited a law enforcement officer posing as a minor located within this state.

39-13-529 Solicitation of minor to observe sexual conduct

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(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or internet service, including webcam communications, directly or through another, to intentionally command, hire, persuade, induce or cause a minor to engage in simulated sexual activity that is patently offensive or in sexual activity, where such simulated sexual activity or sexual activity is observed by that person or by another.

(b) It is unlawful for any person eighteen (18) years of age or older, directly or by means of electronic communication, electronic mail or internet service, including webcam communications, to intentionally:

(1) Engage in simulated sexual activity that is patently offensive or in sexual activity for the purpose of having the minor view the simulated sexual activity or sexual activity, including circumstances where the minor is in the presence of the person, or where the minor views such activity via electronic communication, including electronic mail, internet service and webcam communications;
(2) Display to a minor, or expose a minor to, any material containing simulated sexual activity that is patently offensive or sexual activity if the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the minor or the person displaying the material; or
(3) Display to a law enforcement officer posing as a minor, and whom the person making the display reasonably believes to be less than eighteen (18) years of age, any material containing simulated sexual activity that is patently offensive or sexual activity, if the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the intended minor or the person displaying the material.

(4)(A) Except as provided in subdivision (b)(4)(B), it is an exception to the application of this subsection (b) that the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is no more than four (4) years older than the victim.

(B) Subdivision (b)(4)(A) shall not apply or be an exception to the application of this subsection (b), if the defendant intentionally commanded, hired, induced or caused the victim to violate this subsection (b).

(c) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the conduct involved a minor located in this state or the solicitation of a law enforcement officer posing as a minor located in this state.

(d) As used in this section:

(1) "Community" means the judicial district, as defined by §16-2-506, in which a violation is alleged to have occurred;

(2) "Material" means:

(A) Any picture, drawing, photograph, undeveloped film or film negative, motion picture film, videocassette tape or other pictorial representation;

(B) Any statue, figure, theatrical production or electrical reproduction;

(C) Any image stored on a computer hard drive, a computer disk of any type, or any other medium designed to store information for later retrieval; or

(D) Any image transmitted to a computer or other electronic media or video screen, by telephone line, cable, satellite transmission, or other method that is capable of further transmission, manipulation, storage or accessing, even if not stored or saved at the time of transmission;

(3) "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters; and

(4) "Sexual activity" means any of the following acts:

(A) Vaginal, anal or oral intercourse, whether done with another person or an animal;

(B) Masturbation, whether done alone or with another human or an animal;

(C) Patently offensive, as determined by contemporary community standards, physical contact with or touching of a person's clothed or unclothed genitals, pubic area, buttocks or breasts in an act of apparent sexual stimulation or sexual abuse;

(D) Sadomasochistic abuse, including flagellation, torture, physical restraint, domination or subordination by or upon a person for the purpose of sexual gratification of any person;

(E) The insertion of any part of a person's body or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure by a licensed professional;

(F) Patently offensive, as determined by contemporary community standards, conduct, representations, depictions or descriptions of excretory functions; or

(G) ***Exhibition*** of the female breast**,** genitals, buttocks, anus**,** or pubic or rectal area of any person ***that can be reasonably construed as being for the purpose of the sexual arousal or gratification of the defendant or another***.

(e)(1) A violation of subsection (a) is a Class B felony.

(2) A violation of subsection (b) is a Class E felony; provided, that, if the minor is less than thirteen (13) years of age, the violation is a Class C felony.

(f) It shall not be a defense to a violation of this section that a minor victim of the offense consented to the conduct that constituted the offense.

39-13-531 Aggravated rape of a child

(a) Aggravated rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is eight (8) years of age or less.

(b) Aggravated rape of a child is a Class A felony and shall be punished as follows:

(1) If the defendant was a juvenile at the time of the commission of the offense, then the sentence must be from within Range III, as set forth in title 40, chapter 35; and

(2) If the defendant was an adult at the time of the commission of the offense, then the sentencing provisions of title 40, chapter 35, apply except:
(A) A sentencing hearing shall not be conducted as required by § 40-35-209; and
(B) After a defendant is found guilty of aggravated rape of a child, the judge shall sentence the defendant to imprisonment for life without the possibility of parole.

39-13-532 Statutory rape by an authority figure

(a) Statutory rape by an authority figure is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:
(1) The victim is at least thirteen (13) but less than eighteen (18) years of age;
(2) The defendant is at least four (4) years older than the victim; and
(3)(A) The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual penetration; or
(B) The defendant had, at the time of the offense, parental or custodial authority over the victim by virtue of the defendant's legal, professional, or occupational status and used the position to accomplish the sexual penetration.
(b) Statutory rape by an authority figure is a Class B felony.
(c) No person who is found guilty of or pleads guilty to the offense shall be eligible for probation pursuant to §40-35-303 or judicial diversion pursuant to §40-35-313.

39-13-533 Promoting travel for prostitution

(a) A person commits the offense of promoting travel for prostitution if the person sells or offers to sell travel services that the person knows to include travel for the purpose of engaging in what would be prostitution if occurring in the state.
(b) "Travel services" means, but is not limited to, transportation by air, sea, road or rail, related ground transportation, hotel accommodations, or package tours, whether offered on a wholesale or retail basis.
(c) Promoting travel for prostitution is a Class D felony.
(d) Nothing in this section shall be construed to prohibit prosecution under any other law.

39-13-534 Especially aggravated rape

(a) Especially aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim that would constitute aggravated rape under § 39-13-502 accompanied by two (2) or more of the following circumstances:
(1) The defendant tortures the victim during the commission of the offense;
(2) The defendant mutilates the victim during the commission of the offense;
(3) The defendant also commits the offense of kidnapping, as defined in § 39-13-303, or false imprisonment, as defined in § 39-13-302, against the victim;
(4) The defendant also commits the offense of involuntary labor servitude, as defined in § 39-13-307, or trafficking for a commercial sex act, as defined in § 39-13-309, against the victim;
(5) The defendant has, at the time of the commission of the offense, more than one (1) prior conviction for a sexual offense or a violent sexual offense, as those terms are defined in § 40-39-202;
(6) The offense occurs during an attempt by the defendant to perpetrate first degree murder in violation of § 39-13-202;
(7) The defendant subjects the victim to extreme cruelty during the commission of the offense;
(8) The defendant's commission of the offense involved more than one (1) victim; or
(9) The defendant knows or has reason to know that the victim is:
(A) Mentally defective;
(B) Mentally incapacitated;
(C) Physically helpless; or
(D) A vulnerable adult, as defined in § 39-15-501.
(b) Especially aggravated rape is a Class A felony and shall be punished as follows:

(1) If the defendant was a juvenile at the time of the commission of the offense, then the sentence must be from Range III, as set forth in title 40, chapter 35; and

(2) If the defendant was an adult at the time of the commission of the offense, then the defendant shall be punished by imprisonment for life without possibility of parole.

(c) A person may not be convicted of both a violation of this section and a violation of § 39-13-502, § 39-13-535, or § 39-13-117 if the facts supporting the prosecution arise out of the same criminal conduct.

39-13-535 Especially aggravated rape of child

(a) Especially aggravated rape of a child is unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is less than eighteen (18) years of age, accompanied by three (3) or more of the following circumstances:

(1) The defendant tortures the victim during the commission of the offense;

(2) The defendant mutilates the victim during the commission of the offense;

(3) The defendant also commits the offense of kidnapping, as defined in § 39-13-303, or false imprisonment, as defined in § 39-13-302, against the victim;

(4) The defendant also commits the offense of involuntary labor servitude, as defined in § 39-13-307, or trafficking for a commercial sex act, as defined in § 39-13-309, against the victim;

(5) The defendant has, at the time of the commission of the offense, more than one (1) prior conviction for a sexual offense or a violent sexual offense, as those terms are defined in § 40-39-202;

(6)(A) The defendant is, at the time of the offense, in a position of trust, or has supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional, or occupational status and uses the position of trust or power to accomplish the sexual penetration; or

(B) The defendant has, at the time of the offense, parental or custodial authority over the victim by virtue of the defendant's legal, professional, or occupational status and uses the position to accomplish the sexual penetration;

(7) The offense occurs during an attempt by the defendant to perpetrate first degree murder in violation of § 39-13-202;

(8) The defendant subjects the victim to extreme cruelty during the commission of the offense;

(9) Force or coercion is used to accomplish the act, and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(10) The defendant causes serious bodily injury to the victim;

(11) The defendant's commission of the offense involved more than one (1) victim; or

(12) The defendant knows or has reason to know that the victim is:

(A) Mentally defective;

(B) Mentally incapacitated; or

(C) Physically helpless.

(b) Especially aggravated rape of a child is a Class A felony and shall be punished as follows:

(1) If the defendant was a juvenile at the time of the commission of the offense, then the sentence must be from Range III, as set forth in title 40, chapter 35; and

(2) If the defendant was an adult at the time of the commission of the offense, then the defendant shall be punished by imprisonment for life without possibility of parole.

(c) A person may not be convicted of both a violation of this section and a violation of § 39-13-502, § 39-13-531, § 39-13-534, or § 39-13-117 if the facts supporting the prosecution arise out of the same criminal conduct.

39-13-601 Wiretapping and electronic surveillance

(a)(1) Except as otherwise specifically provided in §§39-13-601--39-13-603 and title 40, chapter 6, part 3, a person commits an offense who:

(A) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(B) Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

(i) The device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(ii) The device transmits communications by radio, or interferes with the transmission of the communication;

(C) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection (a); or

(D) Intentionally uses, or endeavors to use, the contents of any wire, oral or electronic communication, knowing or having reason to know, that the information was obtained through the interception of a wire, oral or electronic communication in violation of this subsection (a).

(2) A violation of subdivision (a)(1) shall be punished as provided in §39-13-602 and shall be subject to suit as provided in §39-13-603.

(b)(1) It is lawful under §§39-13-601--39-13-603 and title 40, chapter 6, part 3 for an officer, employee, or agent of a provider of wire or electronic communications service, or a telecommunications company, whose facilities are used in the transmission of a wire communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is necessary to the rendition of service or to the protection of the rights or property of the provider of that service. Nothing in §§39-13-601--39-13-603 and title 40, chapter 6, part 3 shall be construed to prohibit a telecommunications or other company from engaging in service observing for the purpose of maintaining service quality standards for the benefit of consumers.

(2) Notwithstanding any other law, providers of wire or electronic communications service, their officers, employees, or agents, landlords, custodians, or other persons are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications, if the provider, its officers, employees, or agents, landlord, custodian or other specified person has been provided with a court order signed by the authorizing judge of competent jurisdiction that:

(A) Directs the assistance;

(B) Sets forth a period of time during which the provision of the information, facilities, or technical assistance is authorized; and

(C) Specifies the information, facilities, or technical assistance required.

(3) No provider of wire or electronic communications service, officer, employee, or agent thereof, or landlord, custodian or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished a court order, except as may otherwise be required by legal process, and then only after prior notification to the attorney general and reporter or to the district attorney general or any political subdivision of a district, as may be appropriate. Any such disclosure shall render the person liable for the civil damages provided for in §39-13-603. No cause of action shall lie in any court against any provider of wire or electronic communications service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order under §§39-13-601--39-13-603 and title 40, chapter 6, part 3.

(4) It is lawful under §§39-13-601--39-13-603 and title 40, chapter 6, part 3 for a person acting under the color of law to intercept a wire, oral or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(5) It is lawful under §§39-13-601--39-13-603 and title 40, chapter 6, part 3 for a person not acting under color of law to intercept a wire, oral, or electronic communication, where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of this state.

(6) It is unlawful to intercept any wire, oral, or electronic communication for the purpose of committing a criminal act.

(7) It is lawful, unless otherwise prohibited by state or federal law, for any person:

(A) To intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;

(B) To intercept any radio communication that is transmitted by:

(i) Any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(ii) Any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(iii) Any station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(iv) Any marine or aeronautical communications system;

(C) To intercept any wire or electronic communication, the transmission of which is causing harmful interference with any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(D) For other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(c)(1) Except as provided in subdivision (c)(2), a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication, other than one to such person or entity, or an agent thereof, while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(2) A person or entity providing electronic communication service to the public may divulge the contents of any such communication:

(A) As otherwise authorized in subdivisions (b)(1)-(3) or §40-6-306;

(B) With the lawful consent of the originator or any addressee or intended recipient of such communication;

(C) To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(D) That were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if the divulgence is made to a law enforcement agency.

(d) Notwithstanding any provision of this part to the contrary, this section shall not apply to a person who installs software on a computer the person owns if such software is intended solely to monitor and record the use of the internet by a minor child of whom such person is a parent or legal guardian.

39-13-602 Wiretapping & electronic surveillance–Penalties

A person who violates §39-13-601(a) commits a Class D felony.

39-13-605 Unlawful photographing in violation of privacy

(a) It is an offense for a person to knowingly photograph, or cause to be photographed, an individual without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or legal guardian, if the photograph:

(1)(A)(i) Would offend or embarrass an ordinary person if the person appeared in the photograph; or

(ii) Is focused on the intimate area of the individual and would be considered offensive or embarrassing by the individual; and

(B) Was taken for the purpose of sexual arousal or gratification of the defendant; or

(2)(A) Includes the unclothed intimate area of the individual and would be considered offensive or embarrassing by the individual;

(B) Was taken for the purpose of offending, intimidating, embarrassing, ridiculing, or harassing the victim; and

(C) Was disseminated by the defendant, the defendant threatened to disseminate the photograph, or the defendant permitted the dissemination of the photograph, to another person.

(b) As used in this section:

(1) “Photograph” means any photograph or photographic reproduction, whether taken using digital media or conventional film, still or moving, or any videotape, live television transmission, or social media broadcast of any individual; and

(2) “Intimate area” means the naked or clothed genitals, pubic area, anus, buttocks, or female breast of a person.

(c) All photographs taken in violation of this section shall be confiscated and, after their use as evidence, destroyed.

(d)(1)(A) A violation of subdivision (a)(1) is a Class A misdemeanor.

(B) A first violation of subdivision (a)(2) is a Class B misdemeanor. A second or subsequent violation of subdivision (a)(2) is a Class A misdemeanor.

(2) A violation of subdivision (a)(1) is a Class E felony if:

(A) The defendant disseminates or permits the dissemination of the photograph to any other person; or

(B) The victim of the offense is under thirteen (13) years of age at the time of the offense.

(3) A violation of subdivision (a)(1) is a Class D felony if:

(A) The defendant disseminates or permits the dissemination of the photograph to any other person; and

(B) The victim of the offense is under thirteen (13) years of age at the time of the offense.

(e) Nothing in this section shall preclude the state from electing to prosecute conduct in violation of this section under any other applicable section, including chapter 17, parts 9 and 10 of this title.

(f) In addition to the punishment provided for a person who commits the misdemeanor unlawful photographing pursuant to subdivision (a)(1), the trial judge may order, after taking into account the facts and circumstances surrounding the offense, including the offense for which the person was originally charged and whether the conviction was the result of a plea bargain agreement, that the person be required to register as a sexual offender pursuant to the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2.

39-13-606 Electronic tracking of motor vehicles

(a)(1)(A) Except as provided in subsection (b), it is an offense for a person to knowingly install, conceal or otherwise place an electronic tracking device in or on a motor vehicle without the consent of all owners of the vehicle for the purpose of monitoring or following an occupant or occupants of the vehicle.

(B) It is an offense for a person who leases a motor vehicle to knowingly install, conceal, or otherwise place an electronic tracking device in or on the motor vehicle without the consent of the lessee of the vehicle.

(2) As used in this section:

(A) “Lease” has the same meaning as defined in §39-14-147;

(B) “Owner” includes a person who has purchased a motor vehicle using a loan; and

(C) “Person” does not include the manufacturer of the motor vehicle.

(b)(1) It shall not be a violation if the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a law enforcement officer in furtherance of a criminal investigation and is carried out in accordance with applicable state and federal law.

(2) If the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a parent or legal guardian who owns or leases the vehicle, and if the device is used solely for the purpose of monitoring the minor child of the parent or legal guardian when the child is an occupant of the vehicle, then the installation, concealment or placement of the device in or on the vehicle without the consent of any or all occupants in the vehicle shall not be a violation.

(3) It shall also not be a violation of this section if the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is for the purpose of tracking the location of stolen goods being transported in the vehicle or for the purpose of tracking the location of the vehicle if it is stolen.

(c) This section shall not apply to a tracking system installed by the manufacturer of a motor vehicle.

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

39-13-607 Observation without consent

(a) It is an offense for a person to knowingly spy upon, observe or otherwise view an individual, when the individual is in a place where there is a reasonable expectation of privacy, without the prior effective consent of the individual, if the viewing:

(1) Would offend or embarrass an ordinary person if the person knew the person was being viewed; and

(2) Was for the purpose of sexual arousal or gratification of the defendant.

(b) It is not a defense to a violation of this section that the defendant was lawfully on the premises where the offense occurred.

(c) If the person being viewed is a minor, this section is violated regardless of whether the minor or the minor's parent or guardian consented to the viewing.

(d)(1) A violation of this section is a Class A misdemeanor.

(2) A violation of this section is a Class E felony if the victim is under thirteen (13) years of age at the time the offense is committed.

(e) Nothing in this section shall preclude the state from electing to prosecute conduct in violation of this section under any other applicable section.

39-13-610 Search warrant required for electronic device search

(a) As used in this section:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications;

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service;

(3) "Governmental entity" means a state or local government agency, including, but not limited to, any law enforcement agency that is a lawfully established state or local public agency responsible for the prevention and detection of crime, local government code enforcement, or the enforcement of penal, traffic, regulatory, game, or controlled substance laws. A governmental entity also includes any other investigative entity, agency, department, division, bureau, board, commission, or an individual acting or purporting to act for or on behalf of a state or local agency;

(4) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device on a cellular telephone network or a location information service, rather than obtained from a service provider; and

(5) "Location information service" means the provision of global positioning service or other mapping, locational, or directional information service.

(b) Except as provided in subsection (c), no governmental entity shall obtain the location information of an electronic device without a search warrant issued by a duly authorized court.

(c) A government entity may obtain location information of an electronic device without obtaining a search warrant under any of the following circumstances:

(1) If the electronic device is reported stolen by the owner;

(2) If necessary to respond to the user's call for emergency services;

(3) To prevent imminent danger to the life of the owner or user;

(4) To prevent imminent danger to the public;

(5) With the informed, affirmative consent of the owner or user of the electronic device;

(6) If the user has posted the user's location within the last twenty-four (24) hours on a social media website; or

(7) If exigent circumstances justify obtaining location information for the electronic device without a warrant.

(d) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or administrative proceeding and shall not be used in an affidavit of probable cause in an effort to obtain a search warrant.

(e)(1) This section shall not be construed to apply to any smart meter gateway device.

(2) For purposes of this subsection (e), "smart meter gateway device" means any electric or natural gas utility meter, utility meter component, utility meter load control device, or any device ancillary to the utility

meter, which is located at an end-user's residence or business and which serves as a communication gateway or portal to electrical or natural gas powered appliances, equipment, or devices within the end-user's residence or business, or which otherwise communicates with, monitors, measures, records, reports, stores, restricts, or regulates such electrical or natural gas powered appliances, equipment, or devices.

39-13-611 Aggravated unlawful photographing of minor

(a) A person commits the offense of aggravated unlawful photographing when the person knowingly photographs, or causes to be photographed a minor, when the minor has a reasonable expectation of privacy, if the photograph:
(1) Depicts the minor in a state of nudity; and
(2) Was taken for the purpose of sexual arousal or gratification of the defendant.
(b) As used in this section:
(1) "Nudity" has the meaning given in § 39-17-901; and
(2) "Photograph" has the meaning given in § 39-13-605.
(c) A violation of subsection (a) is a Class C felony.
(d) Nothing in this section shall preclude the state from electing to prosecute conduct in violation of this section under any other applicable section, including chapter 17, parts 9 and 10 of this title.

39-13-808 Terrorism–Hoax act

(a) It is an offense for any person to distribute or to deliver, as an act of terrorism or as a hoax, any substance that is intended to, or that such person has reason to believe may, create a fear or apprehension on the part of any other person that such substance may be a biological warfare agent, a chemical warfare agent, or a nuclear or radiological agent, without regard to whether such substance is in fact a biological warfare agent, chemical warfare agent, or a nuclear or radiological agent.
(b)(1) A violation of subsection (a) as an act of terrorism is a Class A felony.
(2) A violation of subsection (a) as a hoax is a Class C felony.
(c) In addition to the penalties otherwise provided by law, any person convicted of a violation of subsection (a), either as an act of terrorism or as a hoax, shall make restitution of the costs incurred by any public or private entity or person resulting from such offense.

39-13-812 Report of suspicious activity or behavior—Immunity

(a) A person who in good faith makes a report of suspicious activity or behavior shall be immune from civil and criminal liability for the making of the report if the report is based on articulable suspicion.
(b) As used in this section, "report of suspicious activity or behavior" means any communication to a law enforcement officer or agency or other appropriate authority of the behavior or activity of another person if the report is made with the articulable belief that the behavior or activity constitutes or is in furtherance of an act of terrorism.
(c) This section shall not apply to the intentional making of a report known to be false, including a violation of §39-16-502, or to a report made with reckless disregard for the truth of the report.

39-13-1001 Burglary—Definitions

(a) As used in this part, unless the context otherwise requires, the terms "habitation", "occupied", and "owner" have the same meaning as defined in §39-14-401.
(b) Any references to convictions for the offenses of burglary, under §39-13-1002, aggravated burglary, under §39-13-1003, or especially aggravated burglary, under §39-13-1004, shall be deemed to include convictions for the applicable offense as each offense was defined under chapter 14, part 4 of this title prior to July 1, 2021.

39-13-1002 Burglary

(a) A person commits burglary who, without the effective consent of the property owner:
(1) Enters a building other than a habitation, or any portion of the building, not open to the public, with intent to commit a felony, theft, or assault;
(2) Remains concealed, with the intent to commit a felony, theft, or assault, in a building;
(3) Enters a building and commits or attempts to commit a felony, theft, or assault; or

(4) Enters any freight or passenger car, automobile, truck, trailer, boat, airplane, or other motor vehicle with intent to commit a felony, theft, or assault or commits or attempts to commit a felony, theft, or assault.

(b) As used in this section, "enter" means:

(1) Intrusion of any part of the body; or

(2) Intrusion of any object in physical contact with the body or any object controlled by remote control, electronic or otherwise.

(c) Burglary under subdivision (a)(1), (2), or (3) is a Class D felony.

(d) Burglary under subdivision (a)(4) is a Class E felony.

39-13-1003 Aggravated burglary

(a) Aggravated burglary is burglary, as described in §39-13-1002, of a habitation.

(b) Aggravated burglary is a Class C felony.

39-13-1004 Especially aggravated burglary

(a) Especially aggravated burglary is:

(1) Burglary, as described in §39-13-1002, of a habitation or building other than a habitation; and

(2) Where the victim suffers serious bodily injury.

(b) For the purposes of this section, "victim" means any person lawfully on the premises.

(c) Especially aggravated burglary is a Class B felony.

(d) Acts which constitute an offense under this section may be prosecuted under this section or any other applicable section, but not both.

Chapter 14
Offenses Against Property

39-14-101 Consolidation of theft offenses

Conduct denominated as theft in this part constitutes a single offense embracing the separate offenses referenced before 1989 as embezzlement, false pretense, fraudulent conversion, larceny, receiving or concealing stolen property, and other similar offenses.

39-14-102 Theft–Definitions

The following definitions apply in this part, unless the context otherwise requires:

(1) "Cable television company" means any franchise or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one (1) or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution to members of the public who subscribe to such service, or distributing through such company's antennae, poles, wires, cables, conduits or other property used in providing service to its subscribers and customers any television signals whether broadcast or not;

(2) "Credit card" means any real or forged instrument, writing or other evidence, whether known as a credit card, credit plate, charge plate or by any other name, which purports to evidence an understanding to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(3) "Debit card" means any real or forged instrument, writing or other evidence known by any name issued with or without a fee by an issuer for the use of a depositor in obtaining money, goods, services or anything else of value, payment of which is made against funds previously deposited in an account with the issuer;

(4) "Expired" credit or debit card means a card which is no longer valid because the term shown on it has expired;

(5) "Issuer" means the business organization or financial institution or its duly authorized agent which issues a credit or debit card;

(6) "Library" means any:

(A) Public library;

(B) Library of educational, historical or eleemosynary institution, organization or society;

(C) Archives; or

(D) Museum;

(7) “Library material” includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audio-visual materials in any format, magnetic or other tapes, electronic data, processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to or on loan to or otherwise in the custody of a library;
(8) “Microwave multi-point distribution system station” or “MDS” means any franchise or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one (1) or more television stations, and redistributing such signals by microwave transmissions to members of the public who subscribe to such service, or distributing through such company’s antennae, conduits, or other property used in providing service to its subscribers and customers any television signals whether broadcast or not;
(9) “Receiving” includes, but is not limited to, acquiring possession, control, title or taking a security interest in the property; and
(10) “Revoked” credit or debit card means a card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

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.

39-14-104 Theft of services

(a) A person commits theft of services who:
(1) Intentionally obtains services by deception, fraud, coercion, forgery, false statement, false pretense or any other means to avoid payment for the services;
(2) Having control over the disposition of services to others, knowingly diverts those services to the person’s own benefit or to the benefit of another not entitled thereto; or
(3) Knowingly absconds from establishments where compensation for services is ordinarily paid immediately upon the rendering of them, including, but not limited to, hotels, motels and restaurants, without payment or a bona fide offer to pay.
(b) Any individual directly or indirectly harmed by a violation of subsection (a) shall have legal standing to report such violations to law enforcement and testify in support of corresponding criminal charges.

39-14-105 Classification 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.

39-14-106 Unauthorized use of automobiles & other vehicles–Joyriding

A person commits a Class A misdemeanor who takes another's automobile, airplane, motorcycle, bicycle, boat or other vehicle without the consent of the owner and the person does not have the intent to deprive the owner thereof.

39-14-107 Affirmative defense–Claim of right

It is an affirmative defense to prosecution under §§39-14-103, 39-14-104 and 39-14-106 that the person:
(1) Acted under an honest claim of right to the property or service involved;
(2) Acted in the honest belief that the person had the right to obtain or exercise control over the property or service as the person did; or
(3) Obtained or exercised control over property or service honestly believing that the owner, if present, would have consented.

39-14-108 Pawning or conveying rental property as inference of intent to deprive

(a) With respect to the theft of rental property, evidence of any of the following shall create an inference of intent to deprive the owner of the rental property, as provided in §39-14-103:
(1) The person leasing or renting the property has pawned or otherwise conveyed the property;
(2) The person leasing or renting the property pursuant to a written agreement presents identification to the owner at the time of the execution of the written agreement which bears a fictitious name, telephone number or address; or
(3) The person leasing or renting the property pursuant to a written agreement designating the principal location at which the property is to be used, and specifying the date and time when the same is to be returned, fails to return the property to the owner on or before such return date and within ten (10) days after the date of mailing of written notice to return the property sent by registered or certified mail, return receipt requested, deliver to addressee only, and the property is not to be found at the location designated in the lease or rental agreement as the principal place of use of the property.

(b) Any leased or rented tangible personal property that has been sold, pawned or otherwise disposed of by the person renting or leasing the property during the period of the lease or rental agreement shall be returned to the owner of the property if the property is properly marked and identified as leased or rental property and

is no longer needed as evidence against the person, and if the owner of the property can, by serial number, manufacturer's identification number or other sufficient means, demonstrate ownership of the property.

(c)(1) Each owner of rental property shall conspicuously mark and identify the property as rented or leased property. The markings shall include, but not be limited to, the name and address of the rental company and the serial number of the property.

(2) Subdivision (c)(1) does not apply to motor vehicles, as defined in title 55.

39-14-110 Unlawful operation of audiovisual recording device

(a) It is an offense for a person to knowingly operate an audiovisual recording function of a device in a facility where a motion picture is being exhibited for the purpose of recording a theatrical motion picture and without the consent of the owner or lessee of the facility.

(b) The term "audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(c) An owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, or the licensor of the motion picture being exhibited or the licensor's agent or employee, or a law enforcement officer who has probable cause to believe that a person has violated this section, may detain such person on or off the premises of the motion picture establishment, if such detention is done for any or all of the following purposes:

(1) To question the person, investigate the surrounding circumstances, obtain a statement, or any combination thereof;

(2) To request or verify identification, or both;

(3) To inform a law enforcement officer of the detention of such person, or surrender that person to the custody of a law enforcement officer, or both;

(4) To inform a law enforcement officer, the parent or parents, guardian or other private person charged with the welfare of a minor of the detention and to surrender the minor to the custody of such person; or

(5) To institute criminal proceedings against the person.

(d) Probable cause to suspect that a person has committed or is attempting to commit a violation of this section may be based on, but not limited to:

(1) Personal observation, including observation via closed circuit television or other visual device; or

(2) Report of a personal observation from another patron or employee.

(e) An owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of the owner or lessee, or the licensor of the motion picture being exhibited or the licensor's agent or employee, or a law enforcement officer who detains, questions, or causes the arrest of any person suspected of a violation of this section shall not be criminally or civilly liable for any legal action relating to the detention, questioning, or arrest if the owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of the owner or lessee, or the licensor of the motion picture being exhibited or the licensor's agent or employee, merchant or merchant's employee or agent or law enforcement officer:

(1) Has probable cause to suspect that the person has committed or is attempting to commit a violation of this section;

(2) Acts in a reasonable manner under the circumstances; and

(3) Detains the suspected person for a reasonable period of time.

(f) The owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of the owner or lessee, or the licensor of the motion picture being exhibited or the licensor's agent or employee, may use a reasonable amount of force necessary to protect the owner, agent, employee or licensor, to prevent escape of the person detained, or to prevent the loss or destruction of property.

(g) A reasonable period of time, for the purposes of this section, is a period of time long enough to accomplish the purpose set forth in this section, and shall include any time spent awaiting the arrival of a law enforcement officer or the parents or guardian of a juvenile suspect, if the owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of the owner or lessee, or the

licensor of the motion picture being exhibited or the licensor's agent or employee has summoned such law enforcement officer, parents, or guardian.

(h) This section does not prevent any lawfully authorized investigative, law enforcement protection, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of a lawfully authorized investigative, protective, law enforcement, or intelligence gathering activity.

(i) This section shall not apply to a person who operates the audiovisual recording function of a device in a retail establishment for the sole purpose of demonstrating the use and operation of the device for a prospective customer.

(j) For purposes of this section, "facility" shall not be construed to include a personal residence.

(k)(1) A violation of this section is a Class A misdemeanor.

(2) Nothing in this section shall be construed as prohibiting prosecution under any other applicable provision of law.

39-14-112 Extortion

(a) A person commits extortion who uses coercion upon another person with the intent to:

(1) Obtain property, services, any advantage or immunity;

(2) Restrict unlawfully another's freedom of action; or

(3)(A) Impair any entity, from the free exercise or enjoyment of any right or privilege secured by the Constitution of Tennessee, the United States Constitution or the laws of the state, in an effort to obtain something of value for any entity;

(B) For purposes of this section, "something of value" includes, but is not limited to, a neutrality agreement, card check agreement, recognition, or other objective of a corporate campaign;

(C) For purposes of this section, "corporate campaign" means any organized effort to unlawfully bring pressure on an entity, other than through collective bargaining, or any other activity protected by federal law.

(b) It is an affirmative defense to prosecution for extortion that the person reasonably claimed:

(1) Appropriate restitution or appropriate indemnification for harm done; or

(2) Appropriate compensation for property or lawful services.

(c) Extortion is a Class D felony.

39-14-113 Organized retail crime

(a) This section shall be known and may be cited as the "Organized Retail Crime Prevention Act."

(b) For purposes of this section, "stored value card" means any card, gift card, instrument, or device issued with or without fee for the use of the cardholder to obtain money, goods, services, or anything else of value. Stored value cards include, but are not limited to, debit cards issued for use as a stored value card or gift card, and an account identification number or symbol used to identify a stored value card. "Stored value card" does not include a prepaid card usable at multiple, unaffiliated merchants or at automated teller machines, or both.

(c) A person commits the offense of organized retail crime when the person:

(1) Acts in concert with one (1) or more individuals to commit theft of any merchandise with a value greater than one thousand dollars ($1,000) aggregated over a ninety-day period with the intent to:

(A) Sell, barter, or trade the merchandise for monetary or other gain; or

(B) Fraudulently return the merchandise to a retail merchant; or

(2) Receives, possesses, sells, or purchases, by physical or electronic means, any merchandise or stored value cards obtained from a fraudulent return with the knowledge that the property was obtained in violation of § 39-14-103 or § 39-14-146.

(d)(1) A violation of subsection (c) is punished as theft pursuant to §39-14-105.

(2) A violation of subsection (c) is punished one (1) classification higher than provided in §39-14-105 if the defendant exercised organizational, supervisory, financial, or management authority over the activity of one (1) or more other persons in furtherance of a violation of this section.

(e) Any interest in property acquired or maintained in violation of this section shall be subject to forfeiture as provided by chapter 11, part 7 of this title.

(f)(1) Any sale or purchase of stored value cards by persons or merchants, other than the issuer or the issuer's authorized agent, including any transaction that occurs in this state or with a person in the state who transacts online, requires that the appropriate information contained in this subsection (f) be recorded and a copy of the record shall be maintained for at least three (3) years. Regardless of the method by which the transaction is conducted, the merchant shall record the following information for each transaction:

(A) The time, date, and place of the transaction;

(B) A complete and accurate description of the stored value card sold or purchased, including, if available, the name of the original issuer, the face value of the stored value card when sold or purchased, the acquired price of the stored value card, and the stored value card serial number;

(C) Pin numbers shall be provided for specific individuals upon the request of law enforcement; and

(D) A signed statement or digital affirmation by the seller of the stored value card, if applicable, verifying that the seller is the rightful owner of the stored value card or is authorized to sell, consign, or trade the stored value card.

(2) If the transaction is completed in person or by any method other than in a kiosk or online, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A copy, digital swipe, or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or the person to whom stored value card was sold;

(C) A thumbprint of the person who sold the stored value card; and

(D) A description of the person who sold the stored value card including the person's full name, current residential address, phone number, height, weight, date of birth, or other identifying marks.

(3) If the transaction is completed at a kiosk, the record shall include:

(A) The information required in subdivision (f)(1);

(B) A digital swipe or scan of a valid government issued identification card, such as a driver license, state identification card, or military identification card, of the person who purchased the stored value card, or sold the stored value card; and

(C) A thumbprint of the person who sold the stored value card.

(4) If the transaction is completed online the record shall include:

(A) The information required by subdivision (f)(1);

(B) A verified email address;

(C) The IP address or digital device identification used to access the website or app of the seller;

(D) Data collected about the person who purchased the stored value card, or sold the stored value card, including name and mailing address used to remit payment; and

(E) A token identifier for a validated credit or debit card and billing zip code.

(5) Local law enforcement agencies shall notify merchants known to sell stored value cards of the recording and reporting requirements required by subdivisions (f)(1)-(4). The notification to merchants shall be in writing and shall state the law enforcement agency's policy regarding how the information is to be reported in the applicable jurisdiction and certify that any data collected from the merchant will be stored in a secure and confidential manner. All records shall be delivered to the appropriate law enforcement agency or its designated reporting database in an electronic or other report format approved by that same agency within twenty-four (24) hours from the date of the transaction. The information shall be stored on a law enforcement owned, operated, and housed server. Any gift card database software should be free for state law enforcement agencies; state, county, and city government agencies; and for the merchants that are reporting.

(6)(A) A merchant commits a Class A misdemeanor who knowingly fails to follow the reporting and recording requirements pursuant to this subsection (f). However, for a merchant to be charged or convicted under this subsection (f), the law enforcement agency must have first notified the merchant in writing of the reporting obligations in that jurisdiction. If the violation is committed by the owner, stockholder, or managing partner of a business selling a stored value card, then the business license may be suspended or revoked at the discretion of the city or county clerk.

(B) Any person who knowingly provides false information in response to the reporting requirements of this section commits a Class A misdemeanor.

(C) Any fines derived from violations of this subsection (f) shall be earmarked for law enforcement purposes if the law enforcement entity shows proof of notification of reporting requirements signed by the person or agent of the entity in violation.

(7) Notwithstanding this section to the contrary, the comptroller of the treasury is authorized to request and receive from a law enforcement agency any data or information received by the law enforcement agency pursuant to this subsection (f).

(g) All information gathered pursuant to subsection (f) shall remain confidential. If a local law enforcement agency utilizes a third party, including, but not limited to, a third-party database or software company, to keep records or to analyze stored value card transactions, the third party must agree to keep all information confidential and only share the information with law enforcement agencies, the comptroller of the treasury, or the original issuer of the stored value card.

39-14-114 Forgery

(a) A person commits an offense who forges a writing with intent to defraud or harm another.

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

(1) "Forge" means to:

(A) Alter, make, complete, execute or authenticate any writing so that it purports to:

(i) Be the act of another who did not authorize that act;

(ii) Have been executed at a time or place or in a numbered sequence other than was in fact the case; or

(iii) Be a copy of an original when no such original existed;

(B) Make false entries in books or records;

(C) Issue, transfer, register the transfer of, pass, publish, or otherwise utter a writing that is forged within the meaning of subdivision (b)(1)(A); or

(D) Possess a writing that is forged within the meaning of subdivision (b)(1)(A) with intent to utter it in a manner specified in subdivision (b)(1)(C); and

(2) "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and symbols of value, right, privilege or identification.

(c) An offense under this section is punishable as theft pursuant to §39-14-105, but in no event shall forgery be less than a Class E felony.

39-14-115 Criminal simulation

(a)(1) A person commits the offense of criminal simulation who, with intent to defraud or harm another:

(A) Makes or alters an object, in whole or in part, so that it appears to have value because of age, antiquity, rarity, source or authorship that it does not have;

(B) Possesses an object so made or altered, with intent to sell, pass, or otherwise utter it; or

(C) Authenticates or certifies an object so made or altered as genuine or as different from what it is.

(2) A person commits the offense of criminal simulation who, with knowledge of its character, possesses:

(A) Any machinery, plates or other contrivances designed to produce instruments reporting to be credit or debit cards of an issuer who had not consented to the preparation of the cards; or

(B) Any instrument, apparatus or contrivance designed, adapted or used for commission of any theft of property or services by fraudulent means.

(b) Criminal simulation is punishable as theft pursuant to §39-14-105, but in no event shall criminal simulation be less than a Class E felony.

39-14-118 Fraudulent use of credit or debit card

(a) A person commits the crime of illegal possession of a credit or debit card who, knowing the person does not have the consent of the owner or issuer, takes, exercises control over or otherwise uses that card or information from that card.

(b) A person commits the crime of fraudulent use of a credit or debit card who uses, or allows to be used, a credit or debit card or information from that card, for the purpose of obtaining property, credit, services or anything else of value with knowledge that:

(1) The card is forged or stolen;
(2) The card has been revoked or cancelled;
(3) The card has expired and the person uses the card with fraudulent intent; or
(4) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit or debit card is issued.

(c)(1) Fraudulent use of a credit or debit card is punishable as theft pursuant to §39-14-105, depending on the amount of property, credit, goods or services obtained.
(2) If no property, credit, goods, or services are actually received or obtained, illegal possession or fraudulent use of a credit card is a Class A misdemeanor.

39-14-119 Credit or debit cards; false reports

(a) Any person who reports or attempts to report a credit or debit card as being lost, stolen, or mislaid knowing the report to be false violates this subsection (a).

(b) Any person who, with intent to defraud, uses a credit or debit card or information from such card, which has previously been reported lost, stolen or mislaid, violates this subsection (b).

(c) A violation of this section is a Class B misdemeanor.

39-14-121 Worthless checks

(a)(1) A person commits an offense who, with fraudulent intent or knowingly:
(A) Issues or passes a check or similar sight order for the payment of money for the purpose of paying any fee, fine, tax, license or obligation to any governmental entity or for the purpose of obtaining money, services, labor, credit or any article of value, knowing at the time there are not sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order, as well as all other checks or orders outstanding at the time of issuance; or
(B) Stops payment on a check or similar sight order for the payment of money for the purpose of paying any fine, fee, tax, license or obligation to any governmental entity or for the purpose of obtaining money, services, labor, credit or any article of value; provided, that the money, credit, goods or services were as represented at the time of the issuance of the check or similar sight order.
(2) This subsection (a) shall not apply to a post-dated check or to a check or similar sight order where the payee or holder knows or has good and sufficient reason to believe the drawer did not have sufficient funds on deposit to the drawer's credit with the drawee to ensure payment.

(b) For purposes of this section, the issuer's or passer's fraudulent intent or knowledge or both of insufficient funds may be inferred if:
(1) The person had no account with the bank or other drawee at the time the person issued or passed the check or similar sight order; or
(2) On presentation within thirty (30) days after issuing or passing the check or similar sight order, payment was refused by the bank or other drawee for lack of funds, insufficient funds or account closed after issuing or passing the check or order, and the issuer or passer fails to make good within ten (10) days after receiving notice of that refusal.

(c) For purposes of subdivision (b)(2), notice shall be in writing, and, if the address is known, sent by certified mail with return receipt requested, and addressed to the issuer or passer at the address shown:
(1) On the check or similar sight order if given; or
(2) If not shown on the check or similar sight order, on the records of the bank or other drawee if available.

(d) If notice is given in accordance with subsection (c), it may be inferred that the notice was received no later than five (5) days after it was mailed.

(e) Notice shall not be required:
(1) In the event the situs of the drawee is not in Tennessee;
(2) If the drawer is not a resident of Tennessee or has left the state at the time the check, draft or order is dishonored; or
(3) If the drawer of the check, draft or order did not have an account with the drawee of the check, draft or order at the time the check, draft or order was issued or dishonored.

(f) The offense of issuing or passing worthless checks is punishable as theft pursuant to §39-14-105. Value shall be determined by the amount appearing on the face of the check on the date of issue.
(g) Nothing in this section shall be construed as amending or repealing the Fraud and Economic Crimes Prosecution Act, compiled in title 40, chapter 3, part 2.

39-14-127 Deceptive business practices

Amended 2023

(a) A person commits an offense who, with intent to deceive, in the course of business:
(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
(2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service;
(3) Takes or tends to take more than the represented quantity of any commodity or service when as buyer the person furnished the weight or measure;
(4) Sells, offers or exposes for sale adulterated or mislabeled commodities;
(A) "Adulterated" means varying from the standard of composition or quality prescribed by or pursuant to any statute providing criminal penalties for such variance or set by established commercial usage; and
(B) "Mislabeled" means varying from the standard of disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for such variance or set by established commercial usage;
(5) Makes a false or misleading statement in any advertisements addressed to the public or to a substantial segment thereof for the purposes of promoting the purchase or sale of property or services;
(6) Makes false or deceptive representations in any advertisement or solicitation for services or products that those services or products have sponsorship, approval, affiliation or connection with a bank, savings and loan association, savings bank or subsidiary or affiliate thereof;
(7) Uses the trade name or trademark, or a confusingly similar trade name or trademark, of any bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary in a solicitation for the offering of services or products if such use is likely to cause confusion, mistake or deception as to the source of origin, affiliation or sponsorship of such products or services; or, uses the trade name or trademark, or confusingly similar trade name or trademark, of any bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary in any manner in a solicitation for the offering of services or products unless the solicitation clearly and conspicuously states the following in bold-face type on the front page of the solicitation:
(A) The name, address and telephone number of the person making the solicitation;
(B) A statement that the person making the solicitation is not affiliated with the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary; and
(C) A statement that the solicitation is not authorized or sponsored by the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary;
(8) Uses the trade name or trademark, or a confusingly similar trade name or trademark of any place of entertainment, or the name of any event, person, or entity scheduled to perform at a place of entertainment in the domain of a ticket marketplace URL. It is not a violation of this subdivision (a)(8) if the ticket marketplace obtained written authorization from the place of entertainment, event, person, or entity scheduled to perform at a place of entertainment to use the trade name, trademark, or name in the domain of the URL prior to the use. For purposes of this subdivision (a)(8):
(A) "Domain" means the portion of text in a URL that is to the left of the top-level domains such as .com, .net, or .org;
(B) "Place of entertainment" means an entertainment facility in this state, such as a theater, stadium, museum, arena, amphitheater, racetrack, or other place where performances, concerts, exhibits, games, athletic events, or contests are held;

(C) "Ticket" means a printed, electronic, or other type of evidence of the right, option, or opportunity to occupy space at, to enter, or to attend a place of entertainment, even if not evidenced by any physical manifestation of the right, option, or opportunity; and

(D) "Ticket marketplace" means a website that provides a forum for or facilitates the buying and selling, or reselling, of a ticket; ***or***

(9) Uses or displays any combination of text, images, website graphics, website display, or website addresses that are substantially similar to the website of an operator with the intent to mislead a potential purchaser, without written authorization. For purposes of this subdivision (a)(9):

(A) "Operator" means an individual, firm, corporation, or other entity, or an agent of such individual, firm, corporation, or other entity that:

(i) Owns, operates, or controls a place of entertainment or that promotes or produces a performance, concert, exhibit, game, athletic event, or contest; and

(ii) Offers for sale a first sale ticket to the place of entertainment or performance, concert, exhibit, game, athletic event, or contest; and

(B) "Place of entertainment" means an entertainment facility in this state, such as a theater, stadium, museum, arena, amphitheater, racetrack, or other place where performances, concerts, exhibits, games, athletic events, or contests are held.

(b) "Commodity," as used in this section, means any tangible or intangible personal property.

(c) Deceptive business practices is a Class B misdemeanor.

39-14-129 Mail theft

(a) As used in this section:

(1) "Addressee" means the person to whom a piece of mail is addressed;

(2) "Curtilage" has the same meaning as defined in §39-11-611; and

(3) "Mail" means a letter, postal card, package, bag, or other sealed article that:

(A) Is delivered by a common carrier or delivery service and not yet received by the addressee; or

(B) Has been left to be collected for delivery by a common carrier or delivery service.

(b) It is an offense to take mail from a residential mailbox or from the curtilage of a dwelling without the consent of the addressee and with the intent to deprive the addressee of the mail.

(c)(1) A first offense of mail theft is punished as theft under §39-14-105, after determining value under §39-11-106.

(2) A second or subsequent offense of mail theft is punished as theft under §39-14-105, after determining value under §39-11-106. However, in no event shall punishment for a second or subsequent offense of mail theft be less than a Class E felony.

39-14-130 Fraud by destruction of valuable papers

(a) Any person who takes or destroys any valuable papers with intent to injure or defraud shall be punished as if for theft. If the value of the papers is not ascertainable, the offense is a Class A misdemeanor.

(b) For the purposes of this section, "valuable papers" includes:

(1) Any bond, promissory note, bill of exchange, order, or certificate;

(2) Any book of accounts respecting goods, money or other things;

(3) Any deed or contract in force;

(4) Any receipt, release, or defeasant;

(5) Any instrument of writing whereby any demand, right or obligation is created, ascertained, increased, extinguished or diminished; or

(6) Any other valuable paper writing.

39-14-132 Odometer fraud

(a) No person or agent of any person shall misrepresent the mileage on a used motor vehicle which is offered for sale, trade-in or exchange by changing the mileage registering instrument of a used motor vehicle so as to show a lesser mileage reading than that recorded by the instrument; provided, that this shall not be construed to prevent the service, repair or replacement of the mileage registering instrument, which, by reason of normal use, wear or through damage, requires service, repair or replacement.

(b)(1) A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair or replacement. If the mileage cannot remain the same after every reasonable attempt to set the odometer to the mileage registered prior to the service, repair or replacement:

(A) The person shall adjust the odometer to read zero (0); and

(B) The owner of the vehicle or agent of the owner shall affix to the left door frame of the vehicle a secure, permanent plate or sticker conforming with federal standards which contains the mileage before the service, repair or replacement and the date of the service, repair or replacement.

(2) A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

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

39-14-133 False or fraudulent insurance claims

Any person who intentionally presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, for the payment of a loss, or other benefits, upon any contract of insurance coverage, or automobile comprehensive or collision insurance, or certificate of such insurance or prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss, or other documents or writing, with intent that the same may be presented or used in support of such claim, is punished as in the case of theft.

39-14-134 Distinguishing numbers; alteration, sale or possession

(a) A person commits a Class A misdemeanor who knowingly and with the intent to conceal or misrepresent the identity of an item:

(1) Alters, covers, defaces, destroys or removes the permanent serial number, manufacturer's identification plate or other permanent distinguishing number from such item; or

(2) Sells, buys or has possession of such item.

(b) This section does not in any way affect §§55-5-111 and 55-5-112, relative to motor vehicles.

39-14-136 Educational and academic record fraud

(a) A person commits the offense of falsifying educational and academic documents who buys, sells, creates, duplicates, alters, gives or obtains a diploma, academic record, certificate of enrollment or other instrument which purports to signify merit or achievement conferred by an institution of education with the intent to use fraudulently that document or to allow the fraudulent use of the document.

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

39-14-146 Theft of property–Conduct involving merchandise

(a) For purposes of §39-14-103, a person commits theft of property if the person, with the intent to deprive a merchant of the stated price of merchandise, knowingly commits any of the following acts:

(1) Conceals the merchandise;

(2) Removes, takes possession of, or causes the removal of merchandise;

(3) Alters, transfers or removes any price marking, or any other marking which aids in determining value affixed to the merchandise;

(4) Transfers the merchandise from one (1) container to another;

(5) Causes the cash register or other sales recording device to reflect less than the merchant's stated price for the merchandise;

(6) Removes, destroys, deactivates, or evades any component of an anti-shoplifting or inventory control device to commit or facilitate a theft;

(7) Uses any artifice, instrument, container, device, or other article to commit or facilitate a theft; or

(8) Activates or interferes with a fire alarm system to commit or facilitate a theft.

(b) In a theft prosecution under this section, unless applicable, the state is not required to prove that the defendant obtained or exercised control over the merchandise as required in a prosecution under §39-14-103.

(c) Notwithstanding any other law, a fifth or subsequent conviction in a two-year period shall be punished one (1) classification higher than provided by §39-14-105, and subject to a fine of not less than three hundred dollars ($300) nor more than the maximum fine established for the appropriate offense classification.

39-14-150 Identity theft

(a) This section shall be known and may be cited as the "Identity Theft Victims' Rights Act of 2004."

(b)(1) A person commits the offense of identity theft who knowingly obtains, possesses, buys, or uses, the personal identifying information of another:

(A) With the intent to commit any unlawful act including, but not limited to, obtaining or attempting to obtain credit, goods, services or medical information in the name of such other person; and

(B)(i) Without the consent of such other person;

(ii) Without the lawful authority to obtain, possess, buy or use that identifying information; or

(iii) To commit a violation of §53-11-402 or §53-11-416 by using a prescription for a controlled substance represented as having been issued by a physician, nurse practitioner, or other health care provider.

(2) For purposes of the offense of identity theft, an activity involving a possession, use or transfer that is permitted by the Tennessee Financial Records Privacy Act, compiled in title 45, chapter 10; Title V of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102; or the Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactional Act, (15 U.S.C. §1681 et seq.) shall not be considered an "unlawful act".

(c)(1) A person commits the offense of identity theft trafficking who knowingly sells, transfers, gives, trades, loans or delivers, or possesses with the intent to sell, transfer, give, trade, loan or deliver, the personal identifying information of another:

(A) With the intent that the information be used by someone else to commit any unlawful act including, but not limited to, obtaining or attempting to obtain credit, goods, services or medical information in the name of the other person; or

(B) Under circumstances such that the person should have known that the identifying information would be used by someone else to commit any unlawful act including, but not limited to, obtaining or attempting to obtain credit, goods, services or medical information in the name of the other person; and

(C) The person does not have the consent of the person who is identified by the information to sell, transfer, give, trade, loan or deliver, or possess with the intent to sell, transfer, give, trade, loan or deliver, that information; and

(D) The person does not have lawful authority to sell, transfer, give, trade, loan or deliver, or possess with the intent to sell, transfer, give, loan or deliver, the personal identifying information.

(2) For purposes of the offense of identity theft trafficking, an activity involving a possession, use or transfer that is permitted by the Tennessee Financial Records Privacy Act; Title V of the Gramm-Leach-Bliley Act; or the Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactional Act, shall not be considered an "unlawful act".

(d) In a prosecution under subsection (c), the trier of fact may infer from the defendant's simultaneous possession of the personal identifying information of five (5) or more different individuals that the defendant possessed the personal identifying information with the intent to sell, transfer, give, trade, loan or deliver the information. However, if the defendant had the consent of one (1) or more of the individuals to possess the personal identifying information of that individual, the consenting individual shall not be counted in determining whether an inference of possession for sale may be drawn by the trier of fact.

(e) As used in this section, "personal identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

(1) Name, social security number, date of birth, official state or government issued driver license or identification number, alien registration number, passport number, employer or taxpayer identification number;

(2) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(3) Unique electronic identification number, address, routing code or other personal identifying data which enables an individual to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data;

(4) Telecommunication identifying information or access device; or

(5) Any name, number, information, medical prescribing pad, electronic message, or form used by a physician, nurse practitioner, or other health care provider for prescribing a controlled substance.

(f)(1) The general assembly recognizes that an offense under this section may result in more than one (1) victim. While a company or business that loses money, merchandise, or other things of value as a result of the offense is a victim, it is equally true that the person whose identity is stolen is also a victim. The person whose identity is stolen suffers definite and measurable losses including expenses necessary to cancel, stop payment on, or replace stolen items such as credit cards, checks, driver licenses, and other documents, costs incurred in discovering the extent of the identity theft, in repairing damage from the theft such as credit ratings and reports and preventing further damages from the theft, long distance telephone charges to law enforcement officials, government offices, and businesses in regard to the theft, and lost wages from the time away from work required to obtain new personal identifying information and complete all of the tasks set out in this subdivision (f)(1). In addition to measurable losses, the person whose identity is stolen also suffers immeasurable damages such as stress and anxiety as well as possible health problems resulting from or aggravated by the offense.

(2) For the reasons set out in subdivision (f)(1), the general assembly declares that any person whose identity is unlawfully obtained in violation of subsection (b) or (c) is a victim of crime within the meaning of Article 1, §35 of the Constitution of Tennessee and title 40, chapter 38.

(g)(1) Notwithstanding any law to the contrary, if a private entity or business maintains a record that contains any of the personal identifying information set out in subdivision (g)(2) concerning one of its customers, and the entity, by law, practice or policy discards such records after a specified period of time, any record containing the personal identifying information shall not be discarded unless the business:

(A) Shreds or burns the customer's record before discarding the record;

(B) Erases the personal identifying information contained in the customer's record before discarding the record;

(C) Modifies the customer's record to make the personal identifying information unreadable before discarding the record; or

(D) Takes action to destroy the customer's personal identifying information in a manner that it reasonably believes will ensure that no unauthorized persons have access to the personal identifying information contained in the customer's record for the period of time between the record's disposal and the record's destruction.

(2) As used in this subsection (g), "personal identifying information" means a customer's:

(A) Social security number;

(B) Driver license identification number;

(C) Savings account number;

(D) Checking account number;

(E) PIN (personal identification number) or password;

(F) Complete credit or debit card number;

(G) Demand deposit account number;

(H) Health insurance identification number; or

(I) Unique biometric data.

(3)(A) A violation of this subsection (g) shall be considered a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, and may be punishable by a civil penalty in the amount of five hundred dollars ($500) for each record containing a customer's personal identifying information that is wrongfully disposed of or discarded; provided, however, that no total penalty may exceed ten thousand dollars ($10,000) for any one (1) customer.

(B) It is an affirmative defense to any civil penalty imposed pursuant to this subsection (g) that the business used due diligence in its attempt to properly dispose of or discard the records.

(4) The methods of destroying the personal identifying information of a customer set out in this subsection (g) shall be considered the minimum standards. If a private entity or business by law, practice or policy

currently is required to have or otherwise has in place more stringent methods and procedures for destroying the personal identifying information in a customer's record than are required by this subsection (g), the private entity or business may continue to destroy the identifying information in the more stringent manner.

(5) To the extent that this subsection (g) conflicts with applicable federal law, this subsection (g) shall not apply to an entity that is subject to the enforcement authority of the federal banking agencies, the national credit union administration, the federal trade commission or the securities and exchange commission. For any such entity, the applicable federal law shall govern the proper disposition of records containing consumer information, or any compilation of consumer information, derived from consumer reports for a business purpose.

(6) Notwithstanding subdivision (g)(5), this subsection (g) shall not apply to any financial institution that is subject to the privacy and security provisions of the Gramm-Leach-Bliley Act as amended, and as it existed on January 31, 2002.

(h)(1) The following property shall be subject to seizure and judicial forfeiture to the state in the manner provided:

(A) Any property, real or personal, directly or indirectly acquired by or received in violation of this section;

(B) Any property, real or personal, received as an inducement to violate this section;

(C) Any property, real or personal, traceable to the proceeds from the violation;

(D) Any property, real or personal, used in connection with or to facilitate a violation of this section; and

(E) All conveyances, including aircraft, vehicles or vessels, which are used, or are intended for use, in the commission of or escape from a violation of this section and any money, merchandise or other property contained in those conveyances.

(2) Property seized pursuant to this subsection (h) shall be seized and forfeited pursuant to the procedure set out in chapter 11, part 7 of this title.

(3) Notwithstanding §39-11-713, property seized pursuant to this subsection (h) shall be disposed of as follows:

(A) All property ordered forfeited shall be sold at public auction. The proceeds from all property forfeited and sold at public auction shall be disposed of by the court as directed by this section. The attorney general and reporter shall first be compensated for all expenses incident to the litigation, as approved by the court. Any costs for appeals shall be provided for by the trial court upon conclusion of the litigation. The attorney general and reporter shall then direct that any public agency be reimbursed for out-of-pocket expenses resulting from the investigation, seizure and storage of the forfeited property;

(B) Out of the proceeds remaining, the court shall order restitution be made to the person or persons whose identity was stolen for any identifiable losses resulting from the offense; and

(C) The court shall then award the remainder of the funds as follows:

(i) In the event that the investigating and seizing agency was a state agency, then ten percent (10%) of the funds shall be distributed to the state treasurer who shall deposit the funds in a designated account for the agency to be used in its identity theft operations;

(ii) In the event that the investigating and seizing agency is the Tennessee bureau of investigation, then ten (10%) of the funds shall be distributed to the state treasurer who shall deposit the funds in a designated account for the agency to be used in its identity theft operations;

(iii) In the event that the investigating and seizing agency is a local public agency, then twenty-five percent (25%) of the funds shall be distributed to its local government for distribution to the law enforcement agency for use in the enforcement of this section. When more than one (1) local public agency participated in the investigation and seizure of forfeited property as certified by the attorney general and reporter, then the court shall order a distribution of ten percent (10%) of the funds according to the participation of each local public agency. Accounting procedures for the financial administration of the funds shall be in keeping with those prescribed by the comptroller of the treasury; and

(iv) The remainder of the funds shall be distributed to the state treasurer who shall deposit the funds in the general fund to defray the incarceration costs associated with the offense of identity theft trafficking defined in subsection (c).

(4) For purposes of this subsection (h), a "local public agency" includes any county or municipal law enforcement agency or commission, the district attorney general, or any department or agency of local government authorized by the attorney general and reporter to participate in the investigation.

(5) Funds awarded under this section may not be used to supplement salaries of any public employee or law enforcement officer. Funds awarded under this section may not supplant other local or state funds.

(i)(1) Identity theft as prohibited by subsection (b) is a Class D felony.

(2) Identity theft trafficking as prohibited by subsection (c) is a Class C felony.

(j)(1) For purposes of this subsection (j), "victim" means the person whose personal identifying information was obtained, possessed, bought or used in violation of subsection (b), or sold, transferred, given, traded, loaned, delivered or possessed in violation of subsection (c).

(2) Identity theft is a continuing offense because the offense involves an unlawful taking and use of personal identifying information that remains in the lawful possession of a victim wherever the victim currently resides or is found. As provided in this section, such unlawful taking and use are elements of the offense of identity theft and occur wherever the victim resides or is found.

(3) Pursuant to §39-11-103 and subdivision (j)(2), if a victim of identity theft resides or is found in this state, an essential element of the offense is committed in this state and a defendant is subject to prosecution in this state, regardless of whether the defendant was ever actually in this state.

(4) Venue for the offense of identity theft shall be in any county where an essential element of the offense was committed, including but not limited to, in any county where the victim resides or is found, regardless of whether the defendant was ever actually in such county.

(k)(1) For purposes of this subsection (k):

(A) "Reencoder" means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card, driver license or state or local government-issued identification card, onto the computer chip or magnetic strip or stripe of a different payment card, driver license, or state or local government-issued identification card, or any other electronic medium that allows an authorized transaction to occur; and

(B) "Scanning device" means a scanner, reader or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on a computer chip or magnetic strip or stripe of a payment card, driver license, or state or local government-issued identification card.

(2)(A) It is an offense for a person to use a scanning device or reencoder without the permission of the holder of the card or license from which information is being scanned or reencoded with the intent to commit, aid, or abet any criminal offense.

(B) It is an offense for a person who possesses any device, apparatus, equipment, software, material, good, property, or supply that is designed or adapted for use as a scanning device or reencoder with the intent to commit, aid, or abet any criminal offense.

(C) A violation of this subsection (k) is a class A misdemeanor.

39-14-201 Animal offenses–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) "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

Amended 2023

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2)***(A)*** Fails unreasonably to provide necessary food, water, ***or*** care for an animal in the person's custody; ***or***

(B)(i) Fails unreasonably to provide access to necessary shelter for an animal other than a dog in the person's custody; or

(ii)(a) Unless exempted under subdivision (a)(2)(B)(ii)(b), fails unreasonably to provide access to shelter in a structure that meets the following requirements for a dog in the person's custody that resides primarily outdoors:

(1) The structure is constructed of sound and substantial material, is sufficient to protect the dog from inclement weather, and is of a size appropriate to allow the dog to maintain normal body temperature;

(2) The structure must have a roof and be enclosed on all sides with an entrance of adequate size for the dog to enter, and have dimensions that allow the dog, while in the shelter, to stand erect, sit, turn around, and lie down in a normal position;

(3) The structure provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the dog to lie on in a normal manner and that can be maintained in a sanitary manner;

(4) From March through October, the structure is properly shaded, and from November through February, when necessary to protect the dog from cold and promote the retention of body heat, the shelter is fitted with a sufficient quantity of bedding material; and

(5) The structure or structures must be of a sufficient size or number to provide shelter to each dog present at the same time;

(b) The requirements in subdivision (a)(2)(B)(ii)(a) do not apply when a dog is actively engaged in lawful hunting; police, military, or patrol work; detection work; search-and-rescue; herding or livestock guarding; trials and other lawful competitions; service and assistance work; other working, sporting, and competitive functions; or while actively training for these purposes and functions;

(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 of animals

(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.

39-14-205 Intentional killing of animal

(a)(1) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.

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

(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 or in the control of 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.

39-14-208 Injury of guide dog

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.

39-14-212 Aggravated cruelty to animal

Amended 2023

(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 2021;
(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***(1***) 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.

(2)(A) Notwithstanding subdivision (j)(1), if a child is adjudicated delinquent for conduct involving the intentional torturing, mutilating, maiming, burning, starving to death, crushing, disfiguring, drowning, suffocating, or impaling of a domesticated dog or cat, then the court shall order that the child adjudicated delinquent receive a psychiatric or psychological evaluation and any recommended counseling and treatment.

(B) The court shall order that the cost of any evaluation, counseling, and treatment required under subdivision (j)(2)(A) be paid in accordance with §37-1-150.

(C) If the court finds a parent or guardian to be in contempt of court for failure to comply with a court order issued under this subdivision (j)(2), then the court is authorized to punish the parent or guardian pursuant to §37-1-158.

(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.

39-14-214 Sexual activity with 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.

39-14-216 Service animal offenses

(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. 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

(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.

39-14-219 Kill or injure police animal, fire dog, search and rescue dog, or service animal

(a) It is an offense to knowingly and unlawfully cause serious bodily injury to or kill a police dog, fire dog, search and rescue dog, service animal, or police horse without the owner's effective consent.

(b)(1) An offense under subsection (a) is a Class D felony.
(2) If conduct that is in violation of this section is also a violation of §39-14-205 or any other criminal offense, the offense may be prosecuted under any of the applicable statutes.

(c) A person is justified in killing or injuring 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 or in the control of that person. A person is not justified in killing or injuring 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 or injuring the animal of another authorized by this subsection (c) does not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills or injures a police dog that is acting in its official capacity. In that case, subsection (a) applies to the person.

39-14-301 Arson; structures or farm equipment

(a) A person commits an offense who knowingly damages any structure or farm equipment by means of a fire or explosion:
(1) Without the consent of all persons who have a possessory, proprietary or security interest therein; or
(2) With intent to destroy or damage any structure to collect insurance for the damage or destruction or for any unlawful purpose.

(b)(1) Arson is a Class C felony.
(2) Arson of a place of worship is a Class B felony.

(c) As used in this section:
(1) "Farm equipment" means any farm tractor as defined in § 55-1-104(a), farm implement designed to be operated with a farm tractor, and motorized farm machinery used in the commercial production of farm products or nursery stock; and
(2) "Place of worship" means any structure that is:
(A) 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

(B) Utilized on a regular basis by such religious institution as the site of congregational services, rites, or activities communally undertaken for the purpose of worship.

39-14-302 Aggravated arson

(a) A person commits aggravated arson who commits arson as defined in §39-14-301 or §39-14-303:
(1) When one (1) or more persons are present therein; or
(2) When any person, including firefighters and law enforcement officials, suffers serious bodily injury as a result of the fire or explosion.
(b) Aggravated arson is a Class A felony.

39-14-303 Arson; personal property or real estate

(a) A person commits arson who knowingly damages any personal property, land, or other property, except buildings or structures covered under §39-14-301, by means of a fire or explosion:
(1) Without the consent of all persons who have a possessory or proprietary interest therein; or
(2) With intent to destroy or damage any such property for any unlawful purpose.
(b) A violation of this section is a Class E felony.

39-14-304 Reckless burning

(a) A person commits reckless burning who:
(1) Recklessly starts a fire on the land, building, structure or personal property of another;
(2) Starts a fire on the person's own land, building, structure or personal property and recklessly allows the fire to escape and burn the property of another; or
(3) Knowingly starts an open air or unconfined fire in violation of a burning ban as provided in §39-14-306(b).
(b) Reckless burning is a Class A misdemeanor.

39-14-305 Unattended fire

(a) It is unlawful for any person who originates or uses an open fire to leave that fire unattended without totally extinguishing the same within one hundred fifty feet (150′) of forest or woodlands or within one hundred fifty feet (150′) of other inflammable material, the setting fire to which inflammable material would naturally and proximately result in the fire being conveyed to forest or woodlands.
(b) A violation of this section is a Class B misdemeanor.

39-14-306 Setting fires without permit

(a)(1) It is unlawful for any person to start an open-air fire between October 15 and May 15, inclusive, within five hundred feet (500′) of any forest, grasslands or woodlands without first securing a permit from the state forester or the state forester's duly authorized representative. Depending upon the potential for hazardous burning conditions, the state forester may prescribe a period other than October 15 to May 15 within which a permit must be obtained prior to starting an open-air fire.
(2) A violation of this subsection (a) is a Class C misdemeanor.
(b)(1) In extreme fire hazard conditions, the commissioner of agriculture, in consultation with the state forester and the county mayors of impacted counties, may issue a burning ban prohibiting all open air fire in any area of the state.
(2) A violation of this subsection (b) is reckless burning and punishable as a Class A misdemeanor as provided in §39-14-304.
(c) This section shall not apply to fires that may be set within the corporate limits of any incorporated town or city that has passed ordinances controlling the setting of fires.

39-14-401 Burglary & related–Definitions

As used in this part, unless the context otherwise requires:
(1) "Habitation":
(A) Means any structure, including buildings, module units, mobile homes, trailers, and tents, which is designed or adapted for the overnight accommodation of persons;
(B) Includes a self-propelled vehicle that is designed or adapted for the overnight accommodation of persons and is actually occupied at the time of initial entry by the defendant; and

(C) Includes each separately secured or occupied portion of the structure or vehicle and each structure appurtenant to or connected with the structure or vehicle;

(2) "Occupied" means the condition of the lawful physical presence of any person at any time while the defendant is within the habitation or other building; and

(3) "Owner" means a person in lawful possession of property whether the possession is actual or constructive. "Owner" does not include a person, who is restrained from the property or habitation by a valid court order or order of protection, other than an ex parte order of protection, obtained by the person maintaining residence on the property.

39-14-405 Criminal trespass

(a) A person commits criminal trespass if the person enters or remains on property, or any portion of property, without the consent of the owner. Consent may be inferred in the case of property that is used for commercial activity available to the general public or in the case of other property when the owner has communicated the owner's intent that the property be open to the general public.

(b) It is a defense to prosecution under this section that:

(1) A person entered or remained on property that the person reasonably believed to be property for which the owner's consent to enter had been granted;

(2) The person's conduct did not substantially interfere with the owner's use of the property; and

(3) The person immediately left the property upon request.

(c) The defenses to prosecution set out in subsection (b) shall not be applicable to a person violating this section if the property owner:

(1) Posts the property with signs that are visible at all major points of ingress to the property being posted and the signs are reasonably likely to come to the attention of a person entering the property; or

(2) Places identifying purple paint marks on trees or posts on the property; provided, that at least one (1) sign is posted at a major point of ingress to the property in a manner that is reasonably likely to come to the attention of a person entering the property and that the sign includes language describing that the use of purple paint signifies "no trespassing." If purple paint is used, then purple paint must be vertical lines of not less than eight inches (8") in length and not less than one inch (1") in width; placed so that the bottom of the mark is not less than three feet (3′) or more than five feet (5′) from the ground; and placed at locations that are reasonably likely to come to the attention of a person entering the property.

(d) For purposes of this section, "enter" means intrusion of the entire body or when a person causes an unmanned aircraft to enter that portion of the airspace above the owner's land not regulated as navigable airspace by the federal aviation administration.

(e) Entering or remaining on railroad or utility right-of-way property by an adjoining landowner for usual and customary activities of the type defined in §§1-3-105(a)(2)(A)(i) and (ii), (B) and (C) and 43-1-113(a), (b)(1)(A) and (B), (b)(2) and (b)(3) shall not be considered trespass under this section. This subsection (e) shall not apply if the railroad or utility right-of-way owner, by a personal communication or posting at the site by someone with either actual authority or apparent authority to act for the railroad or utility right-of-way owner, has communicated to the adjoining landowner that the activity is not permitted.

(f)(1) The secretary of state shall establish a no trespass public notice list identifying employers in this state who have requested established private property rights to be recognized and recorded against a trespasser under subsection (a).

(2) To be included on the list, an employer shall provide to the secretary of state copies of appropriate documents that establish the employer's private property rights, including the address and legal description of the property to which it has legal control. An employer that records its private property rights shall pay a recording fee as determined by the secretary of state.

(3) Beginning January 15, 2015, and every January 15 and July 15 thereafter, the secretary of state shall:

(A) Make the list available to the public in the office of the secretary of state and publish the list on the website maintained by the secretary of state; and

(B) Distribute the no trespass public notice list to every law enforcement agency in this state.

(4) Publication of the no trespass public notice list as prescribed in subdivision (f)(3) establishes a presumption that members of the general public have notice of the establishment of private property rights of all employers and properties listed.

(5) Each law enforcement agency in this state shall maintain the most recent no trespass public notice list received from the secretary of state for its use in responding to complaints of criminal trespass under subsection (a). If a property is identified on the list, the responding law enforcement officer:

(A) Is not required to further establish an employer's property rights before taking action against a person committing criminal trespass; and

(B) May take appropriate and lawful action against a person committing criminal trespass to have such person leave the property or cease blocking ingress to or egress from the property.

(6) If the employer's property is listed on the no trespass public notice list, an owner may seek an expedited injunction to restrain repeated or continuing trespass.

(7) This subsection (f) shall not affect or limit any existing rights of an owner whose property is not included on the no trespass public notice list.

(g) Criminal trespass is a Class C misdemeanor.

(h) For purposes of this section, there shall be no inference of the owner's consent nor shall the defense in subsection (b) be available to a person entering and remaining on the grounds, or in the common areas, such as lobbies, hallways, courtyards, and parking lots, of a housing or apartment complex having signs posted in compliance with subsection (c) unless the person:

(1) Has the actual consent of the owner;

(2) May lawfully enter the property by virtue of the person's occupational duties; or

(3) Has a contractual right to enter the property or is an invitee of someone with a contractual right to make invitations to enter the property.

39-14-406 Aggravated criminal trespass

(a) A person commits aggravated criminal trespass who enters or remains on property when:

(1) The person knows the person does not have the property owner's effective consent to do so; and

(2) The person intends, knows, or is reckless about whether such person's presence will cause fear for the safety of another;

(3) The person, in order to gain entry to the property, destroys, cuts, vandalizes, alters or removes a gate, signage, fencing, lock, chain or other barrier designed to keep trespassers from entering the property; or

(4) The person, while on the property, recklessly damages the property or personal property thereon.

(b) For purposes of this section, "enter" means intrusion of the entire body.

(c)(1) Aggravated criminal trespass is a Class B misdemeanor except as provided in subdivisions (c)(2) and (3).

(2) Aggravated criminal trespass that was committed in a habitation, in a building of any hospital, on state property, or on the campus, property, or facilities of any private or public school is a Class A misdemeanor.

(3) Aggravated criminal trespass is a Class E felony when committed:

(A) On residential property belonging to or occupied by a law enforcement officer, active duty member of the military, judge, or elected or appointed federal, state, or local official; and

(B) With intent to harass a person described in subdivision (c)(3)(A) due to the person's status as a law enforcement officer, active duty member of the military, judge, or elected or appointed federal, state, or local official.

(d)(1) A person also commits aggravated criminal trespass who enters or remains on the real property, including the right-of-way, of a railroad:

(A) With the intent to do harm to the property or to railroad property located on the property; or

(B) With the intent to do harm to another person or knowing that their presence will harm another person.

(2) Aggravated criminal trespass on railroad property is a Class A misdemeanor.

(e)(1) A person also commits aggravated criminal trespass who trespasses upon a construction site, or property used or owned by a public or private utility or an electric or telephone cooperative, with the intent to

steal, deface, destroy, tamper with, alter or remove any equipment, supplies or other property found on the site or property.

(2)(A) In order for subdivision (e)(1) to apply, the construction, utility, or electric or telephone cooperative property must be posted by use of a sign of a size that is plainly visible to the average person at all gates or entrances to the property and shall contain language substantially similar to the following:
UNLAWFUL ENTRY ON THIS PROPERTY CONSTITUTES THE CRIMINAL OFFENSE OF AGGRAVATED CRIMINAL TRESPASS AND IS PUNISHABLE BY IMPRISONMENT FOR UP TO ONE YEAR AND A $2,500 FINE.

(B) If the proof shows that the defendant entered the posted property at some place other than a gate or entrance, it is not a defense to this subsection (e) that the defendant did not know that the property was posted against trespass.

(3) Aggravated criminal trespass on a construction site is a Class A misdemeanor.

39-14-407 Trespass by motor vehicle

(a) Any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customers or employees of business establishments upon that property, or adjoining property or for use otherwise in connection with activities conducted upon that property, or adjoining property, after the person has been requested or ordered to leave the property or to cease doing any of the foregoing actions commits a Class C misdemeanor with no incarceration permitted. A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including, but not limited to, private security guards hired to patrol the property.

(b) As used in this section, "motor vehicle" includes an automobile, truck, van, bus, recreational vehicle, camper, motorcycle, motor bike, moped, go-cart, all terrain vehicle, dune buggy, and any other vehicle propelled by motor.

(c) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area, driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, that the posting of signs or notices shall not be a requirement to prosecution under this section and failure to post signs or notices shall not be a defense to prosecution hereunder.

39-14-408 Vandalism

(a) For purposes of this section:

(1) "Damage" includes, but is not limited to:

(A) Destroying, polluting, or contaminating property;

(B) Tampering with property and causing pecuniary loss or substantial inconvenience to the owner or a third person;

(C) Intentionally spilling, pouring, or otherwise administering chemicals or other toxic substances to or on the merchandise with the intent to:

(i) Render the merchandise unusable or unsellable; or

(ii) Alter the merchandise from its original or intended form;

(D) Destroying, harming, or decreasing the value of merchandise offered for sale by a retail merchant in any other manner; or

(E) Intentionally marring, marking upon, or defacing, in a temporary or permanent manner, state or local government property or any entrance or curtilage to or fixture on the property, with the exception of temporary marking of sidewalks;

(2) "Merchandise" includes any goods, chattels, foodstuffs, or wares of any type of description, regardless of the value;

(3) "Polluting" means the contamination by man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the atmosphere, water, or soil to the material injury of the right of another. Pollutants include dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge,

munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste;

(4) "Retail merchant" means any person primarily engaged in the business of making retail sales. For purposes of this subdivision (a)(4), "primarily" means that at least fifty percent (50%) of the taxable gross sales of the business are retail sales; and

(5) "Retail sale" or "sale at retail" means any sale other than a wholesale sale.

(b) A person commits the offense of vandalism who knowingly:

(1) Causes damage to or the destruction of any real or personal property of another or of the state, the United States, any county, city, or town knowing that the person does not have the owner's effective consent;

(2) Solicits, directs, aids, or attempts to aid another to commit vandalism of a retail merchant, while acting with the intent to promote or assist the commission of vandalism of a retail merchant, or to benefit in the proceeds or results of the offense;

(3) Damages merchandise offered for retail sale by a retail merchant; or

(4) Facilitates commission of vandalism of a retail merchant or acts as an accessory after the fact to vandalism of a retail merchant.

(c)(1)(A) A person violating subdivision (b)(1) or (b)(3) is a principal under § 39-11-401 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(B) In addition to any sentence imposed for a violation of subdivision (b)(1) or (b)(3), the court shall include an order of restitution for any property damage or loss or cleaning and restoration expenses incurred as a result of the offense.

(2) A person violating subdivision (b)(2), is a principal under § 39-11-402 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(3) A person violating subdivision (b)(4) by facilitating a felony act of vandalism committed under subdivision (b)(1) or (b)(3), shall be punished one (1) classification lower than the value of the act of vandalism committed under subdivision (b)(1) or (b)(3).

(4) A person violating subdivision (b)(4) as an accessory after the fact, under § 39-11-411, to a felony act of vandalism committed under subdivision (b)(1) or (b)(3) commits a Class E felony.

(5) Notwithstanding subdivision (c)(1)(A), a person violating subdivision (b)(1) by intentionally marring, marking upon, or defacing, in a temporary or permanent manner, state or local government property or any entrance or curtilage to or fixture on state or local government property, where the value determination under § 39-11-106 is less than two thousand five hundred dollars ($2,500), commits a Class A misdemeanor, unless the state or local government property is designated as a historic landmark or listed on the national register of historic places, in which case the violation shall be punished in accordance with subdivision (c)(1). In addition, a second or subsequent violation of subdivision (b)(1) with respect to state or local government property shall be punished by a mandatory fine of five thousand dollars ($5,000).

39-14-411 Critical infrastructure vandalism

Amended 2023

(a) A person commits the offense of critical infrastructure vandalism who knowingly:

(1) Interrupts or interferes with critical infrastructure or its operation;

(2) Destroys or injures critical infrastructure***;*** or

(3) Destroys or injures a farm.

(b) As used in this section:

(1) "Critical infrastructure" includes, but is not limited to, the infrastructure of the following services to the general public:

(A) Telephone, telegraph, television, internet, or other telecommunication services;

(B) Electric, heat, natural gas, or other power or energy services;

(C) The distribution of crude or refined liquid petroleum products or natural gas, and the pipelines, pumping stations, terminals, and equipment necessary for operation of the facility;

(D) Water, wastewater, or sewer services; and

(E) Railroads and other transportation services; and

(2) "Farm" has the same meaning as defined in §43-26-102 and includes the real property, vehicles, equipment, machinery, animals, or crops contained on a farm.

(c) The critical infrastructure of a utility or company is included in this section whether the critical infrastructure is in operation, idle, or under construction.

(d***(1***) A violation of ***subdivision (a)(1) or (a)(2)*** shall be punished as theft under §39-14-103, and graded in accordance with §39-14-105. ***However, if:***

(A) The actual damages caused by the violation are in an amount less than one thousand dollars ($1,000), then the punishment for a violation of subdivision (a)(1) or (a)(2) must be no less than a Class E felony; and

(B) The actual damages caused by the violation are in an amount of at least one thousand dollars ($1,000), then the punishment for a violation of subdivision (a)(1) or (a)(2) must be no less than a Class C felony.

(2) A violation of subdivision (a)(3) shall be punished as theft under §39-14-103, and graded in accordance with §39-14-105. However, in no event shall punishment for a violation of ***subdivision (a)(3)*** be less than a Class E felony.

39-14-412 Mailbox tampering–Damage to government property

(a) It is an offense for any person to knowingly damage, destroy, remove or otherwise tamper with a residential mailbox or other container such person knows or reasonably should know is used for the receipt or deposit of United States mail. Any person convicted of violating this subsection (a) shall be sentenced to not less than twenty-five (25) hours of public service work.

(b) It is an offense for any person to knowingly damage or deface real or personal property of the state, or a subdivision thereof, by the painting or other permanent application of graffiti directly onto the property.

(c)(1) A violation of subsection (a) is a Class B misdemeanor. All violations shall be punished by at least twenty-five (25) hours of community service work to be determined by the court.

(2) A violation of subsection (b) is a Class A misdemeanor. In any sentence imposed for a violation of subsection (b), the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

39-14-413 Throwing, shooting, at certain vehicles

(a) It is an offense for a person to intentionally throw, hurl or project a stone or other hard substance, or shoot a missile, at a train, locomotive, railway car, caboose, street railway car, bus, motorcycle, steam vessel or other watercraft used for carrying passengers or freight on any of the waters within or bordering on this state.

(b) A violation of subsection (a) is a Class B misdemeanor.

39-14-414 Camping on public land

(a) This section shall be known and may be cited as the "Equal Access to Public Property Act of 2012."

(b) As used in this section, "camping" means:

(1) Any of the following at any time between ten o'clock p.m. (10:00 p.m.) and seven o'clock a.m. (7:00 a.m.):

(A) Erecting, placing, maintaining, leaving, allowing to remain, or using a piece of furniture, tent, raised tarp, or other temporary shelter, structure, or furniture;

(B) Placing or storing personal belongings for future use, including storing food for consumption; or

(C) Carrying on cooking activities, whether by fire or use of artificial means, such as a propane stove or other heat-producing portable cooking equipment;

(2) Sleeping or making preparations to sleep, including laying down a sleeping bag, blanket, or other material used for bedding;

(3) Making a fire or preparing to make a fire; or

(4) Doing any digging or earth breaking.

(c) An area of public property may be designated as a camping area by the department, agency, official or officials responsible for the operation, protection or maintenance of the property in question. The area's designa-

tion as a camping area may be accomplished by means of signage, advertisement or other notice designed to make known its availability for the activity of camping.

(d)(1) It is an offense for a person to engage in camping on public property knowing that the area on which the camping occurs is not specifically designated for use as a camping area by the department or agency responsible for the land.

(2) The department, agency, official, or officials responsible for the operation, protection, or maintenance of the property may designate an area as a camping area by means of signage, advertisement, or other notice designed to make known its availability for camping. However, a person shall not be guilty of a violation of subdivision (d)(1) unless the person was notified by an official responsible for the protection of the property in question that camping is prohibited and continued to engage in camping or returned within twenty-four (24) hours of the warning and continued to engage in camping.

(3) A person is not guilty of a violation of subdivision (d)(1) if the person was given permission or authorization by the department, agency, or official responsible for the operation, protection, or maintenance of the property to engage in camping on the property.

(4) Any items used to commit a violation of this section, including items abandoned at the location of the offense, are subject to confiscation, seizure, and claiming in accordance with subsection (e).

(e) Any property subject to confiscation or seizure under subsection (d), unclaimed in connection with a violation of subsection (d), or left unattended after arrest or issuance of a citation for camping in violation of subsection (d), and taken into custody shall be held by the agency or its agent in a secure location for a period of ninety (90) days. Notice containing the contact information of the agency or agent holding the property must be posted at the nearest reasonable location to the place from which the property was removed. If the property is not claimed within ninety (90) days of being taken into custody, the property is deemed abandoned and the agency or agent may dispose of the property, unless the property is needed for evidence in a criminal proceeding. If a person claiming any such property within ninety (90) days of the property being taken into custody produces identification and signs a release form providing the person's name and contact information and swearing under oath that the property belongs to the person, the agency or agent shall return the property to the person, unless the property is needed for evidence in a criminal proceeding, in which case the property shall be returned following the conclusion of that proceeding. The agency or agent may charge such persons a reasonable storage fee for storing the property. The state, or local government, and its employees, agents, and contractors are immune from liability for property confiscated in compliance with this subsection (e).

(f) A violation of this section is a Class E felony. In any sentence imposed for a violation of this section, the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

(g) Nothing in this section shall be construed as preempting or preventing a department or agency with responsibility for public property from enacting or enforcing other lawful and reasonable rules, regulations, or statutes that concern the use of and access to public property. However, if any such rule, regulation or statute is in conflict with this section, it is the intent that this section shall prevail and the prohibition against camping on public property in areas not designated as camping areas be a uniform one.

39-14-501 Litter control–Definitions

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

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;

(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in §39-17-1503 and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked;

(4) "Refuse" includes all putrescible and nonputrescible solid waste;

(5) “Rubbish” includes nonputrescible solid waste consisting of both combustible and noncombustible waste; and
(6) “Tire” means the continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle and includes a waste tire as defined in §68-211-802.

39-14-502 Littering

(a) A person commits littering who:
(1) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
(2) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50′) of a public highway; or
(3) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
(b) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the trier of fact may, in its discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
(c) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person in such a manner as to indicate that the article belongs or belonged to that person, the trier of fact may, in its discretion and in consideration of the totality of the circumstances, infer that the person has committed littering.

39-14-503 Mitigated criminal littering

(a) Mitigated criminal littering is littering in an amount less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume.
(b) Mitigated criminal littering is a Class B misdemeanor punishable by a fine of five hundred dollars ($500) and as provided in subsections (c) and (d).
(c) A person charged with a violation of this section may, in lieu of appearance in court, submit the applicable five hundred dollar ($500) fine to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed. A person paying in this manner is not subject to subsection (d), and, in the discretion of the judge, may be excused from paying court costs for the offense.
(d) In addition to the penalties established in this section, the court shall require a person convicted under this section to remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public locations for not more than forty (40) hours. The court, in its discretion, may also require a person convicted under this section to work in a recycling center or other appropriate location for any stated period of time not to exceed eight (8) hours.

39-14-504 Criminal littering

(a) Criminal littering is littering in an amount more than five pounds (5 lbs.) in weight or seven and one half (7.5) cubic feet in volume and less than or equal to ten pounds (10 lbs.) in weight or fifteen (15) cubic feet in volume.
(b) Criminal littering is a Class B misdemeanor.
(c) In addition to the penalties established in this section, the court shall require a person convicted under this section to remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public locations for not more than eighty (80) hours. The court, in its discretion, may also require a person convicted under this section to work in a recycling center or other appropriate location for any stated period of time not to exceed eight (8) hours.

39-14-505 Aggravated criminal littering

(a) Aggravated criminal littering is littering:
(1) In an amount exceeding ten pounds (10 lbs.) in weight or fifteen (15) cubic feet in volume; or
(2) In any amount for any commercial purpose, including knowingly placing, dropping, or throwing two (2) or more tires on any public or private property without permission and without immediately removing it.

(b)(1) Except as provided in subdivision (b)(2), aggravated criminal littering is a Class A misdemeanor. If the amount of litter exceeds one hundred pounds (100 lbs.) in weight or thirty (30) cubic feet in volume, then the defendant is subject to imprisonment as provided by law or a fine of not less than two thousand five hundred dollars ($2,500), nor more than four thousand dollars ($4,000), or both.

(2) Aggravated criminal littering is a Class E felony upon:

(A) The third conviction in any amount exceeding ten pounds (10 lbs.) in weight or fifteen (15) cubic feet in volume;

(B) The second conviction in any amount exceeding one thousand pounds (1,000 lbs.) in weight or two hundred (200) cubic feet in volume or in any amount for a commercial purpose; or

(C) The first conviction involving more than eight (8) tires that were placed, dropped, or thrown for a commercial purpose.

(c) In addition to the penalties established in this section, the court shall require a person convicted under subsection (a) to remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public locations for not more than one hundred sixty (160) hours. The court, in its discretion, may also require a person convicted under this section to work in a recycling center or other appropriate location for any stated period of time not to exceed eight (8) hours.

39-14-601 Computer offenses–Definitions

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

(1) "Access" means to approach, instruct, communicate, or connect with, store data in, retrieve or intercept data from, or otherwise make use of any resources of a computer, computer system, or computer network, or information exchanged from any communication between computers or authorized computer users and electronic, electromagnetic, electrochemical, acoustic, mechanical, or other means;

(2) "Authorization" means any and all forms of consent, including both implicit and explicit consent;

(3) "Computer" means a device or collection of devices, including its support devices, peripheral equipment, or facilities, and the communication systems connected to it which can perform functions including, but not limited to, substantial computation, arithmetic or logical operations, information storage or retrieval operations, capable of being used with external files, one (1) or more operations which contain computer programs, electronic instructions, allows for the input of data, and output data (such operations or communications can occur with or without intervention by a human operator during the processing of a job);

(4) "Computer contaminants" means any set of computer instructions that are designed to modify or in any way alter, damage, destroy, or disrupt the proper operation of a computer system, or computer network without the intent or authorization of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, which are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network. Such contaminants may include viruses or worms, which terms shall have the following meanings:

(A) "Virus" means a migrating program which, at least, attaches itself to the operating system of any computer it enters and can infect any other computer that has access to an "infected" computer; and

(B) "Worm" means a computer program or virus that spreads and multiplies, eventually causing a computer to "crash" or cease functioning, but does not attach itself to the operating system of the computer it "infects";

(5) "Computer network" means a set of two (2) or more computer systems that transmit data over communication circuits connecting them, and input/output devices including, but not limited to, display terminals and printers, which may also be connected to telecommunication facilities;

(6) "Computer program" means an ordered set of data that are coded instructions or statements that, when executed by a computer, cause the computer to process data;

(7) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer, computer system, or computer network whether imprinted or

embodied in the computer in any manner or separate from it, including the supporting materials for the software and accompanying documentation;

(8) "Computer system" means a set of connected devices including a computer and other devices including, but not limited to, one (1) or more of the following: data input, output, or storage devices, data communication circuits, and operating system computer programs that make the system capable of performing data processing tasks;

(9) "Data" means a representation of information, knowledge, facts, concepts, or instructions which is being prepared or has been prepared in a formalized manner, and is intended to be stored or processed, or is being stored or processed, or has been stored or processed in a computer, computer system, or computer network;

(10) "Electronic mail service provider" means any person who:

(A) Is an intermediary in sending or receiving electronic mail; and

(B) Provides to end-users of electronic mail services the ability to send or receive electronic mail;

(11) "Financial instrument" includes, but is not limited to, any check, cashier's check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit card, debit card, marketable security, or any computer system representation thereof;

(12) "Input" means data, facts, concepts, or instructions in a form appropriate for delivery to, or interpretation or processing by, a computer;

(13) "Intellectual property" includes data, which may be in any form including, but not limited to, computer printouts, magnetic storage media, punched cards, or may be stored internally in the memory of a computer;

(14) "Local exchange company" includes telecommunications service providers as defined in §65-4-101; competing telecommunications service providers as such term is defined in §65-4-101; telephone cooperatives; cellular or other wireless telecommunications providers; and interactive computer service providers as defined in 47 U.S.C. §230(f);

(15) "Output" means data, facts, concepts or instructions produced or retrieved by computers from computers or computer memory storage devices;

(16) "Owner" means an owner or lessee of a computer or a computer network, or an owner, lessee or licensee of computer data, computer programs, or computer software;

(17) "Property" shall include:

(A) Real property;

(B) Computers and computer networks; and

(C) Financial instruments, computer data, computer programs, computer software, and all other personal property regardless of whether they are:

(i) Tangible or intangible;

(ii) In a format readable by humans or by a computer;

(iii) In transit between computers or within a computer network or between any devices which comprise a computer; or

(iv) Located on any paper or in any device in which it is stored by a computer or by a human;

(18) "Services" includes, but is not limited to, the use of a computer, a computer system, a computer network, computer software, computer program, or data to perform tasks;

(19) "System hacker" means any person who knowingly accesses and without authorization alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network; and

(20) "To process" means to use a computer to put data through a systematic sequence of operations for the purpose of producing a specified result.

39-14-602 Computer offenses

(a)(1) It is an offense to:

(A) Knowingly, directly, or indirectly access, cause to be accessed, or attempt to access any telephone system, telecommunications facility, computer software, computer program, data, computer, computer system, computer network, or any part thereof, for the purpose of:

(i) Obtaining money, property, or services for oneself or another by means of false or fraudulent pretenses, representations, or promises;

(ii) Causing computer output to purposely be false for, but not limited to, the purpose of obtaining money, property, or services for oneself or another by means of false or fraudulent pretenses, representations, or promises; or

(iii) Affecting the creation or alteration of a financial instrument or of an electronic transfer of funds with the intent to disrupt, alter, misappropriate, or commit fraud;

(B) Intentionally and without authorization, directly or indirectly:

(i) Alter, damage, destroy, or attempt to damage or destroy, or cause the disruption to the proper operation of any computer, or perform an act which is responsible for the disruption of any computer, computer system, computer network, computer software, program, or data which resides or exists internal or external to a computer, computer system, or computer network; or

(ii) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network; or

(C) Receive, conceal, use, or aid another in receiving, concealing, or using any proceeds resulting from a violation of this subsection (a), knowing the proceeds to be the result of such violation, or receive, conceal, use, or aid another in receiving, concealing, or using any books, records, documents, property, financial instrument, computer software, program, or other material, property, or objects, knowing that the item has been used in violating this subsection (a).

(2) A violation of this subsection (a) is subject to the penalties of §39-14-105.

(b)(1) It is an offense to intentionally and without authorization, directly or indirectly:

(A) Access any computer, computer system, or computer network;

(B) Introduce or be responsible for the malicious input of any computer contaminant into any computer, computer system, or computer network;

(C) Access, cause to be accessed, or attempt to access any computer software, computer network, or any part thereof, for the purpose of maliciously gaining access to computer material or to tamper maliciously with computer security devices; or

(D) Possess a computer contaminant.

(2) A violation of this subsection (b) is a Class A misdemeanor.

(c) Operating a computer network in such a way as to allow anonymous access to that network constitutes implicit consent to access under this part.

(d) Any person who violates this section in connection with an act of terrorism commits a Class A felony.

(e) Any person who accesses, causes to be accessed, or attempts to access a digital asset pursuant to the Revised Uniform Fiduciary Access to Digital Assets Act, compiled in title 35, chapter 8, is not in violation of this part.

39-14-701 Possession of burglary tools

A person who possesses any tool, machine or implement with intent to use the same, or allow the same to be used, to commit any burglary, commits a Class A misdemeanor.

39-14-702 Possession of explosive components

(a) A person commits an offense who unlawfully possesses any component part of an explosive including, but not limited to, a fuse cap, detonator or wiring, with the intent to produce or manufacture an explosive device.

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

(c) This section shall not apply to a component part of an explosive solely intended to be used in creating an exploding target for use in lawful sporting activity, when the part is possessed by a person eighteen (18) years of age or older.

39-14-703 Tools to disable theft deterrent devices; possession

(a) It is an offense to possess any device, tool, machine, implement or other item with the intent to use it, or allow it to be used, to unlawfully deactivate, circumvent, interfere with, remove or otherwise render inoperative a monitor, sensor, camera or other security device used or designed to prevent or deter the theft of retail merchandise.

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

39-14-704 Tools to divert funds electronically; possession

(a) For purposes of this section:

(1) "Automated sales suppression device" or "zapper" means a software program, carried on a memory stick or removable compact disc, accessed through an internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports;

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data;

(3) "Phantom-ware" means a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register;

(4) "Transaction data" means data associated with items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction; and

(5) "Transaction report" means a report documenting data, including, but not limited to, data associated with sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b) It is an offense for a corporation or individual to knowingly sell, purchase, possess, install, transfer or use any automated sales suppression device, zapper or phantom-ware.

(c) A violation of subsection (b) is a Class E felony punishable by a fine only up to one hundred thousand dollars ($100,000).

(d) It is a defense to prosecution under this section that the person purchased, possessed, installed, transferred or used an automated sales suppression device, zapper or phantom-ware for a legitimate purpose.

(e) The offense created by this section shall be in addition to and considered a separate offense from any offense related to the non-payment of taxes owed to the state or any political subdivision thereof.

(f)(1) Any automated sales suppression device, zapper or phantom-ware or any device containing an automated sales suppression device, zapper or phantom-ware is contraband and is subject to seizure, confiscation and forfeiture in accordance with chapter 11, part 7 of this title.

(2) After any contraband under subdivision (f)(1) has been forfeited to the state pursuant to chapter 11, part 7 of this title, the court hearing the criminal charges resulting in the forfeiture shall order the destruction of the contraband. If the district attorney general or law enforcement agency does not believe that the contraband should be destroyed in a particular case, the district attorney general shall petition the court for an alternate disposition of the contraband. If the court finds that the proposed alternate disposition reasonably ensures that the contraband will not be used in an unlawful manner in this state, the court may grant the petition and order the disposition of the contraband in accordance with the petition.

(g)(1) Where a person reports a violation of subsection (b) to law enforcement in good faith, the report and the identity of the person shall remain confidential, except when the court having jurisdiction determines the testimony of the person reporting to be material to an indictment or prosecution.

(2)(A) A person who makes a report to law enforcement under subdivision (g)(1) is entitled to receive fifty percent (50%) of any fine collected by the state against an individual or corporation up to ten thousand dollars ($10,000).

(B) Where multiple individuals file a report under subdivision (g)(1), each individual is entitled to an equal share of any award under subdivision (g)(2)(A).

39-14-705 Key fob programming equipment

Added 2023

(a) It is an offense to possess a device, tool, machine, implement, or other item capable of programming a smart key or key fob with the intent to use it or allow it to be used to commit theft.

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

Chapter 15
Offenses Against the Family

39-15-101 Nonsupport & flagrant nonsupport

(a) A person commits the crime of nonsupport who fails to provide support which that person is able to provide and knows the person has a duty to provide to a minor child or to a child or spouse who, because of physical or mental disability, is unable to be self-supporting.

(b) "Child" includes legitimate children and children whose parentage has been admitted by the person charged or established by judicial action.

(c) "Support" includes, but is not limited to, financial assistance, food, shelter, clothing, medical attention or, if determined elsewhere by law, other necessary care.

(d) A person commits the offense of flagrant nonsupport who:

(1) Leaves or remains without the state to avoid a legal duty of support; or

(2) Having been convicted one (1) or more times of nonsupport or flagrant nonsupport, is convicted of a subsequent offense under this section.

(e)(1) Nonsupport under subsection (a) is a Class A misdemeanor.

(2)Flagrant nonsupport under subsection (d) is a Class E felony.

39-15-302 Incest

Amended 2023

(a) A person commits incest who engages in sexual penetration as defined in §39-13-501, with a person, knowing the person to be, without regard to legitimacy:

(1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or

(2) The person's brother or sister of the whole or half-blood or by adoption.

(b)***(1) Except as provided in subdivision (b)(2),*** incest is a Class C felony.

(2) If the victim of the offense is a minor, incest is a Class B felony and, notwithstanding title 40, chapter 35, the defendant shall be punished as a Range II offender; however, the sentence imposed upon the defendant may, if appropriate, be within Range III but in no case shall it be lower than Range II.

39-15-401 Child abuse or neglect

(a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits a Class A misdemeanor; provided, however, that, if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

(b) Any person who knowingly abuses or neglects a child under eighteen (18) years of age, so as to adversely affect the child's health and welfare, commits a Class A misdemeanor; provided, that, if the abused or neglected child is eight (8) years of age or less, the penalty is a Class E felony.

(c)(1) A parent or custodian of a child eight (8) years of age or less commits child endangerment who knowingly exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury or imminent danger to the child.

(2) For purposes of this subsection (c):

(A) "Imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious bodily injury;

(B) "Knowingly" means the person knew, or should have known upon a reasonable inquiry, that abuse to or neglect of the child would occur which would result in physical injury to the child. 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 parent or legal custodian of a child eight (8) years of age or less would exercise under all the circumstances as viewed from the defendant's standpoint; and

(C) "Parent or custodian" means the biological or adoptive parent or any person who has legal custody of the child.

(3) A violation of this subsection (c) is a Class A misdemeanor.

(d)(1) Any person who negligently, by act or omission, engages in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment, commits a Class A misdemeanor; except that, if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

(2) For purposes of this subsection (d), a person engages in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if the person's conduct related to the controlled substance methamphetamine or any other controlled substance listed in chapter 17, part 4 of this title, except a Schedule VI controlled substance, exposes the child to the controlled substance and an analysis of a specimen of the child's blood, hair, fingernail, urine, or other bodily substance indicates the presence of methamphetamine or any other controlled substance listed in chapter 17, part 4 of this title, except a Schedule VI controlled substance, in the child's body.

(e)(1) Any court having reasonable cause to believe that a person is guilty of violating this section shall have the person brought before the court, either by summons or warrant. No arrest warrant or summons shall be issued by any person authorized to issue the warrant or summons, nor shall criminal charges be instituted against a child's parent, guardian or custodian for a violation of subsection (a), based upon the allegation that unreasonable corporal punishment was administered to the child, unless the affidavit of complaint also contains a copy of the report prepared by the law enforcement official who investigated the allegation, or independent medical verification of injury to the child.

(2)(A) As provided in this subdivision (e)(2), juvenile courts, courts of general session, and circuit and criminal courts, shall have concurrent jurisdiction to hear violations of this section.

(B) If the person pleads not guilty, the juvenile judge or general sessions judge shall have the power to bind the person over to the grand jury, as in cases of misdemeanors under the criminal laws of this state. Upon being bound over to the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and, notwithstanding § 40-13-103, a prosecutor need not be named on the indictment.

(C) On a plea of not guilty, the juvenile court judge or general sessions judge shall have the power to proceed to hear the case on its merits, without the intervention of a jury, if the person requests a hearing in juvenile court or general sessions court and expressly waives, in writing, indictment, presentment, grand jury investigation and a jury trial.

(D) If the person enters a plea of guilty, the juvenile court or general sessions court judge shall sentence the person under this section.

(E) Regardless of whether the person pleads guilty or not guilty, the circuit court or criminal court shall have the power to proceed to hear the case on its merits, and, if found guilty, to sentence the person under this section.

(f) Except as expressly provided, this section shall not be construed as repealing any provision of any other statute, but shall be supplementary to any other provision and cumulative of any other provision.

(g) A violation of this section may be a lesser included offense of any kind of homicide, statutory assault, or sexual offense, if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101 or § 39-13-102, or both.

(h) As used in this section, "adversely affect the child's health and welfare" may include, but is not limited to, adverse effects on the emotional and mental health and welfare of the child, the natural effects of starvation or dehydration, or acts of female genital mutilation, as defined in §39-13-110.

(i) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through internet services or social networking websites; provided, that the person has no parental rights to such victim at the time of the court's order.

39-15-402 Aggravated child abuse and neglect

(a) A person commits the offense of aggravated child abuse, aggravated child neglect or aggravated child endangerment, who commits child abuse, as defined in §39-15-401(a); child neglect, as defined in §39-15-401(b); or child endangerment, as defined in §39-15-401(c) and:

(1) The act of abuse, neglect or endangerment results in serious bodily injury to the child;

(2) A deadly weapon, dangerous instrumentality, controlled substance or controlled substance analogue is used to accomplish the act of abuse, neglect or endangerment;

(3) The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim; or

(4) The act of abuse, neglect or endangerment results from the knowing exposure of a child to the initiation of a process intended to result in the manufacture of methamphetamine as described in §39-17-435.

(b) A violation of this section is a Class B felony; provided, however, that, if the abused, neglected or endangered child is eight (8) years of age or less, or is vulnerable because the victim is mentally defective, mentally incapacitated or suffers from a physical disability, the penalty is a Class A felony.

(c) "Serious bodily injury to the child" includes, but is not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by whipping children with objects and acts of female genital mutilation as defined in § 39-13-110.

(d) A "dangerous instrumentality" is any item that, in the manner of its use or intended use as applied to a child, is capable of producing serious bodily injury to a child, as serious bodily injury to a child is defined in this section.

(e) This section shall be known and may be cited as "Haley's Law".

(f) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of aggravated child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through internet services or social networking websites; provided, that the person has no parental rights to such victim at the time of the court's order.

39-15-403 Tattooing of minors

(a) As used in this section, "tattoo" means to intentionally mark or color by pricking or inserting pigment or coloring matter into the skin so as to leave an indelible mark or figure.

(b) Except as provided by §62-38-211, a person who, for commercial purposes, tattoos the skin of any person under eighteen (18) years of age commits a Class A misdemeanor.

(c) A person who knowingly falsifies documents for the purpose of obtaining tattooing services for a minor commits a Class A misdemeanor.

39-15-404 Alcoholic beverages; furnishing to minors; enticement to procure

(a) Except as provided in § 39-15-413:

(1) It is an offense for a person to persuade, entice or send a minor to any place where alcoholic beverages, as defined in § 57-3-101(a)(1)(A), or beer, as defined in § 57-5-101(b), are sold, to buy or otherwise procure alcoholic beverages or beer in any quantity, for the use of the minor, or for the use of any other person;

(2) It is an offense for a person to give or buy alcoholic beverages or beer for or on behalf of any minor or to cause alcohol to be given or bought for or on behalf of any minor for any purpose; and

(3)(A) It is an offense for any owner, occupant, or other person having a lawful right to the exclusive use and enjoyment of property to knowingly allow a person to consume alcoholic beverages, wine, or beer on the property if the owner, occupant, or other person knows that the person consuming is a minor;

(B) It is an affirmative defense to prosecution under subdivision (a)(3)(A) that the defendant acted upon a reasonably held belief that the minor was twenty-one (21) years of age or older;

(C) Subdivision (a)(3)(A) does not apply to consumption or possession of a de minimis quantity of alcohol or wine by a minor as permitted by § 1-3-113(b)(2);

(D) This subdivision (a)(3) does not affect:

(i) Standards for imposing civil liability pursuant to §§ 57-10-101 and 57-10-102;

(ii) Standards, established pursuant to § 37-1-156(a), for imposing criminal liability on adults who contribute or encourage the delinquency or unruly behavior of a child, as defined in § 37-1-102(b); or

(iii) Standards, established pursuant to § 39-11-404, for imposing criminal liability on corporations.

(b) As used in this section, "minor" means a person under twenty-one (21) years of age.

(c) It is an affirmative defense to prosecution under this section that any person accused of giving or buying alcoholic beverages or beer for a minor acted upon a reasonably held belief that the minor was of legal age. The belief may be acquired by virtue of the minor making a false statement or presenting false identification that indicates that the minor is twenty-one (21) years of age or older.

(d) A violation of subsection (a) is a Class A misdemeanor with a mandatory minimum fine of one thousand dollars ($1,000), and in addition to the penalties authorized by § 40-35-111, the offender shall be sentenced to one hundred (100) hours of community service work. In addition to the penalties established in this subsection (d), the court having jurisdiction over the offender may, in its discretion, prepare and send an order for denial of the offender's driving privileges to the department of safety, driver control division. The offender may apply to the court for a restricted driver license, which may be issued in accordance with § 55-50-502. In the event an offender does not possess a valid driver license, the court having jurisdiction over the offender may, in its discretion, increase the offender's sentence to a maximum of two hundred (200) hours of community service work.

(e) If a person engages in conduct that violates this section, as well as any other section, nothing in this section shall be construed to prohibit the prosecution and conviction of the person under this section or any other applicable section.

(f) Nothing in this section shall be construed to affect §§ 57-10-101 and 57-10-102 in any way whatsoever.

39-15-407 Smoking paraphernalia–Definitions

As used in §§ 39-15-407 -- 39-15-413:

(1) "Disseminate" means to sell, offer to sell, give or otherwise transfer;

(2) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(3) "Minor" means any person under eighteen (18) years of age or, in the case of alcoholic beverages or smoking material, any person under twenty-one (21) years of age;

(4) "Purchase" means to buy, attempt to buy, or offer to buy;

(5) "Smoking material" means tobacco or hemp that is offered for sale to the public with the intention that it is consumed by smoking, as well as any noncombustible product containing nicotine or any other substance intended for use in a vapor product as defined in § 39-17-1503; and

(6) "Smoking paraphernalia" means a cigarette holder, cigarette papers, smoking pipe, water pipe, vapor product as defined in § 39-17-1503, or other item that is designated primarily to hold smoking material while the smoking material is being smoked.

39-15-408 Dissemination of smoking paraphernalia to minors

(a) It is an offense for a person to disseminate smoking paraphernalia to a minor.

(b) It is an offense to persuade, entice, send, or assist a minor to purchase, acquire, receive or attempt to purchase, acquire or receive smoking paraphernalia.

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

39-15-409 Acquisition of smoking paraphernalia by minor

A minor shall not, directly or indirectly, purchase or acquire smoking paraphernalia. Any minor purchasing or acquiring smoking paraphernalia is subject to juvenile proceedings; provided, that a violation of this section by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

39-15-410 Smoking paraphernalia–Demand proof of age

(a) A person contemplating the dissemination of smoking paraphernalia to an individual whom the person believes or has reason to believe may be a minor shall demand identification containing proof of age from the individual. Failure to do so is a Class C misdemeanor.

(b) A minor who presents identification pursuant to subsection (a) other than the minor's own, or that does not contain the individual's correct age or date of birth, is subject to juvenile court proceedings; provided, that a violation of this subsection (b) by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

39-15-411 Smoking paraphernalia warning sign

(a) A person who disseminates smoking paraphernalia shall prominently display in the place where the items are disseminated, either the sign required pursuant to §39-17-1506(a) or the sign required by this section prior to April 22, 1994.

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

39-15-412 Smoking paraphernalia–Multiple violations

(a) Any vendor of smoking paraphernalia convicted of violating §§39-15-408--39-15-411 on three (3) separate occasions is prohibited from selling smoking paraphernalia, or from possession of smoking paraphernalia for resale, for a period of five (5) years from the date of the last conviction.

(b) A violation of this prohibition is a Class B misdemeanor.

39-15-413 Enforcement of age related offenses

(a)(1) It is not a violation of §§ 39-15-404, 39-15-410, 39-17-401 -- 39-17-427, 39-17-602, 39-17-603, 39-17-901 -- 39-17-908, 39-17-911, 39-17-914, 39-17-918, 39-17-1003 -- 39-17-1005, 39-17-1501 -- 39-17-1508, or any other offense providing a prohibition for use of or sales to a minor or person under twenty-one (21) years of age, for a law enforcement officer to use or send a person under twenty-one (21) years of age to purchase smoking material, smoking paraphernalia, any smokeless tobacco product, alcohol, or illegal drugs, or to send a minor to purchase a state lottery ticket or share or any other prohibited material, for the purpose of aiding in the enforcement of laws prohibiting sales to or use of minors or persons under twenty-one (21) years of age so long as the law enforcement officer has obtained the prior written approval of the minor's parent or legal guardian or the person under twenty-one (21) years of age if that person is not a minor.

(2) It is not a violation of § 39-15-404, § 39-15-410, or §§ 39-17-1501 -- 39-17-1508, or any other statute prohibiting the use, possession or sales of alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia to a minor or a person under twenty-one (21) years of age, for a merchant in the business of selling alcohol, beer, lottery tickets, tobacco products, smokeless tobacco or smoking material or paraphernalia, to use or send a minor, or in the case of alcohol, beer, tobacco products, smokeless tobacco, or smoking material or paraphernalia, a person under twenty-one (21) years of age, to purchase any such product for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by individuals under age from occurring.

(b) Prior to using a minor to perform illegal or delinquent acts for the purposes of aiding in the enforcement of the laws of this state as permitted by this section, the law enforcement officer or merchant shall obtain the written approval of the minor's parent or legal guardian; provided, however, that the consent of the minor's parent or legal guardian shall not be required if the person used to make any such purchase is eighteen (18) years of age or older.

(c) In order to use a minor, or in the case of alcohol, beer, tobacco products, smokeless tobacco, or smoking material or paraphernalia, a person under twenty-one (21) years of age, for any of the purposes permitted by this section, the requirements of this subsection (c) shall apply.

(1) The minor or person under twenty-one (21) years of age shall not:

(A) Purposely disguise the person's appearance so as to misrepresent the person's actual age; and

(B) Make statements designed to trick, mislead, encourage or confuse the employee.

(2) The minor or person under twenty-one (21) years of age shall:

(A) Be photographed, both before and after the law enforcement or merchant-initiated use of the person, for the purpose of creating a record of the person's appearance during the time of the permitted use of the person;

(B) Except only for those questions relating to the person's employment or purpose for engaging in the conduct, respond truthfully to all questions posed by the location employee, including, but not limited to, inquiries concerning the person's age; and

(C) If identification is demanded by the location employee, produce only a valid state-issued card, which indicates the person's actual date of birth.

(d) No prosecution for the violation of any statute prohibiting the sale of beer for off-premises consumption to a person under twenty-one (21) years of age shall be commenced, if the prosecution is based upon the use of a person under twenty-one (21) years of age, as authorized by this section, unless the person or the law enforcement officer supervising the person obtains the name of the permit holder and the employee of the permit holder from whom the beer was purchased or attempted to be purchased. All "stings" shall be conducted in accordance to state law in order to be valid. In addition, within ten (10) days of the date the action occurred, the law enforcement officer shall notify the permit holder in writing, either by mail or hand delivery, indicating:

(1) That an action recently occurred in which a person under twenty-one (21) years of age was used to purchase or attempt to purchase beer for off-premises consumption;

(2) The date and location of the action;

(3) The name of the permit holder and the employee from whom the beer was purchased or attempted to be purchased; and

(4) Whether the person was successful in making the purchase.

39-15-414 Harboring runaway

(a) A person commits an offense who, with knowledge that a child is a runaway, as defined in § 37-1-102(32)(D), harbors or hides the child and:

(1) Fails to notify the child's legal custodian, legal guardian, or law enforcement authorities of the whereabouts of the child within a reasonable amount of time; provided, that no length of time in excess of twenty-four (24) hours shall be considered reasonable;

(2) Conceals the whereabouts of the child; or

(3) Aides the child in escaping from the custody of the child's legal custodian, legal guardian or law enforcement authorities.

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

39-15-501 Elderly and vulnerable adults—Definitions

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

(1) "Abandonment" means the knowing desertion or forsaking of an elderly or vulnerable adult by a caregiver under circumstances in which there is a reasonable likelihood that physical harm could occur;

(2) "Abuse" means the infliction of physical harm;

(3) "Adult protective services" means the division of adult protective services of the department of human services;

(4) "Caregiver":

(A)(i) Means a relative or person who has a legal duty to provide care for an elderly or vulnerable adult, whether such duty arises by the relative or person's claim or conduct, contract, or in any other fashion; or

(ii) Means a person who is married to or in a dating, romantic, or sexual relationship with someone who qualifies as a caregiver under subdivision (4)(A)(i) and resides with or has regular contact with the elderly or vulnerable adult; and

(B) Does not include a financial institution as a caregiver of property, funds, or other assets unless the financial institution has entered into an agreement, or has been appointed by a court of competent jurisdiction, to act as a trustee with regard to the property of the adult;

(5) "Confinement":

(A) Means the knowing and unreasonable restriction of movement of an elderly or vulnerable adult by a caregiver;

(B) Includes, but is not limited to:

(i) Placing a person in a locked room;

(ii) Involuntarily separating a person from the person's living area;

(iii) The use of physical restraining devices on a person; or

(iv) The provision of unnecessary or excessive medications to a person; and

(C) Does not include the use of the methods or devices described in subdivision (5)(B) if used in a licensed facility in a manner that conforms to state and federal standards governing confinement and restraint;

(6) "Elderly adult" means a person seventy (70) years of age or older;

(7) "Financial exploitation" means:

(A) The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property with the intent to deprive the elderly or vulnerable adult of property;

(B) The breach of a fiduciary duty to an elderly or vulnerable adult by the person's guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult's property; or

(C) The act of obtaining or exercising control over an elderly or vulnerable adult's property, without receiving the elderly or vulnerable adult's effective consent, by a caregiver or accomplice committed with the intent to benefit the caregiver or other third party;

(8)(A) "Neglect" means:

(i) The failure of a caregiver to provide the care, supervision, or services necessary to maintain the physical health of an elderly or vulnerable adult, including, but not limited to, the provision of food, water, clothing, medicine, shelter, medical services, a medical treatment plan prescribed by a healthcare professional, basic hygiene, or supervision that a reasonable person would consider essential for the well-being of an elderly or vulnerable adult;

(ii) The failure of a caregiver to make a reasonable effort to protect an elderly or vulnerable adult from abuse, sexual exploitation, neglect, or financial exploitation by others;

(iii) Abandonment; or

(iv) Confinement; and

(B) Neglect can be the result of repeated conduct or a single incident;

(9) "Physical harm" means an action, regardless of gravity or duration, that:

(A) Causes pain or injury; or

(B) Would cause a reasonable person to suffer pain or injury;

(10) "Relative" means a current or former spouse; child, including stepchild, adopted child, or foster child; parent, including stepparent, adoptive parent, or foster parent; sibling of the whole or half-blood; stepsibling; grandparent, of any degree; grandchild, of any degree; and aunt, uncle, niece, and nephew, of any degree, who:

(A) Resides with or has frequent or prolonged contact with the elderly or vulnerable adult; and

(B) Knows or reasonably should know that the elderly or vulnerable adult is unable to adequately provide for the adult's own care or financial resources;

(11) "Serious physical harm" means physical harm of such gravity that:

(A) Would normally require medical treatment or hospitalization;

(B) Involves acute pain of such duration that it results in substantial suffering;

(C) Involves any degree of prolonged pain or suffering; or

(D) Involves any degree of prolonged incapacity;

(12) "Serious psychological injury" means any mental harm that would normally require extended medical treatment, including hospitalization or institutionalization, or mental harm involving any degree of prolonged incapacity;

(13) “Sexual exploitation” means an act committed upon or in presence of an elderly or vulnerable adult, without that adult’s effective consent, that is committed for the purpose of sexual arousal or gratification, or for the purpose of dissemination to others by a person who knew or should have known the act would offend or embarrass a reasonable person. “Sexual exploitation” includes, but is not limited to, sexual contact, as defined in § 39-13-501; exposure of genitals to an elderly or vulnerable adult; exposure of sexual acts to an elderly or vulnerable adult; exposure of an elderly or vulnerable adult’s sexual organs; an intentional act or statement by a person intended to shame, degrade, humiliate, or otherwise harm the personal dignity of an elderly or vulnerable adult; or an act or statement by a person who knew or should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of an elderly or vulnerable adult. “Sexual exploitation” does not include any act intended for a valid medical purpose, or any act reasonably intended to be a normal caregiving act, such as bathing by appropriate persons at appropriate times; and

(14) “Vulnerable adult” means a person eighteen (18) years of age or older who, because of intellectual disability or physical dysfunction, is unable to fully manage the person’s own resources, carry out all or a portion of the activities of daily living, or fully protect against neglect, exploitation, or hazardous or abusive situations without assistance from others.

39-15-502 Financial exploitation of elderly or vulnerable person

(a) It is an offense for any person to knowingly financially exploit an elderly or vulnerable adult.

(b) A violation of this section shall be punished as theft pursuant to §39-14-105; provided, however, that the violation shall be punished one (1) classification higher than is otherwise provided in §39-14-105.

(c)(1) If a person is charged with financial exploitation that involves the taking or loss of property valued at more than five thousand dollars ($5,000), a prosecuting attorney may file a petition with the circuit, general sessions, or chancery court of the county in which the defendant has been charged to freeze the funds, assets, or property of the defendant in an amount up to one hundred percent (100%) of the alleged value of funds, assets, or property in the defendant’s pending criminal proceeding for purposes of restitution to the victim. The hearing on the petition may be held ex parte if necessary to prevent additional exploitation of the victim.

(2) Upon a showing of probable cause in the ex parte hearing, the court shall issue an order to freeze or seize the funds, assets, or property of the defendant in the amount calculated pursuant to subdivision (c)(1). A copy of the freeze or seize order shall be served upon the defendant whose funds, assets, or property has been frozen or seized.

(3) The court’s order shall prohibit the sale, gifting, transfer, or wasting of the funds, assets, or property of the elderly or vulnerable adult, both real and personal, owned by, or vested in, such person, without the express permission of the court.

(4) At any time within thirty (30) days after service of the order to freeze or seize funds, assets, or property, the defendant or any person claiming an interest in the funds, assets, or property may file a motion to release the funds, assets, or property. The court shall hold a hearing on the motion no later than ten (10) days from the date the motion is filed.

(d) In any proceeding to release funds, assets, or property, the state has the burden of proof, by a preponderance of the evidence, to show that the defendant used, was using, is about to use, or is intending to use any funds, assets, or property in any way that constitutes or would constitute an offense under subsection (a). If the court finds that any funds, assets, or property were being used, are about to be used, or are intended to be used in any way that constitutes or would constitute an offense under subsection (a), the court shall order the funds, assets, or property frozen or held until further order of the court.

(e) If the prosecution of a charge under subsection (a) is dismissed or a nolle prosequi is entered, or if a judgment of acquittal is entered, the court shall vacate the order to freeze or seize the funds, assets, or property.

(f) In addition to other remedies provided by law, an elderly or vulnerable adult in that person’s own right, or by conservator or next friend, has a right of recovery in a civil action for financial exploitation or for theft of the person’s money or property whether by fraud, deceit, coercion, or otherwise. The right of action against a wrongdoer shall not abate or be extinguished by the death of the elderly or vulnerable adult, but passes as

provided in §20-5-106, unless the alleged wrongdoer is a relative, in which case the cause of action passes to the victim's personal representative.

39-15-506 Financial exploitation of elderly or vulnerable person—Penalties

Amended 2023

(a)(1) Following a conviction for a violation of §39-15-502, §39-15-507(b) or (c), §39-15-508, §39-15-510, §39-15-511, or §39-15-512, or an attempt to commit any of those offenses, or at the discretion of the court for a conviction of §39-15-507(d), the clerk of the court shall notify the ***health facilities commission, created by §68-11-1604, of the conviction within ninety (90) calendar days of the date*** of the conviction by sending a copy of the judgment in the manner set forth in §68-11-1003 for inclusion on the registry pursuant to title 68, chapter 11, part 10.

(2) Upon receipt of a judgment of conviction for a violation of an offense set out in subdivision (a)(1), the ***commission*** shall place the person or persons convicted on the registry of persons who have abused, neglected, or financially exploited an elderly or vulnerable adult as provided in §68-11-1003(c).

(3) Upon entry of the information in the registry, the ***commission*** shall notify the person convicted, at the person's last known mailing address, of the person's inclusion on the registry. The person convicted shall not be entitled or given the opportunity to contest or dispute either the prior hearing conclusions or the content or terms of any criminal disposition, or attempt to refute the factual findings upon which the conclusions and determinations are based. The person convicted may challenge the accuracy of the report that the criminal disposition has occurred, such hearing conclusions were made, or any factual issue related to the correct identity of the person. If the person convicted makes such a challenge within sixty (60) days of notification of inclusion on the registry, the ***executive director of the health facilities commission, or the executive director's*** designee, shall afford the person an opportunity for a hearing on the matter that complies with the requirements of due process and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b)(1) In addition to any other punishment that may be imposed for a violation of §39-15-502, §39-15-507, §39-15-508, §39-15-510, §39-15-511, or §39-15-512, the court shall impose a fine of not less than five hundred dollars ($500) for Class A or Class B misdemeanor convictions, and a fine of not less than one thousand dollars ($1,000) for felony convictions. The fine shall not exceed the maximum fine established for the appropriate offense classification.

(2) The person convicted shall pay the fine to the clerk of the court imposing the sentence, who shall transfer it to the district attorney of the judicial district in which the case was prosecuted. The district attorney shall credit the fine to a fund established for the purpose of educating, enforcing, and providing victim services for elderly and vulnerable adult prosecutions.

39-15-507 Neglect of an elderly or vulnerable adult

(a) It is an offense for a caregiver to knowingly neglect an elderly or vulnerable adult, so as to adversely affect the person's health or welfare.

(b) The offense of neglect of an elderly adult is a Class E felony.

(c) The offense of neglect of a vulnerable adult is a Class D felony.

(d) If the neglect is a result of abandonment or confinement and no injury occurred, then the neglect by abandonment or confinement of an elderly or vulnerable adult is a Class A misdemeanor.

39-15-508 Aggravated neglect of an elderly or vulnerable adult

(a) A caregiver commits the offense of aggravated neglect of an elderly or vulnerable adult who commits neglect pursuant to §39-15-507, and the act:

(1) Results in serious physical harm; or

(2) Results in serious bodily injury.

(b) In order to convict a person for a violation of subdivision (a)(1), it is not necessary for the state to prove the elderly or vulnerable adult sustained serious bodily injury as required by §39-13-102, but only that the neglect resulted in serious physical harm.

(c) A violation of subdivision (a)(1) is a Class C felony.

(d) A violation of subdivision (a)(2) is a Class B felony.

39-15-509 Duty to report elder abuse, neglect, or exploitation

(a)(1) Any person having reasonable suspicion that an elderly or vulnerable adult is suffering or has suffered abuse, sexual exploitation, neglect, or financial exploitation shall report such neglect or financial exploitation to adult protective services pursuant to title 71, chapter 6.

(2) Any person having reasonable suspicion that an elderly or vulnerable adult is the victim of aggravated rape pursuant to §39-13-502, rape pursuant to §39-13-503, aggravated sexual battery pursuant to §39-13-504, or sexual battery pursuant to §39-13-505, shall report the conduct to adult protective services pursuant to title 71, chapter 6, and to the local law enforcement agency in the jurisdiction where the offense occurred.

(b) Any person who fails to make reasonable efforts to make a report required by subsection (a) or by title 71, chapter 6, commits a Class A misdemeanor.

(c) Upon good cause shown, adult protective services shall cooperate with law enforcement to identify those persons who knowingly fail to report abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult.

(d)(1) This section does not apply to a financial service provider or to an employee of a financial service provider acting within the scope of the employee's employment except as provided by title 45, chapter 2, part 12.

(2) As used in subdivision (d)(1), "financial service provider" means any of the following engaged in or transacting business in this state:

(A) A state or national bank or trust company;

(B) A state or federal savings and loan association;

(C) A state or federal credit union;

(D) An industrial loan and thrift company, regulated by title 45, chapter 5;

(E) A money transmitter, regulated by title 45, chapter 7;

(F) A check casher, regulated by title 45, chapter 18;

(G) A mortgage loan lender, mortgage loan broker, mortgage loan originator, or mortgage loan servicer, regulated by title 45, chapter 13;

(H) A title pledge lender, regulated by title 45, chapter 15;

(I) A deferred presentment services provider, regulated by title 45, chapter 17;

(J) A flex loan provider, regulated by title 45, chapter 12; or

(K) A home equity conversion mortgage lender, regulated by title 47, chapter 30.

(e) Upon commencement of criminal prosecution of abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general a complete and unredacted copy of adult protective services' entire investigative file excluding the identity of the referral source except as provided by subsection (f).

(f) Upon return of a criminal indictment or presentment alleging abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general the identity of the person who made the report in accordance with § 71-6-118.

39-15-510 Abuse of elderly or vulnerable adult

(a) It is an offense for a person to knowingly abuse an elderly or vulnerable adult.

(b) The offense of abuse of an elderly adult is a Class E felony.

(c) The offense of abuse of a vulnerable adult is a Class D felony.

39-15-511 Aggravated abuse of elderly or vulnerable adult

(a) A person commits the offense of aggravated abuse of an elderly or vulnerable adult who knowingly commits abuse pursuant to § 39-15-510, and:

(1) The act results in serious psychological injury or serious physical harm;

(2) A deadly weapon is used to accomplish the act or the abuse involves strangulation as defined in § 39-13-102; or

(3) The abuse results in serious bodily injury.

(b) A violation of subdivision (a)(1) is a Class C felony.

(c) A violation of subdivision (a)(2) or (a)(3) is a Class B felony.

39-15-512 Sexual exploitation of elderly adult or vulnerable adult

(a) It is an offense for any person to knowingly sexually exploit an elderly adult or vulnerable adult.

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

Chapter 16
Offenses Against Administration of Government

39-16-102 Bribery of public servant

(a) A person commits an offense who:

(1) Offers, confers, or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion or other action in the public servant's official capacity; or

(2) While a public servant, solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced.

(b)(1) It is no defense to prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because the person had not yet assumed office, lacked jurisdiction, or for any other reason.

(2) It is no defense to prosecution under this section that the person who sought to influence a public official took action on behalf of a public or private organization or any other entity, for the purpose of organizing a campaign or for any other lawful purpose.

(c)(1) Bribery of a public servant under subdivision (a)(1) is a Class B felony.

(2) A public servant accepting or agreeing to accept a bribe under subdivision (a)(2) is a Class B felony.

39-16-201 Contraband in penal institution

(a) As used in this section, unless the context otherwise requires, "telecommunication device" means any type of instrument, device, machine, or equipment that is capable of transmitting telephonic, electronic, digital, cellular or radio communications, or any part of such instrument, device, machine or equipment that is capable of facilitating the transmission of telephonic, electronic, digital, cellular or radio communications. "Telecommunication device" shall include, but not be limited to, cellular phones, digital phones and modem equipment devices.

(b) It is unlawful for any person to:

(1) Knowingly and with unlawful intent take, send, or otherwise cause to be taken into any penal institution where prisoners are quartered or under custodial supervision:

(A) Any weapon, ammunition, or explosive;

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title; or

(C) Any telecommunication device; or

(2) Knowingly and with unlawful intent possess any of the following materials while present in any penal institution where prisoners are quartered or under custodial supervision without the express written consent of the chief administrator of the institution:

(A) Any weapon, ammunition, or explosive;

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title; or

(C) Any telecommunication device.

(c)(1) A violation of subdivision (b)(1)(A) or (b)(2)(A) is a Class C felony.

(2) A violation of subdivision (b)(1)(B), (b)(1)(C), or (b)(2)(B) is a Class D felony.

(3) A violation of subdivision (b)(2)(C) is a Class E felony. A first violation is punishable only by fine. A second or subsequent violation is punishable only by a fine of three thousand dollars ($3,000).

39-16-301 Criminal impersonation

(a) A person commits criminal impersonation who, with intent to injure or defraud another person:

(1) Assumes a false identity;

(2) Pretends to be a representative of some person or organization;

(3) Pretends to be an officer or employee of the government; or
(4) Pretends to have a disability.
(b) A person commits criminal impersonation who pretends to be a law enforcement officer for the purpose of:
(1) Engaging in an activity that is ordinarily and customarily an activity established by law as a law enforcement activity; and
(2) Causing another to believe that the person is a law enforcement officer.
(c)(1) A person commits criminal impersonation who, with the intent to obtain money, property, services, or any other tangible benefit, pretends to be an active duty member or veteran of uniformed service by:
(A) Wearing the uniform, rank, medals, devices, or insignia of a uniformed service of which the person is not a member or veteran or to which the person has not earned or been awarded;
(B) Fraudulently representing to another, or misleading another to believe, that the person is the recipient of a military rank, medal, device, insignia, award, decoration, ribbon, tab, or other service recognition that the person has not received or earned; or
(C) Presenting false identification, documentation, or certification to include, without limitation:
(i) United States department of defense identification cards;
(ii) Military forms showing release or discharge from active duty, including department of defense form 214 (DD 214) or equivalent forms;
(iii) United States department of veteran affairs identification cards; or
(iv) Certifications or qualifications indicating uniformed service training or education.
(2) This subsection (c) shall not be construed to prevent members of organizations known as the Boy Scouts of America, or the naval militia, or such other organizations as the secretary of defense may designate, from wearing their prescribed uniforms; nor to prevent persons who in time of war have served honorably in the armed forces of the United States, from wearing the uniform as may be prescribed by the laws of the United States; nor to prevent other duly designated organizations, schools, colleges, universities, cadet corps, military societies, or instructors, from wearing the uniform as prescribed by the laws of the United States; nor to prevent the wearing of the uniform in playhouses, theaters, or motion pictures, as may be prescribed by the laws of the United States; and provided further, that the members of the military societies and instructors and members of the cadet corps mentioned in this subdivision (c)(2) shall not wear the insignia of rank prescribed to be worn by officers of the armed forces of the United States, or any similar insignia of rank.
(d)(1) Criminal impersonation under subsection (a) is a Class B misdemeanor. However, if the criminal impersonation was committed to falsely obtain a driver license or photo identification license, the maximum fine of five hundred dollars ($500) shall be imposed. If any person commits the offense of criminal impersonation under subsection (a) while pretending to be a firefighter, medical fire responder, paramedic, emergency medical technician, or any other first responder and while operating a motor vehicle pursuant to §55-9-201(d), §55-9-402(g), or §55-9-414(f), then the offense is a Class A misdemeanor.
(2) Criminal impersonation under subsection (b) or (c) is a Class A misdemeanor. However, if any person commits criminal impersonation of a law enforcement officer under subsection (b) while operating a motor vehicle pursuant to §55-9-201(d), §55-9-402(g), or §55-9-414(f), then the maximum fine for the offense shall be five thousand dollars ($5,000).
(3) All revenue collected from the fines imposed for a conviction of subsection (c) must be paid into the general fund. It is the intent of the general assembly that an amount equal to the revenue collected from the fines imposed for a conviction under subsection (c) be allocated to assist in veteran property tax relief, subject to the general appropriations act.
(e) For purposes of this section, “uniformed service” means:
(1) Active and reserve components of the army, navy, air force, marine corps, or coast guard of the United States;
(2) The commissioned corps of the United States public health service;
(3) The commissioned corps of the national oceanic and atmospheric administration of the United States; or
(4) The national guard of a state.

39-16-303 Using false identification

(a) A person commits the offense of using a false identification who, for the purpose of obtaining goods, services or privileges to which the person is not otherwise entitled or eligible, uses a false identification.

(b) A violation of this section is a Class C misdemeanor; however, if a violation of §57-5-301(d)(3) or §57-3-412(c) also constitutes a violation of this section, the offender shall be punished in accordance with those sections.

39-16-304 Misrepresentation of a service animal or a support animal

Amended 2023

(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;

(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***; or***

(3) Fraudulently represents or provides documentation that falsely states that an animal is a service animal or service animal in training to an employee of a public accommodation.

(c) Misrepresentation of a service animal or support animal is a Class B misdemeanor. ***In addition to the penalty provided under this subsection (c), a person who commits the offense of misrepresentation of a service animal shall perform one hundred (100) hours of community service for an organization that serves individuals with disabilities, or for another entity or organization, at the discretion of the court, to be completed within six (6) months of an order issued by the court.***

39-16-408 Sexual contact or penetration with a prisoner or inmate by a law enforcement officer, correctional employee, vendor or volunteer

(a) For purposes of this section, unless the context otherwise requires:

(1) "Law enforcement officer" and "correctional employee" include a person working in that capacity as a private contractor or employee of a private contractor; and

(2) "Volunteer" means any person who, after fulfilling the appropriate policy requirements, is assigned to a volunteer job and provides a service without pay from the correctional agency, except for compensation for those expenses incurred directly as a result of the volunteer service.

(b) It is an offense for a law enforcement officer, correctional employee, vendor or volunteer to engage in sexual contact or sexual penetration, as such terms are defined in §39-13-501, with a prisoner or inmate who is in custody at a penal institution as defined in §39-16-601, whether the conduct occurs on or off the grounds of the institution.

(c) A violation of this section is a Class E felony.

39-16-501 Interference with government operations–Definitions

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

(1) "Public servant" means a person elected, selected, employed or otherwise designated as one (1) of the following, even if the person has not yet qualified for office or assumed the duties:

(A) An officer, employee, or agent of government;

(B) A juror or grand juror;

(C) An arbitrator or other person who is authorized by law or private written contract to hear or determine a controversy;

(D) An attorney or notary public performing a governmental function;

(E) A candidate for nomination or election to public office; or

(F) A nominee, member, representative, or other holder of a position on a board, commission, or public body of the state or a political subdivision thereof; and

(2) "Statement" means any representation of fact.

39-16-502 False reports

(a) It is unlawful for any person to:

(1) Initiate a report or statement to a law enforcement officer concerning an offense or incident within the officer's concern knowing that:

(A) The offense or incident reported did not occur;

(B) The person has no information relating to the offense or incident reported; or

(C) The information relating to the offense reported is false; or

(2) Make a report or statement in response to a legitimate inquiry by a law enforcement officer concerning a material fact about an offense or incident within the officer's concern, knowing that the report or statement is false and with the intent to obstruct or hinder the officer from:

(A) Preventing the offense or incident from occurring or continuing to occur; or

(B) Apprehending or locating another person suspected of committing an offense; or

(3) Intentionally initiate or circulate a report of a past, present, or impending bombing, fire or other emergency, knowing that the report is false or baseless and knowing:

(A) It will cause action of any sort by an official or volunteer agency organized to deal with those emergencies;

(B) It will place a person in fear of imminent serious bodily injury; or

(C) It will prevent or interrupt the occupation of any building, place of assembly, form of conveyance, or any other place to which the public has access.

(b)(1) A violation of subdivision (a)(1) or (a)(2) is a Class D felony.

(2) A violation of subdivision (a)(3) is a Class C felony.

39-16-503 Tampering with evidence

(a) It is unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to:

(1) Alter, destroy, or conceal any record, document or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or

(2) Make, present, or use any record, document or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.

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

39-16-504 Tampering with governmental records

(a) It is unlawful for any person to:

(1) Knowingly make a false entry in, or false alteration of, a governmental record;

(2) Make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or

(3) Intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record.

(b) A violation of this section is a Class E felony.

(c)(1) Upon notification from any public official having custody of government records, including those created by municipal, county or state government agencies, that records have been unlawfully removed from a government records office, appropriate legal action may be taken by the city attorney, county attorney or attorney general, as the case may be, to obtain a warrant for possession of any public records which have been unlawfully transferred or removed in violation of this section.

(2) The records shall be returned to the office of origin immediately after safeguards are established to prevent further recurrence of unlawful transfer or removal.

39-16-507 Coercion of witness

(a) A person commits an offense who, by means of coercion, influences or attempts to influence a witness or prospective witness in an official proceeding with intent to influence the witness to:

(1) Testify falsely;

(2) Withhold any truthful testimony, truthful information, document or thing; or

(3) Elude legal process summoning the witness to testify or supply evidence, or to be absent from an official proceeding to which the witness has been legally summoned.

(b) A violation of this section is a Class D felony.

(c) A defendant in a criminal case involving domestic assault, pursuant to § 39-13-111, or a person acting at the direction of the defendant, commits an offense who, by any means of persuasion that is not coercion, intentionally influences or attempts to influence a witness or prospective witness in an official proceeding to:

(1) Testify falsely;

(2) Withhold any truthful testimony, information, document, or evidence; or

(3) Elude legal process summoning the witness to testify or supply evidence, or to be absent from an official proceeding to which the witness has been legally summoned.

(d) A violation of subsection (c) is a Class A misdemeanor and, upon conviction, the sentence runs consecutively to the sentence for any other offense that is based in whole or in part on the factual allegations about which the person was seeking to influence a witness.

(e) Nothing in this section shall operate to impede the investigative activities of an attorney representing a defendant.

39-16-508 Coercion of juror

(a) A person commits an offense who by means of coercion:

(1) Influences or attempts to influence a juror in the exercise of the juror's official power or in the performance of the juror's official duty; or

(2) Influences or attempts to influence a juror not to vote or to vote in a particular manner.

(b) A violation of this section is a Class E felony.

39-16-510 Retaliation for past action

(a)(1) A person commits the offense of retaliation for past action who harms or threatens to harm a witness at an official proceeding, judge, district attorney general, an assistant district attorney general, an employee of the district attorney general or a law enforcement officer, clerk, employee of the clerk, juror or former juror, or a family member of any such person, by any unlawful act in retaliation for anything the witness, judge, district attorney general, assistant district attorney general, employee of the district attorney general or a law enforcement officer, clerk, employee of the clerk, or juror did in an official capacity as witness, judge, district attorney general, assistant district attorney general, employee of the district attorney general or a law enforcement officer, clerk, employee of the clerk, or juror. The offense of retaliation for past action shall not apply to an employee of a clerk who harms or threatens to harm the clerk.

(2) For purposes of subdivision (a)(1), "family member" means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half-brother, half-sister, adopted children of the parent, or the spouse's parents.

(b) A violation of this section is a Class E felony.

39-16-515 Activation and pointing of laser, light, or other mechanism at emergency service personnel

(a) It is an offense for a person to knowingly activate and point a laser pointer or other device utilizing a laser beam at an individual known to be a law enforcement officer, firefighter, emergency medical technician or other emergency service personnel while the individual is in the performance of the individual's official duties, with the intent to place the individual in fear of serious bodily injury or death.

(b) In order for subsection (a) to apply:

(1) The law enforcement officer, firefighter, emergency medical technician, or other emergency service personnel must actually be placed in fear of serious bodily injury or death;

(2) The fear must be real or honestly believed to be real at the time; and

(3) Based upon the facts and circumstances surrounding the defendant's conduct, the fear must be founded upon reasonable grounds.

(c) It is an offense for a person to knowingly shine or aim a light, laser, horn, or other mechanism towards the head of a law enforcement officer, firefighter, emergency medical technician, or other emergency service

personnel while the individual is in the performance of the individual's official duties with intent to cause bodily injury.

(d)(1) A violation of subsection (a) is a Class A misdemeanor.

(2) A violation of subsection (c) is a Class A misdemeanor, and includes a mandatory fine of five thousand dollars ($5,000) and a mandatory minimum sentence of thirty (30) days incarceration. The defendant shall not be eligible for release from confinement until the defendant has served the entire thirty-day mandatory minimum sentence.

39-16-517 Threatening mass violence at school or school activity

(a) As used in this section:

(1) "Mass violence" means any act which a reasonable person would conclude could lead to the serious bodily injury, as defined in § 39-11-106, or the death of two (2) or more persons;

(2) "Means of communication" means direct and indirect verbal, written, or electronic communications, including graffiti, pictures, diagrams, telephone calls, voice over internet protocol calls, video messages, voice mails, electronic mail, social media posts, instant messages, chat group posts, text messages, and any other recognized means of conveying information;

(3) "School" means any public or private elementary school, middle school, high school, college of applied technology, postsecondary vocational or technical school, or two-year or four-year college or university; and

(4) "School property" means any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any local education agency, private school board of trustees, or directors for the administration of any school.

(b) A person who recklessly, by any means of communication, threatens to commit an act of mass violence on school property or at a school-related activity commits a Class A misdemeanor.

(c) As a condition of bail or other pretrial release, the court may, in its discretion, order the defendant to undergo an evaluation, under § 33-7-301, to determine whether the defendant poses a substantial likelihood of serious harm to the person or others.

(d)(1) Any person who has knowledge of a threat of mass violence on school property or at a school-related activity shall report the threat immediately to:

(A) The local law enforcement agency with jurisdiction over the school property or school-related activity; and

(B) The school that is subject to the threat of mass violence.

(2) The report must include, to the extent known by the reporter, the nature of the threat of mass violence, the name and address of the person making the threat, the facts requiring the report, and any other pertinent information.

(3) Any person who has knowledge of a threat of mass violence on school property or at a school-related activity and knowingly fails to report the threat commits a Class B misdemeanor.

(e) In addition to any other penalty authorized by law, a sentencing court may order a person convicted under subsection (b) to pay restitution, including costs and damages resulting from the disruption of the normal activity that would have otherwise occurred on the school property or at the school-related activity but for the threat to commit an act of mass violence.

39-16-601 Obstruction of justice offenses–Definitions

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

(1) "Complaining witness" means a person who signs a criminal complaint;

(2) "Custody" means under arrest by a law enforcement officer or under restraint by a public servant pursuant to an order of a court;

(3) "Escape" means unauthorized departure from custody or failure to return to custody following temporary leave for a specific purpose or limited period, but does not include a violation of conditions of probation or parole; and

(4) "Penal institution" includes any institution or facility used to house or detain a person:

(A) Convicted of a crime;

(B) Adjudicated delinquent by a juvenile court;
(C) Who is in direct or indirect custody after a lawful arrest; or
(D) When such institution or facility is a court-operated long-term residential substance abuse facility.

39-16-602 Resisting stop, frisk, halt, arrest or search–Obstruction of service of legal writ or process

(a) It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at the officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using force against the law enforcement officer or another.
(b) Except as provided in §39-11-611, it is no defense to prosecution under this section that the stop, frisk, halt, arrest or search was unlawful.
(c) It is an offense for a person to intentionally prevent or obstruct an officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute, any legal writ or process.
(d) A violation of this section is a Class B misdemeanor unless the defendant uses a deadly weapon to resist the stop, frisk, halt, arrest, search or process server, in which event the violation is a Class A misdemeanor.

39-16-603 Evading arrest

(a)(1) Except as provided in subsection (b), it is unlawful for any person to intentionally conceal themselves or flee by any means of locomotion from anyone the person knows to be a law enforcement officer if the person:
(A) Knows the officer is attempting to arrest the person; or
(B) Has been arrested.
(2) It is a defense to prosecution under this subsection (a) that the attempted arrest was unlawful.
(3) Deleted 2021.
(b)(1) It is unlawful for any person, while operating a motor vehicle on any street, road, alley or highway in this state, to intentionally flee or attempt to elude any law enforcement officer, after having received any signal from the officer to bring the vehicle to a stop.
(2) It is a defense to prosecution under this subsection (b) that the attempted arrest was unlawful.
(3) Deleted 2021.
(4) In addition to the penalty prescribed in subsection (d), the court shall order the suspension of the driver license of the person for a period of not less than six (6) months nor more than two (2) years. If the license is already suspended, at the time the order is issued, the suspension shall begin on the date the existing suspension ends. The court shall also confiscate the license being suspended and forward it to the department of safety along with a report of the license suspension. If the court is unable to take physical possession of the license, the court shall nevertheless forward the report to the department. The report shall include the complete name, address, birth date, eye color, sex, and driver license number, if known, of the person whose license has been suspended, and shall indicate the first and last day of the suspension period. If the person is the holder of a license from another state, the court shall not confiscate the license but shall notify the department, which shall notify the appropriate licensing officials in the other state. The court shall, however, suspend the person's nonresident driving privileges for the appropriate length of time.
(c) In addition to the penalties prescribed in this section, the court shall order a person who commits evading arrest and, in doing so, recklessly damages government property, including, but not limited to, a law enforcement officer's uniform or motor vehicle, to pay restitution to the appropriate government agency for the value of any property damaged.
(d)(1) A violation of subsection (a) is a Class A misdemeanor.
(2)(A) A violation of subsection (b) is a Class E felony and shall be punished by confinement for not less than thirty (30) days.
(B) If the flight or attempt to elude creates a risk of death or injury to innocent bystanders, pursuing law enforcement officers, or other third parties, a violation of subsection (b) is a Class D felony and shall be punished by confinement for not less than sixty (60) days.

(3) A violation of subsection (a) or (b) that results in serious bodily injury to a law enforcement officer is a Class C felony.
(4) A violation of subsection (a) or (b) that results in the death of a law enforcement officer is a Class A felony.

39-16-604 Compounding

(a) It is unlawful for any person to solicit, accept or agree to accept any benefit in consideration of refraining from reporting to a law enforcement officer the commission or suspected commission of an offense.
(b) It is unlawful for a complaining witness to solicit, accept or agree to accept any benefit in consideration of abstaining from, discontinuing or delaying the prosecution of another for an offense.
(c) It is a defense to prosecution under this section that the benefit was solicited or accepted by the victim and did not exceed an amount reasonably believed by the victim to be due as restitution or indemnification for loss caused by the offense.
(d)(1) A violation of this section with respect to an offense classified as a misdemeanor is a Class A misdemeanor.
(2) A violation of this section with respect to an offense classified as a felony is a Class E felony.

39-16-605 Escape

(a) It is an offense for any lawfully confined person arrested for, charged with, or found guilty of a civil or criminal offense to escape from a penal institution, as defined in §39-16-601.
(b)(1) A person commits the offense of escape who is in the lawful custody of a law enforcement officer and knowingly escapes the officer's custody.
(2) As used in subdivision (b)(1), "lawful custody" means a person has been taken, seized or detained by a law enforcement officer either by handcuffing, restraining or any other method by which a reasonable person would believe places the person in custody and that otherwise deprives the person's freedom of action in a significant way.
(c)(1) A violation of subsection (a) is:
(A) A Class A misdemeanor if the person was being held for a misdemeanor or civil offense; and
(B) A Class E felony if the person was being held for a felony.
(2) A violation of subsection (b) is a Class A misdemeanor.
(d) Any sentence received for a violation of this section shall be ordered to be served consecutively to the sentence being served or sentence received for the charge for which the person was being held at the time of the escape.

39-16-607 Permitting or facilitating escape

(a) An official or employee of any penal institution that is responsible for maintaining persons in custody commits an offense who intentionally, knowingly or recklessly permits or facilitates the escape of a person in custody.
(b) It is unlawful for any person to intentionally or knowingly permit or facilitate the escape of a person in custody.
(c) Permitting or facilitating escape is a Class E felony unless:
(1) The person in custody was charged with or convicted of a felony;
(2) The person used or threatened to use a deadly weapon to effect the escape; or
(3) The offense under subsection (a) was committed intentionally or knowingly, in which event permitting or facilitating escape is a Class C felony.

39-16-608 Implements for escape

(a) It is unlawful for any person, with intent to facilitate escape, to introduce into a penal institution, or provide an inmate with, anything that may be useful for the inmate's escape.
(b) A violation of this section is a Class D felony.

39-16-609 Failure to appear

(a) It is unlawful for any person to knowingly fail to appear as directed by a lawful authority if the person:
(1) Has been lawfully issued a criminal summons pursuant to § 40-6-215;

(2) Has been lawfully commanded to appear for booking and processing pursuant to a criminal summons issued in accordance with § 40-6-215;
(3) Has been lawfully issued a citation in lieu of arrest under § 40-7-118;
(4) Has been lawfully released from custody, with or without bail, on condition of subsequent appearance at an official proceeding or penal institution at a specified time or place; or
(5) Knowingly goes into hiding to avoid prosecution or court appearance.
(b) It is a defense to prosecution under this section that:
(1) The appearance is required by a probation and parole officer as an incident of probation or parole supervision; or
(2) The person had a reasonable excuse for failure to appear at the specified time and place.
(c) Nothing in this section shall apply to witnesses.
(d) Failure to appear is a Class A misdemeanor.
(e) Any sentence received for a violation of this section must be ordered to be served consecutively to any sentence received for the offense for which the defendant failed to appear.

39-16-610 Radar jamming devices

(a) As used in this section, unless the context otherwise requires:
(1) "Radar jamming device" means any active or passive device, instrument, mechanism, or equipment that is designed or intended to interfere with, disrupt, or scramble the radar or laser that is used by law enforcement agencies and officers to measure the speed of motor vehicles;
(2) "Radar jamming device" includes, but is not limited to, devices commonly referred to as "jammers" or "scramblers"; and
(3) "Radar jamming device" does not include equipment that is legal under FCC regulations, such as a citizens' band radio, ham radio, or any other similar electronic equipment.
(b) It is an offense for any person to knowingly possess or sell a radar jamming device.
(c) It is an offense for any person to knowingly operate a motor vehicle with a radar jamming device in the motor vehicle.
(d) It is an offense for a person to knowingly use a radar jamming device for the purpose of interfering with the radar signals or lasers used by law enforcement personnel to measure the speed of a motor vehicle on a highway.
(e) Any radar jamming device that is used in violation of this section is subject to seizure by any law enforcement officer and may be confiscated and destroyed by order of the court in which a violation of this section is charged.
(f) This section shall not apply to law enforcement officers acting in their official capacity.
(g)(1) A violation of subsection (b) or (c) is a Class C misdemeanor.
(2) A violation of subsection (d) is a Class B misdemeanor.

39-16-701 Perjury offenses–Definitions

As used in this part, unless the context otherwise requires:
(1) "Material" means the statement, irrespective of its admissibility under the rules of evidence, could have affected the course or outcome of the official proceeding;
(2) "Oath" means a solemn and formal undertaking to tell the truth and includes an equivalent affirmation permitted by law as a substitute for an oath administered by a person authorized by law to take statements under oath;
(3) "Official proceeding" means any type of administrative, executive, judicial, or legislative proceeding that is conducted before a public servant authorized by law to take statements under oath in that proceeding; and
(4) "Statement" means any representation of fact.

39-16-702 Perjury

(a) A person commits an offense who, with intent to deceive:
(1) Makes a false statement, under oath;
(2) Makes a statement, under oath, that confirms the truth of a false statement previously made and the statement is required or authorized by law to be made under oath;

(3) Makes a false statement, not under oath, but on an official document required or authorized by law to be made under oath and stating on its face that a false statement is subject to the penalties of perjury; or
(4) Makes a false statement, not under oath, but in a declaration stating on its face that it is made under penalty of perjury.
(b)(1) Perjury is a Class A misdemeanor.
(2) Perjury committed on an application for a handgun carry permit under § 39-17-1351 or § 39-17-1366 is a Class E felony. Each application for a handgun carry permit shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application is guilty of the felony offense of perjury.
(3) Perjury committed on a sexual offender or violent sexual offender TBI registration form under title 40, chapter 39, part 2, is a Class E felony. Each TBI registration form shall clearly state in bold face type directly above the signature line that an applicant who, with the intent to deceive, makes any false statement on the application is guilty of the felony offense of perjury.

39-16-703 Aggravated perjury

(a) A person commits an offense who, with intent to deceive:
(1) Commits perjury as defined in §39-16-702;
(2) The false statement is made during or in connection with an official proceeding; and
(3) The false statement is material.
(b) It is no defense that the person mistakenly believed the statement to be immaterial.
(c) Aggravated perjury is a Class D felony.

39-16-704 Retraction–Defenses

It is a defense to prosecution for aggravated perjury that the person retracted the false statement before completion of the testimony at the official proceeding during which the aggravated perjury was committed.

39-16-705 Subornation of perjury

(a) A person commits an offense who, with the intent to deceive, induces another to make a false statement constituting perjury or aggravated perjury.
(b)(1) Subornation of perjury is a Class A misdemeanor.
(2) Subornation of aggravated perjury is a Class E felony.

39-16-706 Irregularity in oath

It is no defense to prosecution for perjury or aggravated perjury that:
(1) The oath was administered or taken in an irregular manner, or that there was some irregularity in the appointment or qualification of the person who administered the oath; or
(2) The document was not sworn to if the document contained a recital that it was made under oath, the defendant knew or should have known of the recital when the defendant signed the document, and the document contained the signed jurat of a public servant or notary public authorized to administer oaths.

39-16-707 Inconsistent statements

Except as provided in §39-16-704, a charge of perjury or aggravated perjury that alleges the person charged has made two (2) or more statements under oath, any two (2) of which cannot both be true, need not allege which statement is false if both statements were made within the period of the statute of limitations. At trial, the prosecution need not prove which statement is false.

Chapter 17
Offenses Against Public Health, Safety and Welfare

39-17-106 Adulterated candy or food

(a) It is an offense for any person with the intent to harm another knowingly to offer, give or entice another to take or accept any treat, candy, gift, or food that is poisonous or harmful to the health or welfare of the recipient or other person.
(b) An offense under this section is a Class E felony.

39-17-108 Tampering with construction signs and barricades, travel on closed roads

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

(1) “Barricade” means a barrier for obstructing the passage of motor vehicle traffic;
(2) “Detour sign” means any sign placed across or on a public road of the state, by the state, the county or municipal authorities or by their contractors, indicating that the road is closed or partially closed, which sign also indicates the direction of an alternate route to be followed to give access to certain points;
(3) “Fence” means a barrier to prevent the intrusion of motor vehicle traffic;
(4) “Officially closed” means a highway or road that has been officially closed by a governmental unit, the department of transportation, a city or a county; and
(5) “Warning sign” means a sign indicating construction work in the area.

(b) A person commits an offense who intentionally:
(1) Destroys, knocks down, removes, defaces, or alters any lighting flasher letters or figures on a detour or warning sign set upon a highway or road of this state;
(2) Knocks down, removes, rearranges, destroys, defaces or alters any letters or figures on a barricade or fence erected on any highway or road of this state;
(3) Drives around or through any barricade or fence on any officially closed highway or road of this state;
(4) Drives around a detour sign or barricade or fence; or
(5) Ignores or disregards a warning sign before the road has been officially opened to public traffic by the department, or in appropriate cases by the county or municipal officer responsible for constructing or maintaining such roads.

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

(d) This section shall have no application to:
(1) Law enforcement officers in the performance of their duties;
(2) Employees of the Tennessee department of transportation;
(3) Contractors performing work on the highways;
(4) Federal authorities when engaged in inspection of surveys, repairs, maintenance, or construction on or alongside the highways or within the right-of-way;
(5) Individuals domiciled or making their livelihood within the affected areas; or
(6) Any person or group of persons that shall be authorized by the commissioner, or appropriate county or municipal officer.

39-17-109 Airport and aircraft security

(a) As used in this section, unless the context otherwise requires:
(1) “Air operations area” means a portion of an airport designed and used for the landing, taking off, or surface maneuvering of airplanes; and
(2) “Sterile area” means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program.

(b) It is an offense for a person to knowingly trespass or unlawfully enter upon an aircraft, air carrier, foreign air carrier or air operations area or sterile area of an airport serving the general public, if the trespass or entry is in violation of or contrary to security requirements established by federal regulation.

(c) A violation of subsection (b) is a Class A misdemeanor.

(d) If any person violates subsection (b) with the intent to commit an act in the aircraft, air carrier, foreign air carrier or air operations area or sterile area that is punishable as a felony under federal or state law, and the person is convicted of the felony, a violation of subsection (b) is a Class E felony.

(e) Nothing in this section shall be construed as prohibiting prosecution and conviction under any other criminal statute.

39-17-110 Attachment of signs to barriers constructed or owned by government

(a) It is an offense to tie, attach or otherwise place any sign, sheet, board, poster, banner, advertisement, or other similar item on any fence or barrier that borders an interstate highway if the fence or barrier was constructed or is owned by a governmental entity.

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

39-17-114 Transport of illegal aliens

(a) It is an offense for any person for the purpose of commercial advantage or private financial gain to transport or cause to be transported into the state an individual who the person knows or should have known has illegally entered or remained in the United States, as determined by the bureau of immigration and customs enforcement of the United States department of homeland security.

(b)(1) This section shall not apply to common carriers.

(2) It is a defense to prosecution under this section that the individuals were being transported for religious purposes.

(c) A violation of this section is a Class A misdemeanor punishable only by a fine of one thousand dollars ($1,000) for each person illegally transported.

(d) Any moneys received from a violation of this section shall go to the arresting agency or agencies.

39-17-115 Employment; false identification

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

(1) "Employment" means any work engaged in for compensation in money or other valuable consideration and for which a person paying the compensation for the work performed would be required to file a W-2 wage and tax statement with the federal internal revenue service;

(2) "False identification" means a document of a type intended or commonly accepted for the purposes of identification of individuals that would identify the individual to be a lawful resident alien, an individual authorized to be employed by the federal Immigration and Naturalization Act, (8 U.S.C. §1101 et seq.), or the United States attorney general or that would identify the individual to be a United States citizen that:

(A) Is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(B) Appears to be issued by or under the authority of a governmental entity; and

(3) "Person" means an individual, corporation, partnership, association or any other legal entity.

(b) It is an offense for a person to knowingly manufacture, provide, transfer or submit to any other person false identification for the purposes of obtaining or maintaining employment.

(c) A violation of subsection (b) is a Class A misdemeanor. Each false identification document used in violation of subsection (b) shall constitute a separate offense.

(d) Nothing in this section shall be construed to prohibit prosecution under any other law.

(e) Upon conviction of a violation of subsection (b), if it is determined that any person in connection with a violation of this section is not lawfully present in the United States, pursuant to the federal Immigration and Naturalization Act, the court shall notify the United States department of homeland security.

39-17-301 Disorderly conduct & riot–Definitions

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

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the person knows or should know will outrage the sensibilities of an ordinary individual likely to observe or discover the person's action;

(2) "Participates" includes:

(A) Joining a group of three (3) or more persons who riot;

(B) Aiding and abetting a riot; or

(C) Refusing any lawful order of correctional personnel or other law enforcement officers during the course of a riot;

(3) "Riot" means a disturbance in a public place or penal institution as defined in §39-16-601 involving an assemblage of three (3) or more persons whether or not participating in any otherwise lawful activity, which, by tumultuous and violent conduct, creates grave danger of substantial damage to property or serious bodily injury to persons or substantially obstructs law enforcement or other governmental function; and

(4) "Transportation facility" means any conveyance or place used for or in connection with public passenger transportation by air, railroad, motor vehicle or any other method. It includes, but is not limited to, aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations.

39-17-302 Riot

(a) A person commits an offense who knowingly participates in a riot.

(b) A violation of this section is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of thirty (30) days of incarceration and an order of restitution for any property damage or loss incurred as a result of the offense.

39-17-303 Aggravated riot

(a) A person commits an offense who:

(1) Knowingly participates in a riot; and

(2)(A) Traveled from outside the state with intent to commit a criminal offense;

(B) Participates in a riot in exchange for compensation; or

(C) As a result of the riot, a person other than one (1) of the participants suffers bodily injury or substantial property damage occurs.

(b)(1) A violation of this section is a Class E felony.

(2) In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of:

(A) Forty-five (45) days of incarceration; or

(B) Sixty (60) days of incarceration if the defendant engages in the conduct described in two (2) or more of the circumstances listed in subdivisions (a)(2)(A)-(C).

(3) In any sentence imposed for a violation of this section, the court shall include an order of restitution for any injury, property damage, or loss incurred as a result of the offense.

39-17-304 Inciting to riot

(a) A person commits an offense who incites or urges three (3) or more persons to create or engage in a riot.

(b) A violation of this section is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

39-17-305 Disorderly conduct

(a) A person commits an offense who, in a public place and with intent to cause public annoyance or alarm:

(1) Engages in fighting or in violent or threatening behavior;

(2) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(3) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(b) A person also violates this section who makes unreasonable noise that prevents others from carrying on lawful activities.

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

39-17-306 Disrupting meeting or procession

(a) A person commits an offense if, with the intent to prevent or disrupt a lawful meeting, procession, or gathering, the person substantially obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

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

39-17-307 Obstructing highway or other passageway

(a) A person commits an offense who, without legal privilege, intentionally, knowingly or recklessly:

(1) Obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, or hallway to which the public, or a substantial portion of the public, has access; or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from the person's acts alone or from the person's acts and the acts of others; or

(2) Disobeys a reasonable request or order to move issued by a person known to be a law enforcement officer, a firefighter, or a person with authority to control the use of the premises to:

(A) Prevent obstruction of a highway or passageway; or

(B) Maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(b) For purposes of this section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or potentially injurious to persons or property.

(c)(1) A violation of subdivision (a)(1) is a Class A misdemeanor.

(2) A violation of subdivision (a)(2) is a Class C misdemeanor.

(3) Notwithstanding subdivision (c)(1), a violation of subdivision (a)(1) is a Class E felony if the obstruction prevents an emergency vehicle from accessing a highway or street, the obstruction prevents a first responder from responding to an emergency, or if the obstruction prevents access to an emergency exit. For purposes of this subdivision (c)(3):

(A) "Emergency exit" means a doorway in a building or facility used for egress to the outdoors only when there is an immediate threat to the health or safety of an individual;

(B) "Emergency vehicle" means any vehicle of a governmental department or public service corporation when responding to an emergency, any vehicle of a police or fire department, and any ambulance; and

(C) "First responder" has the same definition as used in § 39-13-116(d).

(d)(1) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that:

(A) Solicitation and collection of charitable donations at a highway or street intersection were undertaken by members of an organization that has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3) or (4);

(B) The members of the organization undertook reasonable and prudent precautions to prevent both disruption of traffic flow and injury to person or property; and

(C) The solicitation and collection at the specific time and place and the specific precautions were proposed in advance to, and received the prior written approval of, the administrative head of the local law enforcement agency in whose jurisdiction the intersection is located.

(2) No liability for any accident or other occurrence that arises from solicitations shall attach to the sheriff or government involved in issuing the permit, but shall be borne solely by the organization obtaining the permit.

(3) This subsection (d) shall not be construed to supersede or affect any ordinance relative to collecting donations at public intersections in effect on July 1, 1993.

(4) Any municipality by ordinance may prohibit roadblocks within its corporate limits notwithstanding this subsection (d).

39-17-308 Harassment

(a) A person commits an offense who intentionally:

(1) Communicates a threat to another person, and the person communicating the threat:

(A) Intends the communication to be a threat of harm to the victim; and

(B) A reasonable person would perceive the communication to be a threat of harm;

(2) Communicates with another person without lawful purpose, anonymously or otherwise, with the intent that the frequency or means of the communication annoys, offends, alarms, or frightens the recipient and, by this action, annoys, offends, alarms, or frightens the recipient;

(3) Communicates to another person, with intent to harass that person, that a relative or other person has been injured or killed when the communication is known to be false; or

(4) Communicates with another person or transmits or displays an image without legitimate purpose with the intent that the image is viewed by the victim by any method described in subdivision (a)(1) and the person:

(A) Maliciously intends the communication to be a threat of harm to the victim; and

(B) A reasonable person would perceive the communication to be a threat of harm.

(b)(1) A person convicted of a criminal offense commits an offense if, while incarcerated, on pre-trial diversion, probation, community correction or parole, the person intentionally communicates in person with the victim of the person's crime if the communication is:

(A) Anonymous or threatening or made in an offensively repetitious manner or at hours known to be inconvenient to the victim;

(B) Made for no legitimate purpose; and

(C) Made knowing that it will alarm or annoy the victim.

(2) If the victim of the person's offense died as the result of the offense, this subsection (b) shall apply to the deceased victim's next-of-kin.

(c)(1) Except as provided in subsection (d), a violation of subsection (a) is a Class A misdemeanor.

(2) A violation of subsection (b) is a Class E felony.

(d) A violation by a minor of subdivision (a)(4) is a delinquent act and shall be punishable only by up to thirty (30) hours of community service, without compensation, for charitable or governmental agencies as determined by the court.

(e) As used in this section:

(1) "Communicate" means contacting a person in writing or print or by telephone, wire, radio, electromagnetic, photoelectronic, photooptical, or electronic means, and includes text messages, facsimile transmissions, electronic mail, instant messages, and messages, images, video, sound recordings, or intelligence of any nature sent through or posted on social networks, social media, or websites;

(2) "Electronic communications service" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system;

(3) "Image" includes, but is not limited to, a visual depiction, video clip or photograph of another person;

(4) "Log files" mean computer-generated lists that contain various types of information regarding the activities of a computer, including, but not limited to, time of access to certain records, processes running on a computer or the usage of certain computer resources; and

(5) "Social network" means any online community of people who share interests and activities, or who are interested in exploring the interests and activities of others, and which provides ways for users to interact.

(f)(1) The offense described in this section shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

(2) The service providers described in this subsection (f) shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider operates a website that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted, or displayed on the social network service's website and maintained by the electronic communications service provider shall be disclosed to any governmental entity responsible for enforcing this section only if the governmental entity:

(A) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(B) Obtains a court order for the disclosure under subdivision (f)(4); or

(C) Has the consent of the person who sent, posted, or displayed any log files and images or communications on the social network service's website maintained by the electronic communications service provider.

(3) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(4) A court order for disclosure under subdivision (f)(2)(B) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

39-17-309 Civil rights intimidation

(a) The general assembly finds and declares that it is the right of every person regardless of race, color, ancestry, religion or national origin, to be secure and protected from fear, intimidation, harassment and bodily injury caused by the activities of groups and individuals. It is not the intent of this section to interfere with the exercise of rights protected by the constitution of the United States. The general assembly recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The general assembly further finds that the advocacy of unlawful acts by groups or individuals against other persons or groups for the purpose of inciting and provoking damage to property and bodily injury or death to persons is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal sanctions.

(b) A person commits the offense of intimidating others from exercising civil rights who:

(1) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state of Tennessee;

(2) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another because that other exercised any right or privilege secured by the constitution or laws of the United States or the constitution or laws of the state of Tennessee;

(3) Damages, destroys or defaces any real or personal property of another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the state of Tennessee; or

(4) Damages, destroys or defaces any real or personal property of another person with the intent to unlawfully intimidate another because that other exercised any right or privilege secured by the constitution or laws of the United States or the constitution or laws of the state of Tennessee.

(c) It is an offense for a person to wear a mask or disguise with the intent to violate subsection (b).

(d) A violation of subsection (b) is a Class D felony. A violation of subsection (c) is a Class A misdemeanor.

(e) The penalties provided in this section for intimidating others from exercising civil rights do not preclude victims from seeking any other remedies, criminal or civil, otherwise available under law.

39-17-310 Public intoxication

(a) A person commits the offense of public intoxication who appears in a public place under the influence of a controlled substance, controlled substance analogue or any other intoxicating substance to the degree that:

(1) The offender may be endangered;

(2) There is endangerment to other persons or property; or

(3) The offender unreasonably annoys people in the vicinity.

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

39-17-311 Desecration; honored places or flags

Amended 2023

(a) A person commits an offense who intentionally***, knowingly, or recklessly*** desecrates:

(1) A place of worship or burial; or

(2) A state or national flag.

(b)(1) A violation of subdivision (a)(1) is a Class E felony.

(2) A violation of subdivision (a)(2) is a Class A misdemeanor.

39-17-312 Abuse of corpse

(a) A person commits an offense who, without legal privilege, knowingly:

(1) Physically mistreats a corpse in a manner offensive to the sensibilities of an ordinary person;

(2) Disinters a corpse that has been buried or otherwise interred;

(3) Disposes of a corpse in a manner known to be in violation of law; or

(4) Engages in sexual contact, as defined in § 39-13-501, with a corpse.

(b) A person commits an offense who, without legal authority or privilege, knowingly offers to sell, sells, offers to purchase or purchases previously buried human skeletal remains. Any remains seized in violation of

this subsection (b) shall be confiscated and subject to disposition as provided for in §§11-6-104 and 11-6-119.

(c) A violation of this section is a Class E felony.

39-17-313 Aggressive panhandling

(a) A person commits aggressive panhandling who solicits a donation of money or goods in the following manner:

(1) By intentionally touching the person being solicited without the person's consent;

(2) By intentionally obstructing the path of the person, or of the vehicle of the person, being solicited;

(3) By following a person who is walking away from the person soliciting the donation, unless that person has indicated that the person wishes to make a donation; or

(4) By making any statement, gesture, or other communication that would cause a reasonable person to feel fear of personal harm for refusing a solicitation of a donation.

(b)(1) A first violation of this section is a Class C misdemeanor.

(2) A second or subsequent violation of this section is a Class B misdemeanor punishable by fine or a term of imprisonment not to exceed ninety (90) days, or both.

39-17-314 Civil disorder

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

(1) "Civil disorder" means any public disturbance involving acts of violence by an assemblage of two (2) or more persons which acts cause an immediate danger of or result in damage or injury to the property or person of any other individual;

(2) "Governmental military force" means the:

(A) National guard as defined in 10 U.S.C. §101(9);

(B) Organized militia of any state or territory of the United States, the commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of "national guard"; and

(C) Armed forces of the United States; and

(3) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time or part time by the state or federal government, or political subdivision of the state or federal government, for the purpose of preventing and detecting crime and enforcing laws or local ordinances and the employees of which are authorized to make arrests for crimes while acting within the scope of their authority.

(b) A person commits an offense who assembles with one (1) or more persons for the purpose of training or instructing in the use of, or practicing with, any technique or means capable of causing property damage, bodily injury or death with the intent to employ such training, instruction or practice in the commission of a civil disorder.

(c) A violation of this section is a Class D felony.

(d)(1) Nothing contained in this section makes unlawful any act protected by the constitution of Tennessee, or any act of a law enforcement officer that is performed in the lawful performance of the officer's official duties.

(2) Nothing contained in this section makes unlawful:

(A) Any activity of a governmental military force, the Tennessee wildlife resources agency, the department of correction or any law enforcement agency;

(B) Any activity intended to teach or practice self-defense or self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity;

(C) Any facility, program or lawful activity related to firearms instruction and training intended to teach the safe handling and use of firearms; or

(D) Any other lawful sports or activities related to the individual recreational use or possession of firearms, including, but not limited to, hunting activities, target shooting, self-defense, firearms collection or any organized activity, including, but not limited to, any hunting club, rifle club, rifle range or shooting range that does not include a conspiracy as defined under the laws of this state, or the knowledge of or the intent to cause or further a civil disorder.

(e) Nothing contained in this section makes unlawful any practice or drill of an organization whose purpose is the reenactment of battles for historic purposes or of ceremonial organizations of a military nature.

39-17-315 Stalking

Amended 2023

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

(1) "Course of conduct***":***

(A) Means a pattern of conduct composed of a series of two (2) or more separate, noncontinuous acts evidencing a continuity of purpose, including, but not limited to, acts in which the defendant directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to a person, or interferes with a person's property;

(B) Notwithstanding subdivision (a)(1)(A), includes one (1) instance of placing an electronic tracking device, without the consent of a person, on the person or in or on the person's property; and

(C) Does not include the installing, concealing, or placing of an electronic tracking device by or at the direction of a law enforcement officer in furtherance of a criminal investigation that is carried out in accordance with applicable state or federal law;

(2) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling;

(3) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

(4) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested;

(5) "Unconsented contact" means any contact with another person that is initiated or continued without that person's consent, or in disregard of that person's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(A) Following or appearing within the sight of that person;

(B) Approaching or confronting that person in a public place or on private property;

(C) Appearing at that person's workplace or residence;

(D) Entering onto or remaining on property owned, leased, or occupied by that person;

(E) Contacting that person by telephone;

(F) Sending to that person mail or any electronic communications, including, but not limited to, electronic mail, text messages, or any other type of electronic message sent using the internet, websites, or a social media platform; or

(G) Placing an object on, or delivering an object to, property owned, leased, or occupied by that person; and

(6) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(b)(1) A person commits an offense who intentionally engages in stalking.

(2) Stalking is a Class A misdemeanor.

(3) Stalking is a Class E felony if the defendant, at the time of the offense, was required to or was registered with the Tennessee bureau of investigation as a sexual offender, violent sexual offender or violent juvenile sexual offender, as defined in §40-39-202.

(c)(1) A person commits aggravated stalking who commits the offense of stalking as prohibited by subsection (b), and:

(A) In the course and furtherance of stalking, displays a deadly weapon;

(B***)(i***) The victim of the offense was less than eighteen (18) years of age at any time during the person's course of conduct, and the person is five (5) or more years older than the victim; ***or***

(ii) The victim of the offense was sixty-five (65) years of age or older at any time during the person's course of conduct;

(C) Has previously been convicted of stalking within seven (7) years of the instant offense;

(D) Makes a credible threat to the victim, the victim's child, sibling, spouse, parent or dependents with the intent to place any such person in reasonable fear of death or bodily injury; or

(E) At the time of the offense, was prohibited from making contact with the victim under a restraining order or injunction for protection, an order of protection, or any other court-imposed prohibition of conduct toward the victim or the victim's property, and the person knowingly violates the injunction, order or court-imposed prohibition.

(2) Aggravated stalking is a Class E felony.

(d)(1) A person commits especially aggravated stalking who:

(A) Commits the offense of stalking or aggravated stalking, and has previously been convicted of stalking or aggravated stalking involving the same victim of the instant offense;

(B) Commits the offense of aggravated stalking, and intentionally or recklessly causes serious bodily injury to the victim of the offense or to the victim's child, sibling, spouse, parent or dependent; or

(C) Commits the offense of stalking or aggravated stalking, the person is eighteen (18) years of age or older, and the victim of the offense was less than twelve (12) years of age at any time during the person's course of conduct.

(2) Especially aggravated stalking is a Class C felony.

(e) Notwithstanding any other law, if the court grants probation to a person convicted of stalking, aggravated stalking or especially aggravated stalking, the court may keep the person on probation for a period not to exceed the maximum punishment for the appropriate classification of offense. Regardless of whether a term of probation is ordered, the court may, in addition to any other punishment otherwise authorized by law, order the defendant to do the following:

(1) Refrain from stalking any individual during the term of probation;

(2) Refrain from having any contact with the victim of the offense or the victim's child, sibling, spouse, parent or dependent;

(3) Be evaluated to determine the need for psychiatric, psychological, or social counseling, and, if determined appropriate by the court, to receive psychiatric, psychological or social counseling at the defendant's own expense;

(4) If, as the result of such treatment or otherwise, the defendant is required to take medication, order that the defendant submit to drug testing or some other method by which the court can monitor whether the defendant is taking the required medication; and

(5) Submit to the use of an electronic tracking device, with the cost of the device and monitoring the defendant's whereabouts, to be paid by the defendant.

(f) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the conduct or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, is prima facie evidence that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(g)(1) If a person is convicted of aggravated or especially aggravated stalking, or another felony offense arising out of a charge based on this section, the court may order an independent professional mental health assessment of the defendant's need for mental health treatment. The court may waive the assessment, if an adequate assessment was conducted prior to the conviction.

(2) If the assessment indicates that the defendant is in need of and amenable to mental health treatment, the court may include in the sentence a requirement that the offender undergo treatment, and that the drug intake of the defendant be monitored in the manner best suited to the particular situation. Monitoring may include periodic determinations as to whether the defendant is ingesting any illegal controlled substances or controlled substance analogues, as well as determinations as to whether the defendant is complying with any required or recommended course of treatment that includes the taking of medications.

(3) The court shall order the offender to pay the costs of assessment under this subsection (g), unless the offender is indigent under §40-14-202.

(h) Any person who reasonably believes they are a victim of an offense under this section, regardless of whether the alleged perpetrator has been arrested, charged or convicted of a stalking-related offense, shall be entitled to seek and obtain an order of protection in the same manner, and under the same circumstances, as is provided for victims of domestic abuse by title 36, chapter 3, part 6.

(i) When a person is charged and arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, the arresting law enforcement officer shall inform the victim that the person arrested may be eligible to post bail for the offense and to be released until the date of trial for the offense.

(j) If a law enforcement officer or district attorney general believes that the life of a possible victim of stalking is in immediate danger, unless and until sufficient evidence can be processed linking a particular person to the offense, the district attorney general may petition the judge of a court of record having criminal jurisdiction in that district to enter an order expediting the processing of any evidence in a particular stalking case. If, after hearing the petition, the court is of the opinion that the life of the victim may be in immediate danger if the alleged perpetrator is not apprehended, the court may enter such an order, directed to the Tennessee bureau of investigation, or any other agency or laboratory that may be in the process of analyzing evidence for that particular investigation.

(k)(1) For purposes of determining if a course of conduct amounting to stalking is a single offense or multiple offenses, the occurrence of any of the following events breaks the continuous course of conduct, with respect to the same victim, that constitutes the offense:

(A) The defendant is arrested and charged with stalking, aggravated stalking or especially aggravated stalking;

(B) The defendant is found by a court of competent jurisdiction to have violated an order of protection issued to prohibit the defendant from engaging in the conduct of stalking; or

(C) The defendant is convicted of the offense of stalking, aggravated stalking or especially aggravated stalking.

(2) If a continuing course of conduct amounting to stalking engaged in by a defendant against the same victim is broken by any of the events set out in subdivision (k)(1), any such conduct that occurs after that event commences a new and separate offense.

(l) Stalking may be prosecuted pursuant to §39-11-103(d).

(m) This section does not prohibit prosecution and conviction under another criminal statute.

39-17-317 Disorderly conduct at funerals

(a) A person commits the offense of interfering with a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person, if the person acts to obstruct or interfere with such commemorative service by making any utterance, gesture, or display in a manner offensive to the sensibilities of an ordinary person. Picketing, protesting, or demonstrating at a funeral or memorial service shall be deemed offensive to the sensibilities of an ordinary person.

(b) This section shall only apply to acts within five hundred feet (500′) of a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person.

(c) A violation of this section is a Class B misdemeanor.

39-17-318 Unlawful exposure

(a) A person commits unlawful exposure who, with the intent to cause emotional distress, distributes an image of the intimate part or parts of another identifiable person or an image of an identifiable person engaged in sexually explicit conduct if:

(1) The image was photographed or recorded under circumstances where the parties agreed or understood that the image would remain private; and

(2) The person depicted in the image suffers emotional distress.

(b) As used in this section:

(1) “Emotional distress” has the same meaning as defined in §39-17-315;

(2) “Identifiable person” means a person who is identifiable from the image itself or from information transmitted in connection with the image;
(3) “Intimate part” means any portion of the primary genital area, buttock, or any portion of the female breast below the top of the areola that is either uncovered or visible through less than fully opaque clothing; and
(4) “Sexually explicit conduct” has the same meaning as defined in §39-13-301.
(c) Nothing in this section precludes punishment under any other section of law providing for greater punishment.
(d) A violation of subsection (a) is a Class A misdemeanor.

39-17-402 Drug control act–Definitions

As used in this part and title 53, chapter 11, parts 3 and 4, unless the context otherwise requires:
(1) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
(A) A practitioner or by the practitioner’s authorized agent in the practitioner’s presence; or
(B) The patient or research subject at the direction and in the presence of the practitioner;
(2) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. “Agent” does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;
(3) “Bureau” means the United States drug enforcement administration, United States department of justice, or its successor agency, except when used as the Tennessee bureau of investigation;
(4) “Controlled substance” means a drug, substance, or immediate precursor in Schedules I through VII of §§39-17-403--39-17-416;
(5) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
(6) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;
(7) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery;
(8) “Dispenser” means a practitioner who dispenses;
(9) “Distribute” means to deliver other than by administering or dispensing a controlled substance;
(10) “Distributor” means a person who distributes;
(11) “Drug” means:
(A) Substances recognized as drugs in the United States Pharmacopoeia, official Homeopaths Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal;
(C) Substances, other than food, intended to affect the structure or any function of the body of man or animal; and
(D) Substances intended for use as a component of any article specified in subdivision (11)(A), (B) or (C). “Drug” does not include devices or their components, parts, or accessories;
(12) “Drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance as defined in subdivision (4). “Drug paraphernalia” includes, but is not limited to:
(A) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance;

(B)(i) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances;

(ii) Subdivision (12)(B)(i) does not include narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid, unless the narcotic testing equipment is possessed for purposes of the defendant's commission of an offense under §39-17-417. This subdivision (12)(B)(ii) is repealed on July 1, 2025;

(C) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, marijuana concentrates, marijuana oil, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, acrylic, glass, stone, or plastic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Chamber pipes;

(vi) Carburetor pipes;

(vii) Electric pipes;

(viii) Chillums;

(ix) Bongs; and

(x) Ice pipes or chillers; and

(D) Pill press devices and pieces of a pill press device, unless the pill press device or piece of a pill press device is used by a person or entity that lawfully possesses drug products in the course of legitimate business activities, including a pharmacy or pharmacist licensed by the board of pharmacy; a wholesale drug distributor, or its agents, licensed by the board of pharmacy; and a manufacturer of drug products, or its agents, licensed by the board of pharmacy;

(13) "Immediate methamphetamine precursor" means ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers, or any drug or other product that contains a detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers;

(14) "Immediate precursor" means a substance that the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture;

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that "manufacture" does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance by:

(A) A practitioner as an incident to administering or dispensing a controlled substance in the course of professional practice; or

(B) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(16)(A) "Marijuana" means all parts of the plant cannabis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, including concentrates and oils, its seeds or resin;

(B) "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination;

(C) "Marijuana" also does not include hemp, as defined in § 43-27-101;

(D) The term "marijuana" does not include a product approved as a prescription medication by the United States food and drug administration. Such product shall be designated, rescheduled, or deleted as a controlled substance pursuant to § 39-17-403;

(E) The term "marijuana" does not include cannabis oil containing the substance cannabidiol, with less than six tenths of one percent (0.6%) of tetrahydrocannabinol, including the necessary seeds and plants, when manufactured, processed, transferred, dispensed, or possessed by a four-year public or private institution of higher education certified by the drug enforcement administration located in the state as part of a clinical research study on the treatment of intractable seizures, cancer, or other diseases; and

(F) The term "marijuana" does not include oil containing the substance cannabidiol, with less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol, if:

(i)(a) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol; and

(b) The person in possession of the oil retains:

(1) Proof of the legal order or recommendation from the issuing state; and

(2) Proof that the person or the person's immediate family member has been diagnosed with intractable seizures or epilepsy by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in this state; or

(ii)(a) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol on a printed label that includes the manufacturer's name and the expiration date, batch number or lot number, and tetrahydrocannabinol concentration strength of the oil; and

(b) The person in possession of the oil retains:

(1) Proof of the legal order or recommendation from the issuing state;

(2) Proof that the person or the person's immediate family member has been diagnosed with at least one (1) of the following diseases or conditions by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in this state:

(A) Alzheimer's disease;

(B) Amyotrophic lateral sclerosis (ALS);

(C) Cancer, when such disease is diagnosed as end stage or the treatment produces related wasting illness, recalcitrant nausea and vomiting, or pain;

(D) Inflammatory bowel disease, including Crohn's disease and ulcerative colitis;

(E) Multiple sclerosis;

(F) Parkinson's disease;

(G) Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS);

(H) Sickle cell disease; or

(I) Quadriplegia; and

(3) Proof that the person or the person's immediate family member has a valid letter of attestation, as defined in § 68-7-101;

(17) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subdivision (17)(A), but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw; and

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

(18) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. “Opiate” does not include, unless specifically designated as controlled under §39-17-403, the dextrorotatory isomer of 3-methozy-methyl-morphinan and its salts (dextromethorphan). “Opiate” does not include its racemic and levorotatory forms;
(19) “Opium poppy” means the plant of the species papaver somniferium l, except its seeds;
(20) “Person” means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity;
(21) “Pharmacist” means a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this part or title 53, chapter 11, parts 3 and 4 shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to that person by the pharmacy laws of this state;
(22) “Poppy straw” means all parts, except the seeds, of the opium poppy after mowing;
(23) “Practitioner” means:
(A) A physician, dentist, optometrist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state; or
(B) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state;
(24) “Production” includes the manufacturing, planting, cultivating, growing or harvesting of a controlled substance;
(25) “State,” when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States;
(26) “Ultimate user” means a person who lawfully possesses a controlled substance for the person’s own use or for the use of a member of the person’s household or for the administering to an animal owned by the person or by a member of the person’s household; and
(27) “Wholesaler” means a person who supplies a controlled substance that the person has not produced or prepared, on official written orders, but not on prescriptions.

39-17-406 Schedule I controlled substances

(a) Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
(b) Opiates, unless specifically excepted or unless listed in another schedule, means any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation; provided, that for the purposes of subdivision (b)(48)(B)(xv), 3-Methylfentanyl, only, “isomer” includes the optical and geometric isomers:
(1) Acetylmethadol;
(2) Allylprodine;
(3) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol; levo-methadyl acetate; or LAAM);
(4) Alphameprodine;
(5) Alphamethadol;
(6) Benzethidine;
(7) Betacetylmethadol;
(8) Betameprodine;
(9) Betamethadol;
(10) Betaprodine;
(11) Clonitazene;

(12) Dextromoramide;
(13) Diampromide;
(14) Diethylthiambutene;
(15) Difenoxin;
(16) Dimenoxadol;
(17) Dimepheptanol;
(18) Dimethylthiambutene;
(19) Dioxaphetyl butyrate;
(20) Dipipanone;
(21) Ethylmethylthiambutene;
(22) Etonitazene;
(23) Etoxeridine;
(24) Furethidine;
(25) Hydroxypethidine;
(26) Ketobemidone;
(27) Levomoramide;
(28) Levophenacylmorphan;
(29) Morpheridine;
(30) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(31) Noracymethadol;
(32) Norlevorphanol;
(33) Normethadone;
(34) Norpipanone;
(35) PEPAP (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine);
(36) Phenadoxone;
(37) Phenampromide;
(38) Phenomorphan;
(39) Phenoperidine;
(40) Piritramide;
(41) Proheptazine;
(42) Properidine;
(43) Propiram;
(44) Racemoramide;
(45) Tilidine;
(46) Trimeperidine;
(47) U-47700; or
(48) Fentanyl derivatives and analogues:

(A) Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States food and drug administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, whenever the existence of such salts is possible within any of the following specific chemical designations containing a 4-anilidopiperidine structure:

(i) With or without substitution at the carbonyl of the aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl, methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl, dihydrofuranyl, benzyl moiety, or rings containing heteroatoms sulfur, oxygen, or nitrogen;

(ii) With or without substitution at the piperidine amino moiety with a phenethyl, benzyl, alkylaryl (including heteroaromatics), alkyltetrazolyl ring, or an alkyl or carbomethoxy group, whether or not further substituted in the ring or group;

(iii) With or without substitution or addition to the piperdine ring to any extent with one or more methyl, carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester groups;

(iv) With or without substitution of one or more hydrogen atoms for halogens, or methyl, alkyl, or methoxy groups, in the aromatic ring of the anilide moiety;
(v) With or without substitution at the alpha or beta position of the piperidine ring with alkyl, hydroxyl, or methoxy groups;
(vi) With or without substitution of the benzene ring of the anilide moiety for an aromatic heterocycle; or
(vii) With or without substitution of the piperidine ring for a pyrrolidine ring, perhydroazepine ring, or azepine ring; and

(B) The application of subdivision (b)(48)(A) includes, but is not limited to, any of the following:
(i) Acetylfentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
(ii) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidnyl]-N-phenyl-acetamide);
(iii) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide);
(iv) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine);
(v) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(vi) Benzodioxolefentanyl;
(vii) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
(viii) Beta-hydroxythiofentanyl (N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide); N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);
(ix) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
(x) Butyrylfentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide; N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide);
(xi) Cyclopentyl fentanyl;
(xii) Isobutyryl fentanyl;
(xiii) Furanyl fentanyl;
(xiv) Lofentanil;
(xv) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
(xvi) 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(xvii) Ocfentanil;
(xviii) Ohmefentanyl;
(xix) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
(xx) Para-fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide; 4-fluoroisobutyryl fentanyl;
(xxi) Pentanoyl fentanyl;
(xxii) Thiofentanyl; or
(xxiii) Valeryl fentanyl.

(c) Opium derivatives, unless specifically excepted or unless listed in another schedule, means any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;

(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine; or
(23) Thebacon.

(d) Hallucinogenic substances, unless specifically excepted or unless listed in another schedule, means any material, compound mixture, or preparation that contains any quantity of the following hallucinogenic substances, or that contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation; provided, that for purposes of this subsection (d) only, "isomer" includes the optical, positional, and geometric isomers:

(1) Alpha-ethyltryptamine
Other names: etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET; ET; Trip;

(2) Alpha-methyltryptamine
Other name: AMT;

(3) 4-Bromo-2,5-dimethoxyamphetamine
Other names: 4-Bromo-2,5-dimethoxy-[alpha]-methylphenethylamine; 4-bromo-2,5-DMA;

(4) 4-Bromo-2,5-dimethoxyphenethylamine
Other names: 2-(4-Bromo-2, 5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus;

(5) 2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36;

(6) Bufotenine
Other names: 3-([beta]-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl) 5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(7) 2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82;

(8) Diethyltryptamine
Other names: N,N-Diethyltryptamine; DET;

(9) 2,5-Dimethoxyamphetamine
Other names: 2,5-Dimethoxy-[alpha]-methylphenethylamine; 2,5-DMA;

(10) 2,5-Dimethoxy-4-ethylamphetamine
Other name: DOET;

(11) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
Other name: 2C-T-7;

(12) Dimethyltryptamine
Other name: DMT;

(13) Ethylamine analogue of phencyclidine
Other names: N-Ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine; cyclohexamine; PCE;

(14) Ibogaine
Other names: 7-Ethyl-6,6[beta],7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino[5,4-b]indole; Tabenanthe iboga;

(15) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine

Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5;
(16) Lysergic acid diethylamide
Other name: LSD;
(17) Mescaline
Other name: Constituent of “Peyote” cacti;
(18) 4-Methoxyamphetamine
Other names: 4-methoxy-[alpha]-methylphenethylamine; paramethoxyamphetamine; PMA;
(19) 5-Methoxy-3,4-methylenedioxyamphetamine;
(20) 5-Methoxy-N,N-diisopropyltryptamine
Other name: 5-MeO-DIPT;
(21) 5-methoxy-N,N-dimethyltryptamine
Other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT;
(22) 4-Methyl-2,5-dimethoxyamphetamine
Other names: 4-methyl-2,5-dimethoxy-[alpha]-methylphenethylamine; DOM; STP;
(23) 3,4-Methylenedioxyamphetamine;
(24) 3,4-Methylenedioxymethamphetamine
Other name: MDMA;
(25) 3,4-Methylenedioxy-N-ethylamphetamine
Other names: N-ethyl-alpha-methyl 3,4(methylenedioxy) phenethylamine; N-ethyl MDA; MDE; MDEA;
(26) 3,4-Methylenedioxy-N-methylcathinone
Other name: Methylone;
(27) N-Ethyl-3-piperidyl benzilate;
(28) N-Hydroxy-3,4-methylenedioxyamphetamine
Other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-hydroxy MDA;
(29) N-methyl-3-piperidyl benzilate;
(30) Parahexyl
Other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
(31) Peyote
Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lamaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts (Interprets 21 U.S.C. §812(c), Schedule l(c)(12));
(32) Psilocybin (constituent of magic mushrooms);
(33) Psilocyn (constituent of magic mushrooms);
(34) Pyrrolidine analogue of phencyclidine (1-(1-phenylcyclohexyl)-pyrrolidine)
Other names: PCPy; PHP;
(35) 1-[1-(2-Thienyl)cyclohexyl]pyrrolidine
Other name: TCPy;
(36) 4-Methylmethcathinone
Other names: mephedrone; methpadrone; 4-MMC;
(37) 3,4-Methylenedioxypyrovalerone
Other name: MDPV;
(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
(42) 2-[4-Ethylthio-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
(44) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
(47) Thiophene analogue of phencyclidine
Other names: 1-[1-(2-thienyl)cyclohexyl]piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;
(48) 3,4,5-Trimethoxyamphetamine;
(49) (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone
Other names: UR-144; 1-pentyl-3-(2,2,3,3 tetramethylcyclopropoyl)indole; or
(50) [1-(5-Fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl) methanone
Other names: 5-fluoro-UR-144; 5-F-UR-144; XLR-11 1-(5-fluoro-pentyl)-3- (2,2,3,3-tetramethylcyclopropoyl)indole.

(e) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation:
(1) Etizolam
Other names: Etilaam, Etizola, Sedekopan, Pasaden, Depas;
(2) Gamma-hydroxybutyric acid
Other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;
(3) Mecloqualone; or
(4) Methaqualone.

(f) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
(1) Alpha-pyrrolidinobutiophenone
Other names: [alpha]-PBP; 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one;
(2) Alpha-pyrrolidinopentiophenone
Other names: [alpha]-PVP; [alpha]-pyrrolidinovalerophenone; 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one;
(3) Aminorex
Other names: aminoxophen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;
(4) Butylone
Other names: bk-MBDB; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one;
(5) Cathinone
Other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; norphedrone; constituent of catha edulis or “Khat” plant;
(6) 3-Fluoro-N-methylcathinone
Other names: 3-FMC; 1-(3-fluorophenyl)-2-(methylamino)propan-1-one;
(7) 4-Fluoro-N-methylcathinone
Other names: 4-FMC; flephedrone; 1-(4-fluorophenyl)-2-(methylamino)propan-1-one;
(8) Fenethylline;
(9) Methcathinone
Other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432;
(10) (+/-)cis-4-methylaminorex (cis isomer)
Other name: (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;
(11) 4-Methyl-N-ethylcathinone
Other names: 4-MEC; 2-(ethylamino)-1-(4-methylphenyl)propan-1-one;
(12) 4-Methyl-alpha-pyrrolidinopropiophenone
Other names: 4-MePPP; MePPP; 4-methyl-[alpha]-pyrrolidinopropiophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one;

(13) Naphyrone
Other names: naphthylpyrovalerone; 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one;
(14) N-Benzylpiperazine
Other names: BZP; 1-benzylpiperazine;
(15) N-Ethylamphetamine;
(16) N,N-Dimethylamphetamine
Other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine;
(17) Pentedrone
Other names: [alpha]-methylaminovalerophenone; 2-(methylamino)-1-phenylpentan-1-one; or
(18) Pentylone
Other names: bk-MBDP; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.

(g) Cannabimimetic agents, unless specifically exempted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances, or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) 5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);
(2) 5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);
(3) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);
(4) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);
(5) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);
(6) 1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
(7) 1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
(8) 1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);
(9) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
(10) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
(11) (1-(5-Fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone (THJ-2201);
(12) 1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
(13) 1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);
(14) 1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4);
(15) 1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8);
(16) 1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH-203);
(17) Methyl 2-(1-(cyclohexylmethyl)-1h-indole-3-carboxamido)-3,3-dimethylbutanoate
Other names: MDMB-CHMICA, MMB-CHMINACA;
(18) Methyl 2-(1-(4-fluorobenzyl)-1h-indazole-3-carboxamido)-3,3-dimethylbutanoate
Other name: MDMB-FUBINACA;
(19) Methyl 2-(1-(5-fluoropentyl)-1h-indazole-3-carboxamido)-3-methylbutanoate
Other name: 5F-AMB;
(20) Methyl 2-(1-(5-fluoropentyl)-1h-indazole-3-carboxamido)-3,3-dimethylbutanoate
Other names: 5F-ADB, 5F-MDMB-PINACA;
(21) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide
Other names: APINACA; AKB48;
(22) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide
Other names: 5F-APINACA, 5F-AKB48;
(23) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide
Other name: AB-FUBINACA;
(24) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1(cyclohexylmethyl)-1H-indazole-3-carboxamide
Other name: AB-CHMINACA;
(25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)1H-indazole-3-carboxamide
Other name: ADB-FUBINACA;

(26) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide
Other name: ADB-PINACA;
(27) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide
Other name: AB-PINACA;
(28) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate
Other names: 5-fluoro-PB-22; 5F-PB-22; or
(29) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate
Other names: PB-22; QUPIC.

39-17-408 Schedule II controlled substances

(a) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis, unless specifically excepted or unless listed in another schedule, means any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, dextrorphan, thebaine-derived butorphanol, nalmefene, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:
(A) Codeine;
(B) Dihydroetorphine;
(C) Ethylmorphine;
(D) Etorphine hydrochloride;
(E) Granulated opium;
(F) Hydrocodone;
(G) Hydromorphone;
(H) Metopon;
(I) Morphine;
(J) Opium extracts;
(K) Opium fluid;
(L) Oripavine;
(M) Oxycodone;
(N) Oxymorphone;
(O) Powdered opium;
(P) Raw opium;
(Q) Thebaine; or
(R) Tincture of opium;

(2) Any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subdivision (b)(1), except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; or

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy).

(c) Opiates, unless specifically excepted or unless in another schedule, means any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of

such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:
(1) Alfentanil;
(2) Alphaprodine;
(3) Anileridine;
(4) Bezitramide;
(5) Carfentanil;
(6) Dextropropoxyphene (bulk, non-dosage forms);
(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;
(10) lsomethadone;
(11) Levo-alphacetylmethadol
Other names: levo-alpha-acetylmethadol; levomethadyl acetate; LAAM;
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone-Intermediate; 4-cyano-2-dimethylamino-4,4-diphenyl butane;
(17) Moramide-lntermediate; diphenylpropane-carboxylic acid; 2-methyl-3-morpholino-1,1-Pethidine (meperidine);
(18) Pethidine (meperidine);
(19) Pethidine-Intermediate-A; 4-cyano-1-methyl-4-phenylpiperidine;
(20) Pethidine-Intermediate-B; ethyl-4-phenylpiperidine-4-carboxylate;
(21) Pethidine-Intermediate-C; 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;
(25) Racemorphan;
(26) Remifentanil;
(27) Sufentanil;
(28) Tapentadol; or
(29) Thiafentanil.

(d) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system:
(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Methamphetamine, its salts, isomers, and salts of its isomers;
(3) Phenmetrazine and its salts;
(4) Methylphenidate; or
(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(e) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Amobarbital;
(2) Glutethimide;
(3) Pentobarbital;
(4) Phencyclidine; or
(5) Secobarbital.

(f) Hallucinogenic substances:
(1) Nabilone
Other names: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one; or
(2) Dronabinol in oral solution in drug product approved for marketing by United States food and drug administration
Other names: [(-)-delta-9-trans tetrahydrocannabinol], Syndros.
(g) Immediate precursors, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances:
(1) Immediate precursor to amphetamine and methamphetamine:
(A) Phenylacetone
Other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;
(2) Immediate precursors to phencyclidine (PCP):
(A) 1-phenylcyclohexylamine; or
(B) 1-piperidinocyclohexanecarbonitrile (PCC); or
(3) Immediate precursor to fentanyl:
(A) 4-anilino-N-phenethyl-4-piperidine (ANPP).
(h) Tianeptine and any salt, sulfate, free acid, or other preparation of tianeptine, and any salt, sulfate, free acid, compound, derivative, precursor, or other preparation thereof that is substantially chemically equivalent or identical with tianeptine.

39-17-410 Schedule III controlled substances

(a) Schedule III consists of the drugs and other substances by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
(b) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under 21 CFR 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or that is the same except that it contains a lesser quantity of controlled substances;
(2) Benzphetamine;
(3) Clorphentermine;
(4) Clortermine; or
(5) Phendimetrazine.
(c) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:
(1) Any compound, mixture, or preparation containing:
(A) Amobarbital;
(B) Secobarbital;
(C) Pentobarbital;
or any salt thereof and one (1) or more other active medicinal ingredients that are not listed in any schedule;
(2) Any suppository dosage form containing:
(A) Amobarbital;
(B) Secobarbital;
(C) Pentobarbital;
or any salt of these drugs and approved by the federal food and drug administration for marketing only as a suppository;

(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof. Examples include the following drugs:
(A) Aprobarbital;
(B) Butabarbital (secbutabarbital);
(C) Butalbital;
(D) Butobarbital (butethal);
(E) Talbutal;
(F) Thiamylal;
(G) Thiopental; or
(H) Vinbarbital;
(4) Chlorhexadol;
(5) Embutramide;
(6) Gamma hydroxybutyric acid preparations. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under §505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §301, et seq.);
(7) Ketamine, its salts, isomers, and salts of isomers
Other name: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
(8) Lysergic acid;
(9) Lysergic acid amide;
(10) Methyprylon;
(11) Perampanel, and its salts, isomers, and salts of isomers;
(12) Sulfondiethylmethane;
(13) Sulfonethylmethane;
(14) Sulfonmethane; or
(15) Tiletamine and zolazepam or any salt of tiletamine or zolazepam:
(A) Other name for a tiletamine-zolazepam combination product: Telazol®;
(B) Other name for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; and
(C) Other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo[3,4-e],[1,4]-diazepin-7(1H)-one; flupyrazapon.
(d) Nalorphine.
(e) Narcotic drugs, unless specifically excepted or unless listed in another schedule, means:
(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;
(C) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active non-narcotic ingredients in recognized therapeutic amounts;
(D) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active non-narcotic ingredients in recognized therapeutic amounts;
(E) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts; or
(F) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;
(2) Any material, compound, mixture, or preparation containing any of the following narcotic drug or its salts:
(A) Buprenorphine.

(f) Anabolic steroids, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, and ethers:

(1) Anabolic steroids:

(A) 3[alpha],17[beta]-dihydroxy-5a-androstane;

(B) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane;

(C) 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5a-androstane;

(D) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;

(E) 17[alpha]-methyl-[delta]1-dihydrotestosterone(17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one

Other Names: 17-[alpha]-methyl-1-testosterone;

(F) 17[alpha]-methyl-4-hydroxynandrolone(17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

(G) 1-Androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(H) 1-Androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(I) 4-Androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);

(J) 5-Androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);

(K) 1-Androstenedione (5[alpha]-androst-1-en-3,17-dione);

(L) 4-Androstenedione (androst-4-en-3,17-dione);

(M) 5-Androstenedione (androst-5-en-3,17-dione);

(N) 3[Beta],17[beta]-dihydroxy-5a-androstane;

(O) 13[Beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;

(P) Androstanedione (5[alpha]-androstan-3,17-dione);

(Q) Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(R) Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one);

(S) Boldione (androsta-1,4-diene-3,17-dione);

(T) Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(U) Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one)

Other Name: 4-Chlorotestosterone;

(V) Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one);

(W) [Delta]1-dihydrotestosterone (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one)

Other name: 1-testosterone;

(X) Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol)

Other name: madol;

(Y) 4-Dihydrotestosterone (17[beta]-hydroxyandrostan-3-one);

(Z) Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);

(AA) Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

(BB) Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);

(CC) Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);

(DD) Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan);

(EE) 4-Hydroxy-19-nortestosterone (4,17[beta]-dihydroxyestr-4-en-3-one);

(FF) 4-Hydroxytestosterone (4,17[beta]-dihydroxyandrost-4-en-3-one);

(GG) Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(HH) Mesterolone (1[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(II) Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-diene-3-one);

(JJ) Methandranone;

(KK) Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);

(LL) Methandrostenolone;

(MM) Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one);

(NN) Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(OO) Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);
(PP) Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);
(QQ) Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9,11-trien-3-one);
(RR) Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);
(SS) Nandrolone (17[beta]-hydroxyestr-4-en-3-one);
(TT) 19-Nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
(UU) 19-Nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene);
(VV) 19-Nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene);
(WW) 19-Nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene);
(XX) 19-Nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene);
(YY) 19-Nor-4-androstenedione (estr-4-en-3,17-dione);
(ZZ) 19-Nor-5-androstenedione (estr-5-en-3,17-dione);
(AAA) Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
(BBB) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
(CCC) Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);
(DDD) Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
(EEE) Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-5[alpha]-androstan-3-one);
(FFF) Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);
(GGG) Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
(HHH) Prostanozol (17[beta]-hydroxy-5[alpha]-androstano[3,2-c]pryazole);
(III) Stanolone (17[beta]-hydroxy-5alpha-androstan-3-one);
(JJJ) Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole);
(KKK) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);
(LLL) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
(MMM) Testosterone (17[beta]-hydroxyandrost-4-en-3-one);
(NNN) Tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one); or
(OOO) Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one).

(2) Any salt, ester, or ether of a drug or substance described in this subsection (f), except such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection (f); or

(3) Anabolic steroids with a combination of estrogens intended for administration to hormone deficient women are exempt from this rule unless such steroids are prescribed, dispensed, or distributed to women who are not hormone deficient.

(g) Hallucinogenic substances:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product
Other names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6-H-dibenzo[b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

39-17-412 Schedule IV controlled substances

(a) Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; or

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alfaxalone;
(2) Alprazolam;
(3) Barbital;
(4) Bromazepam;
(5) Camazepam;
(6) Carisoprodol
Other name: Soma®;
(7) Chloral betaine;
(8) Chloral hydrate;
(9) Chlordiazepoxide;
(10) Clobazam;
(11) Clonazepam;
(12) Clorazepate;
(13) Clotiazepam;
(14) Cloxazolam;
(15) Delorazepam;
(16) Diazepam;
(17) Dichloralphenazone;
(18) Estazolam;
(19) Eszopiclone;
(20) Ethchlorvynol;
(21) Ethinamate;
(22) Ethyl loflazepate;
(23) Fludiazepam;
(24) Flunitrazepam;
(25) Flurazepam;
(26) Fospropofol;
(27) Halazepam;
(28) Haloxazolam;
(29) Ketazolam;
(30) Loprazolam;
(31) Lorazepam;
(32) Lormetazepam;
(33) Mebutamate;
(34) Medazepam;
(35) Meprobamate;
(36) Methohexital;
(37) Methylphenobarbital (mephobarbital);
(38) Midazolam;
(39) Nimetazepam;
(40) Nitrazepam;
(41) Nordiazepam;
(42) Oxazepam;
(43) Oxazolam;
(44) Paraldehyde;

(45) Petrichloral;
(46) Phenobarbital;
(47) Pinazepam;
(48) Prazepam;
(49) Quazepam;
(50) Suvorexant;
(51) Temazepam;
(52) Tetrazepam;
(53) Tramadol
Other names: Ultram® and Ultracet®;
(54) Triazolam;
(55) Zaleplon;
(56) Zolpidem; or
(57) Zopiclone.

(d) Fenfluramine means any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers (whether optical, positional, or geometric), and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
(1) Fenfluramine; or
(2) Dexfenfluramine.

(e) Lorcaserin means any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
(1) Lorcaserin.

(f) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
(1) Cathine ((+)-norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Modafinil;
(8) Pemoline (including organometallic complexes and chelates thereof);
(9) Phentermine;
(10) Pipradol;
(11) Sibutramine; or
(12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(g) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts:
(1) Pentazocine;
(2) Butorphanol (including its optical isomers); or
(3) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

39-17-414 Schedule V controlled substances

(a) Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or

alkaloid, in limited quantities as set forth below, which shall include one (1) or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; or

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Stimulants, unless specifically exempted or excluded, or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Pyrovalerone.

(d) Depressants, unless specifically exempted or excluded or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide);

(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

(3) Gabapentin [1-(aminomethyl)cyclohexaneacetic acid];

(4) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]; or

(5) Pregabalin [(S)-3-(aminomethyl)-5-methylhexonoic acid].

39-17-415 Schedule VI controlled substances

(a) There is established a Schedule VI for the classification of substances which the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, upon considering the factors set forth in §39-17-403, decides should not be included in Schedules I through V. The controlled substances included in Schedule VI are:

(1) Marijuana;

(2) Tetrahydrocannabinols; and

(3) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(A) 1 cis or trans tetrahydrocannabinol, and its optical isomers;

(B) 6 cis or trans tetrahydrocannabinol, and its optical isomers; or

(C) 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(b) Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.

(c) This section does not categorize hemp, as defined in § 43-27-101, as a controlled substance.

39-17-416 Schedule VII controlled substances

(a) There is established a Schedule VII for the classification of substances that should not be included in Schedules I through VI.

(b) The controlled substance included in Schedule VII is Butyl nitrite and any isomer of Butyl nitrite.

39-17-417 Controlled substance offenses

Amended 2023

(a) It is an offense for a defendant to knowingly:

(1) Manufacture a controlled substance;

(2) Deliver a controlled substance;

(3) Sell a controlled substance; or

(4) Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.

(b) A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars ($100,000).

(c) A violation of subsection (a) with respect to:

(1) Cocaine**,** methamphetamine***, fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil*** is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine**,** methamphetamine***, fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil*** and, in addition, may be fined not more than one hundred thousand dollars ($100,000); and

(2)(A) Any other Schedule II controlled substance, including cocaine**,** methamphetamine***, fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil*** in an amount of less than point five (0.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars ($100,000); provided, that if the offense involves less than point five (0.5) grams of a controlled substance containing cocaine**,** methamphetamine***, fentanyl, carfentanil, remifentanil, alfentanil, or thiafentanil,*** but the defendant carried or employed a deadly weapon as defined in §39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, ***then*** the offense is a Class B felony.

(B) As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in §39-17-408(d)(2), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.

(C) In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in §40-35-304.

(d)(1) A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars ($50,000).

(2)(A) Notwithstanding any other law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and §40-35-313.

(B) The inference permitted by the first sentence of §39-17-419 does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in §39-17-418.

(e) A violation of subsection (a) with respect to:

(1) Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars ($100,000); and

(2) Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars ($50,000).

(f) A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars ($5,000).

(g)(1) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half (1/2) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars ($5,000).

(2) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds

(2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than ten (10) marijuana plants nor more than nineteen (19) marijuana plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars ($50,000).

(3) A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars ($100,000).

(h) A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars ($1,000).

(i) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars ($200,000):

(1) Fifteen (15) grams or more of any substance containing heroin;

(2) Fifteen (15) grams or more of any substance containing morphine;

(3) Five (5) grams or more of any substance containing hydromorphone;

(4) Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);

(5) Twenty-six (26) grams or more of any substance containing cocaine;

(6) Five (5) grams or more of any substance containing a combination of pentazocine and tripelennamine or joint possession of pentazocine and tripelennamine;

(7) Thirty (30) grams or more of any substance containing phencyclidine;

(8) One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(9) Fifty (50) grams or more of any substance containing phenmetrazine;

(10) Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

(11) One thousand (1,000) grams or more of any substance containing peyote;

(12) Fifteen (15) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);

(13) Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or

(14) Not less than seventy pounds (70 lbs.) (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than eight pounds (8 lbs.), one gram (3621 grams) nor more than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.

(j) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars ($500,000):

(1) One hundred fifty (150) grams or more of any substance containing heroin;

(2) One hundred fifty (150) grams or more of any substance containing morphine;

(3) Fifty (50) grams or more of any substance containing hydromorphone;

(4) Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);

(5) Three hundred (300) grams or more of any substance containing cocaine;

(6) Fifty (50) grams or more of any substance containing a combination of pentazocine and tripelennamine or joint possession of pentazocine and tripelennamine;

(7) Three hundred (300) grams or more of any substance containing phencyclidine;

(8) One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
(9) Five hundred (500) grams or more of any substance containing phenmetrazine;
(10) Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
(11) Ten thousand (10,000) grams or more of any substance containing peyote;
(12) One hundred fifty (150) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);
(13) Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or
(14) Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.

(k) A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).

(l)(1) If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with §40-35-202.
(2) The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.
(3) Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under this section or §39-6-417 [repealed] or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or §39-6-417 [repealed]; provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in §40-35-105, and, in addition, shall be fined not more than two hundred thousand dollars ($200,000).

(m) The offense described in subdivision (a)(1) with respect to any substance defined in §39-17-408(d)(2) shall include the preparation or compounding of a controlled substance by an individual for the individual's own use.

(n)(1) A violation of subdivision (a)(1) with respect to any amount of methamphetamine shall be punished by confinement for not less than one hundred eighty (180) days, and the person shall serve at least one hundred percent (100%) of the one hundred eighty (180) day minimum.
(2)(A) The one hundred eighty (180) day minimum sentence required by subdivision (n)(1) shall not be construed to prohibit a person sentenced pursuant to this subsection (n) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.
(B) Any person participating in such a court may receive sentence credit for up to the full one hundred eighty (180) day minimum required by subdivision (n)(1).

39-17-418 Simple possession or casual exchange

(a) It is an offense for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.

(b) It is an offense for a person to distribute a small amount of marijuana not in excess of one-half (1/2) ounce (14.175 grams).

(c)(1) Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor.

(2)(A) A violation of subsection (a) with respect to any amount of methamphetamine shall be punished by confinement for not less than thirty (30) days, and the person shall serve at least one hundred percent (100%) of the thirty (30) day minimum.

(B)(i) The thirty (30) day minimum sentence required by subdivision (c)(2)(A) shall not be construed to prohibit a person sentenced pursuant to this subsection (c) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services or another licensed treatment program.

(ii) Any person participating in such a court or program may receive sentence credit for up to the full thirty (30) day minimum required by subdivision (c)(2)(A).

(iii) For persons sentenced under subdivision (c)(2)(A) with clinical assessment results indicating the need to participate in a drug or recovery court or treatment program, the court shall strongly consider ordering service of the sentence through participation in a drug or recovery court or program permitted under subdivision (c)(2)(B)(i) instead of through confinement, unless the court determines the person is not suitable for, or otherwise cannot participate in, such a court or program.

(d) A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows that the person is a minor, is punished as a felony as provided in §39-17-417.

(e) A violation under this section is a Class E felony where the person has two (2) or more prior convictions under this section and the current violation involves a Schedule I controlled substance classified as heroin.

(f)(1) In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.

(2) Any person required to attend a drug offender school pursuant to this subsection (f) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol safety DUI school program if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority responsible for administering the school for operation of the school.

(g) Notwithstanding any other subsection to the contrary, a violation of subsection (a) with respect to tianeptine and any salt, sulfate, free acid, or other preparation of tianeptine and any salt, sulfate, free acid, compound, derivative, precursor, or other preparation thereof that is substantially chemically equivalent or identical with tianeptine is a Class A misdemeanor.

39-17-421 Prescription substitution

(a) Except as provided in title 53, chapter 10, part 2, it shall be unlawful for any pharmacist, or any pharmacy technician or pharmacy intern under the supervision of a pharmacist who dispenses prescriptions, drugs, and medicines, to substitute any drug or device different from the one ordered, or deviate in any manner from the requirements of an order or prescription, without the approval of the prescriber, as defined in §63-10-204.

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

39-17-422 Inhalants

(a) No person shall, for the purpose of causing a condition of intoxication, inebriation, elation, dizziness, excitement, stupefaction, paralysis, or the dulling of the brain or nervous system, or disturbing or distorting of the audio or visual processes, intentionally smell or inhale the fumes from any glue, paint, gasoline, aerosol, chlorofluorocarbon gas or other substance containing a solvent having the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes, or to the use of nitrous oxide to implement the distribution of beverages or other foodstuffs for commercial purposes.

(b) No person shall, for the purpose of violating subsection (a), use, or possess for the purpose of so using, any glue containing a solvent having the property of releasing toxic vapors or fumes.
(c) No person shall sell, or offer to sell, or deliver or give away, to any person any tube or other container of glue, paint, gasoline, aerosol, chlorofluorocarbon gas or any other substance containing a solvent having the property of releasing toxic vapors or fumes, if the person has reasonable cause to suspect that the product sold or offered for sale, or delivered or given away, will be used for the purpose set forth in subsection (a).
(d) As used in this section, "glue, paint, gasoline, aerosol, chlorofluorocarbon gas or other substance containing a solvent having the property of releasing toxic vapors or fumes" means and includes any glue, cement, paint, gasoline, aerosol, or any other substance of whatever kind containing one (1) or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, pentachlorophenol, petroleum ether, toluene or any group of polyhalogenated hydrocarbons containing fluorine and chlorine.
(e) Nothing contained in this section shall be considered applicable to the sale of a hobby or model kit containing as a part of the kit a tube or other container of glue, nor shall this section be considered applicable to the sale of a tube or other container of glue immediately in conjunction with the sale of a hobby or model kit requiring the use of approximately the quantity of glue for the assembly of a model. Nothing contained in this section shall be applicable to the transfer of a tube or other container of glue from a parent to the parent's own child, or from a guardian to the guardian's own ward.
(f)(1) A violation of subsection (a), (b) or (d) is a Class A misdemeanor.
(2) A violation of subsection (c) is a Class E felony.

39-17-423 Counterfeit controlled substances

(a) It is an offense for a person to:
(1) Sell;
(2) Deliver; or
(3) Distribute a substance that is represented to be a controlled substance and which is substantially similar in color, shape, size, and markings or lack thereof, to a Schedule I, II, III or IV controlled substance as classified in §§39-17-406--39-17-412, in order that the substance may be sold as a controlled substance.
(b) It is an offense for a person to manufacture for sale or exchange any substance with the intent that the substance substantially imitate in color, shape, size, and markings or lack of markings, the physical appearance of a Schedule I, II, III or IV controlled substance, as classified in §§39-17-406--39-17-412, in order that the substance may be sold as a controlled substance.
(c) A violation of subsection (a) or (b) is a Class E felony.
(d) It is an offense for a person to be the recipient of a sale or exchange of a substance set forth in this section. A violation of this subsection (d) is a Class A misdemeanor. In addition to the penalties set forth in this section, the court may impose a mandatory drug rehabilitation program.
(e) This section shall not apply to:
(1) Any person who manufactures or sells a substance for use as a placebo by a licensed physician, dentist, pharmacist or registered nurse acting under the direction of a physician, dentist, or pharmacist;
(2) A licensed physician, dentist, pharmacist or registered nurse who sells, dispenses, administers or otherwise distributes a placebo to a patient of the physician or dentist for purposes of the medical care or treatment of the patient;
(3) A noncontrolled substance that was introduced into commerce prior to the introduction into commerce of the controlled substance that it is alleged to imitate;
(4) A substance that may be legally purchased at a drug or grocery store without a prescription; provided, that the substance is not represented by the seller to be a controlled substance; and
(5) A substance that is packaged and labeled in accordance with appropriate rules and regulations of the United States food and drug administration shall create a rebuttable presumption that the manufacturer or wholesaler of the substance is exempted from the provisions of this section.

39-17-424 Determination of drug paraphernalia

In determining whether a particular object is drug paraphernalia as defined by §39-17-402, the court or other authority making that determination shall, in addition to all other logically relevant factors, consider the following:

(1) Statements by the owner or anyone in control of the object concerning its use;

(2) 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 controlled substances or controlled substance analogues;

(3) The existence of any residue of controlled substances or controlled substance analogues on the object;

(4) Instructions, oral or written, provided with the object concerning its use;

(5) Descriptive materials accompanying the object that explain or depict its use;

(6) The manner in which the object is displayed for sale;

(7) The existence and scope of legitimate uses for the object in the community; and

(8) Expert testimony concerning its use.

39-17-425 Drug paraphernalia

(a)(1) Except when used or possessed with the intent to use by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.

(2) Any person who violates this subsection (a) commits a Class A misdemeanor.

(b)(1) Except when delivered, possessed with the intent to deliver, or manufactured with the intent to deliver by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.

(2) Any person who violates subdivision (b)(1) commits a Class E felony.

(3) Except when delivered by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, any person eighteen (18) years of age or over who violates this subsection (b) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than that person commits a Class E felony.

(c)(1) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(2) Any person who violates the provisions of subdivision (c)(1) commits a Class A misdemeanor.

39-17-426 Jimsonweed

(a) It is an offense for a person to deliver, sell or possess the seed of the gentiana lutea plant, also known as jimsonweed, on the premises or grounds of any school, grades kindergarten through twelve (K-12).

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

39-17-427 Possession of controlled substance–Exceptions

It is an exception to this part if:

(1) The person lawfully possessed the controlled substance as otherwise authorized by this part and title 53, chapter 11, parts 3 and 4; or

(2) The only cannabis with a delta-9 tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent (0.3%) on a dry weight basis in the person's possession was hemp concentrate, as defined in § 43-27-101, and the person was transporting the hemp concentrate within this state from the location where

the hemp concentrate was produced to a location where the hemp concentrate was to be reconstituted into consumer products with a delta-9 THC concentration of not more than three-tenths of one percent (0.3%); provided, however, that the person transporting the hemp concentrate under this subdivision (2) maintained proof of a grower's license from the department of agriculture in the transport vehicle.

39-17-430 Anabolic steroid offenses

(a) It is unlawful for a practitioner to prescribe, order, distribute, supply or sell an anabolic steroid for:

(1) Enhancing performance in an exercise, sport or game without medical necessity; or

(2) Hormonal manipulation intended to increase muscle mass, strength or weight without medical necessity.

(b)(1) It is unlawful for any person who is not a practitioner or lawful manufacturer of anabolic steroids to:

(A) Knowingly or intentionally manufacture or deliver an anabolic steroid, pure or adulterated; or

(B) Possess, with intent to manufacture or deliver, an anabolic steroid.

(2) As used in this subsection (b), "practitioner" means a physician, dentist or veterinarian.

(c) A person who knowingly violates this section shall be punished as provided in §39-17-417(d) for a violation of a Schedule III controlled substance.

39-17-431 Immediate methamphetamine precursors

(a) Except as provided in this section, any product that contains any immediate methamphetamine precursor may be dispensed only by a licensed pharmacy.

(b)(1) A product or category of products that contains any immediate methamphetamine precursor shall be exempt from the requirements of this section if the ingredients are not in a form that can be used in the manufacture of methamphetamine.

(2) The board of pharmacy, in consultation with the Tennessee bureau of investigation (TBI), shall determine whether a product or category of products that contain any immediate methamphetamine precursor is not in a form that can be used in the manufacture of methamphetamine. In making such a determination, the board shall solicit the written opinion of the bureau and work with the bureau to develop procedures that consider, among other factors:

(A) The ease with which the product can be converted to methamphetamine, including the presence or absence of a "molecular lock" completely preventing a product's use in methamphetamine manufacture;

(B) The ease with which pseudoephedrine can be extracted from a product and whether it forms a salt, emulsion, or other form; and

(C) Any other pertinent data that can be used to determine the risk of a product being viable in the illegal manufacture of methamphetamine.

(3) The board of pharmacy shall maintain a public list of the exempted products or categories of products. Any person may request that a product or category of products be included on the exemption list.

(c)(1) A pharmacy shall not sell products containing ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers to the same person in an amount more than:

(A) Five and seventy-six hundredths (5.76) grams in any period of thirty (30) consecutive days; or

(B) Twenty-eight and eight tenths (28.8) grams in any one-year period.

(2) A person shall not purchase products containing ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers in an amount more than:

(A) Five and seventy-six hundredths (5.76) grams in any period of thirty (30) consecutive days; or

(B) Twenty-eight and eight tenths (28.8) grams in any one-year period.

(3) The limits in this subsection (c) shall apply whether one (1) form of identification required in subsection (d) is used to make the purchase or if two (2) or more forms of identification required in subsection (d) are used to purchase the products. The limits contained in this subsection (c) shall apply to the amount of ephedrine or pseudoephedrine base, or their salts, isomers, or salts of isomers contained in a product. The prohibitions contained in this subsection (c) shall not apply to a person who obtains the product or products pursuant to a valid prescription issued by a licensed healthcare practitioner authorized to prescribe by the laws of the state.

(4) This subsection (c) also shall apply to pharmacist-generated prescription orders of the product pursuant to §63-10-206. The provision of the patient education and counseling as a part of the practice of pharmacy shall be required when any product is issued under this subsection (c).

(5) There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the pharmacist's professional duty to counsel and evaluate the patient's appropriate pharmaceutical needs and the exercise of the pharmacist's professional judgment as to whether it is appropriate to dispense medication as set forth in subsection (d) or otherwise.

(d) The pharmacist or pharmacy intern under the supervision of the pharmacist shall require any person purchasing an over-the-counter product containing pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The pharmacist or pharmacy intern shall counsel with the person seeking to purchase the product as to the reasons for needing the product and may decline the sale if the pharmacist or pharmacy intern believes the sale is not for a legitimate medical purpose. The pharmacist, pharmacy technician, or pharmacy intern shall maintain an electronic record of the sale under this subsection (d) and the record may be maintained in the form of a pharmacist prescription order as provided by §63-10-206(c). The electronic record shall include the name and address of purchaser; name and quantity of product purchased; date and time purchased; purchaser identification type and number, such as driver license state and number; and the identity, such as name, initials or identification code, of the dispensing pharmacist or pharmacy intern. If a system is not able to record the identification type and number, the pharmacist, pharmacy technician, or pharmacy intern shall write the identification type and number on the prescription order. The electronic record shall also be maintained in a manner that allows for the determination of the equivalent number of packages purchased and total quantity of base ephedrine or pseudoephedrine purchased.

(e)(1) By January 1, 2012, each pharmacy in this state shall have in place and operational all equipment necessary to access and use the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). The NPLEx system shall be available for access and use free of charge to the pharmacies and this state.

(2) Beginning January 1, 2012, before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine not otherwise excluded from the record keeping requirement, a pharmacy shall electronically submit the required information to NPLEx administered by NADDI. On learning of a data entry error in which a transaction was submitted to NPLEx when it should not have been, the pharmacy shall submit a data entry error correction to NPLEx to remedy the error and prevent an inappropriate stop sale alert from being generated for a person who may seek to purchase an over-the-counter product containing pseudoephedrine or ephedrine. Except as provided in subsection (j), the seller shall not complete the sale if the system generates a stop sale alert.

(3) Absent negligence, wantonness, recklessness, or deliberate misconduct, any pharmacy utilizing the electronic sales tracking system in accordance with this subsection (e) shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection (e) and shall be immune from liability to any third party unless the retailer has violated this subsection (e) in relation to a claim brought for such violation. This subsection (e) shall not apply to a person who obtains the product or products pursuant to a valid prescription.

(4) The data entered into, stored and maintained by the NPLEx may only be used by law enforcement officials, healthcare professionals and pharmacists and only for controlling the sale of methamphetamine precursors.

(5) If, for any reason, the NPLEx administered by NADDI is no longer the system used in this state to track the sale of methamphetamine precursors, whether because the system no longer functions, is no longer in existence, is no longer offered to the state without cost, or is otherwise no longer available, each pharmacy shall switch to and commence using the Tennessee Methamphetamine Information System (TMIS), as soon as the equipment necessary to access and use the system is made available at no charge to the pharmacy. TMIS shall be available for access and use free of charge to the pharmacies.

(f) If a pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the tracking system and is unable to comply with the electronic sales

tracking requirement, the pharmacy or retail establishment shall maintain a written log until such time as the pharmacy or retail establishment is able to comply with the electronic sales tracking requirement.

(g) A pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the board of pharmacy stating the reasons therefore. The board of pharmacy may grant an exemption for good cause shown, but in no event shall such exemption exceed one hundred eighty (180) days. Any pharmacy or retail establishment that receives an exemption shall maintain a hardcopy logbook and must still require the purchaser to provide the information required under this section before completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement officer or inspector of the board of pharmacy during normal business hours.

(h) Nonexempt products containing an immediate methamphetamine precursor shall be maintained behind-the-counter of the pharmacy or in a locked case within view of and within twenty-five feet (25′) of the counter.

(i) All data that is collected from Tennessee pharmacies and stored in the NPLEx will be downloaded and exported by electronic means to TMIS at least every twenty-four (24) hours. This export of data will be in a version in compliance with the National Information Exchange Standard and agreed to by both the TBI and NADDI. The export will be executed without a charge to TMIS or any agency of this state. Any and all data exported to, obtained by, gathered by, transmitted to and/or stored by TMIS or its designee, once received from NADDI, is the property of this state. TMIS has the authority to control, administer, and disseminate, at its discretion, this transaction data for the purpose of enforcing federal and state laws. In addition to the exporting of data to TMIS, real time access to NPLEx information through the NPLEx online portal shall be provided to law enforcement in the state free of charge.

(j)(1) NPLEx shall generate a stop sale alert, if completion of a sale would result in the seller or purchaser violating the quantity limits set forth in this section. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the sale is not completed. Each instance in which the override function is utilized shall be logged by the system.

(2) In instances when a data entry correction has been submitted to the NPLEx concerning a purchaser in accord with subdivision (e)(2), the NPLEx shall not generate a stop sale alert in cases where the quantity limit is exceeded due to the data entry error for which the correction was submitted.

(k) A violation of subsections (a)-(j) is a Class A misdemeanor, punishable by fine only. If the person in violation is a licensed pharmacy or pharmacist, the violation shall be reported to the board of pharmacy for review and appropriate action. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of subsection (a).

(l)(1) The TBI, in cooperation with NADDI which administers NPLEx, shall devise a method to electronically notify NADDI at least every seven (7) days of any person placed on the methamphetamine registry pursuant to §39-17-436(b). The notification shall include the first, middle and last names of the person, the person's date of birth and the person's driver license number or any other state or federal identification number. NPLEx shall be designed to generate a stop-sale alert for any purchaser whose name has been submitted to the registry. Such person shall be prohibited from purchasing nonexempt products at the point-of-sale using NPLEx.

(2) The bureau shall also notify NADDI when a person is removed from the methamphetamine registry pursuant to §39-17-436(e). When notified, the person shall be removed from NPLEx and is permitted to purchase nonexempt products.

(3)(A) Any person who sells or delivers a nonexempt substance to a person known to be on the methamphetamine registry commits a Class A misdemeanor.

(B) Any person who purchases or attempts to purchase a nonexempt substance while such person is on the methamphetamine registry commits a Class A misdemeanor.

(m)(1) It is an offense for a person not authorized to do so to knowingly engage in any of the following conduct with respect to a nonexempt product containing an immediate methamphetamine precursor and required to be maintained behind-the-counter of the pharmacy as specified in subsection (h):

(A) Attempt to sell the product knowing that it will be used to produce methamphetamine, or with reckless disregard of its intended use;

(B) Attempt to purchase the product with the intent to manufacture methamphetamine or deliver the product to another person whom they know intends to manufacture methamphetamine, or with reckless disregard of the other person's intent;

(C) Purchase the product at different times or locations for the purpose of circumventing the maximum allowable quantity of the product that may lawfully be purchased during a thirty-day or one-year period; or

(D) Use a false identification to purchase the product for the purpose of circumventing the maximum allowable quantity of the product that may lawfully be purchased during a thirty-day or one-year period.

(2) A violation of this subsection (m) shall be a Class A misdemeanor. All proceeds from fines imposed pursuant to this subsection (m) shall be used by the jurisdiction making the arrest for methamphetamine clean-up activities in that jurisdiction.

(n) This section shall supersede any local laws or ordinances currently regulating sales of products containing any immediate methamphetamine precursor.

(o) For the purposes of this section, "pharmacy" means only a pharmacy operating under title 63, chapter 10, which sells any immediate methamphetamine precursor at retail to the public.

(p) No person under eighteen (18) years of age may purchase a product that contains any immediate methamphetamine precursor, except pursuant to a valid prescription issued by a licensed healthcare practitioner authorized to prescribe by the law of the state or a pharmacist generated prescription issued pursuant to §63-10-206.

39-17-432 Drug-free school zone

(a) It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced sentences authorized by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.

(b)(1) A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

(A) On the grounds or facilities of any school; or

(B) Within five hundred feet (500′) of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

(2) In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) may also be subject to the following:

(A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars ($10,000);

(B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars ($20,000);

(C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars ($40,000);

(D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars ($60,000); and

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars ($100,000).

(3) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) but may be subject to the additional fines imposed by this section.

(c)(1) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) may be required to serve at least the minimum sentence for the defendant's appropriate range of sentence.

(2) There is a rebuttable presumption that a defendant is not required to serve at least the minimum sentence for the defendant's appropriate range of sentence. The rebuttable presumption is overcome if the court finds that the defendant's conduct exposed vulnerable persons to the distractions and dangers that are incident to the occurrence of illegal drug activity.

(3) If the defendant is required to serve at least the minimum sentence for the defendant's appropriate range of sentence, any sentence reduction credits the defendant may be eligible for or earn must not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

(d) Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(e) Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(f) This section does not prohibit the judge from sentencing a defendant, who violated subsection (b) and is required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-14-417(k)[1], may be enhanced under both subsection (b) and § 39-17-417(k) for each act. The state may seek enhancement of the defendant's sentence under subsection (b), § 39-17-417(k), or both, and shall provide notice of the election pursuant to § 40-35-202.

(h)(1) Notwithstanding subsection (d) or (e) or any other law to the contrary, the court that imposed a sentence for an offense committed under this section that occurred prior to September 1, 2020, may, upon motion of the defendant or the district attorney general or the court's own motion, resentence the defendant pursuant to subsections (a)-(g). The court shall hold an evidentiary hearing on the motion, at which the defendant and district attorney general may present evidence. The defendant shall bear the burden of proof to show that the defendant would be sentenced to a shorter period of confinement under this section if the defendant's offense had occurred on or after September 1, 2020. The court shall not resentence the defendant if the new sentence would be greater than the sentence originally imposed or if the court finds that resentencing the defendant would not be in the interests of justice. In determining whether a new sentence would be in the interests of justice, the court may consider:

(A) The defendant's criminal record, including subsequent criminal convictions;

(B) The defendant's behavior while incarcerated;

(C) The circumstances surrounding the offense, including, but not limited to, whether the conviction was entered into pursuant to a plea deal; and

(D) Any other factors the court deems relevant.

(2) If the court finds that the defendant is indigent, using the criteria set out in §40-14-202(c), the court shall appoint counsel to represent the defendant on such a motion.

(3) The court shall not entertain a motion made under this subsection (h) to resentence a defendant if:

(A) A previous motion made under this subsection (h) to reduce the sentence was denied after a review of the motion on the merits;

(B) Resentencing the defendant to a shorter period of confinement for this offense would not reduce the defendant's overall sentence or lead to an earlier release; or

(C) The defendant has previously applied to the governor for a grant of executive clemency on or after December 2, 2021, for the same offense and has been denied.

(4) This subsection (h) does not require a court to reduce any sentence pursuant to this section.

[1]Note: Subsection 39-14-417 does not exist. Legislative intent may have been 39-17-417.

39-17-433 Promotion of methamphetamine manufacture

(a) It is an offense for a person to promote methamphetamine manufacture. A person promotes methamphetamine manufacture who:

(1) Sells, purchases, acquires, or delivers any chemical, drug, ingredient, or apparatus that can be used to produce methamphetamine, knowing that it will be used to produce methamphetamine, or with reckless disregard of its intended use;

(2) Purchases or possesses more than nine (9) grams of an immediate methamphetamine precursor with the intent to manufacture methamphetamine or deliver the precursor to another person whom they know intends to manufacture methamphetamine, or with reckless disregard of the person's intent; or

(3) Permits a person to use any structure or real property that the defendant owns or has control of, knowing that the person intends to use the structure to manufacture methamphetamine, or with reckless disregard of the person's intent.

(b) Expert testimony of a qualified law enforcement officer shall be admissible to establish that a particular chemical, drug, ingredient, or apparatus can be used to produce methamphetamine. For purposes of this testimony, a rebuttable presumption is created that any commercially sold product contains or contained the product that it is represented to contain on its packaging or labels.

(c) Possession of more than fifteen (15) grams of an immediate methamphetamine precursor shall be prima facie evidence of intent to violate this section. This subsection (c) shall not apply to the following persons or entities that lawfully possess drug products in the course of legitimate business activities:

(1) A pharmacy or pharmacist licensed by the board of pharmacy;

(2) A wholesale drug distributor, or its agents, licensed by the board of pharmacy;

(3) A manufacturer of drug products, or its agents, licensed by the board of pharmacy; and

(4) A licensed health care professional possessing the drug products in the course of carrying out the health care provider's profession.

(d) For purposes of this section, "structure" means any house, apartment building, shop, barn, warehouse, building, vessel, railroad car, cargo container, motor vehicle, housecar, trailer, trailer coach, camper, mine, floating home, watercraft, or any other structure capable of holding a clandestine laboratory.

(e)(1) If the chemical, drug, ingredient, or apparatus to produce methamphetamine is purchased in violation of subdivision (a)(1) in more than one (1) county, venue for purposes of prosecution under this section is proper in any county in which such an item was purchased.

(2) If immediate methamphetamine precursors are purchased in violation of subdivision (a)(2) in more than one (1) county, venue for purposes of prosecution under this section is proper in any county in which a precursor was purchased.

(f) A violation of this section is a Class D felony.

39-17-434 Methamphetamine–Manufacture, deliver, sell, or possess

(a) It is an offense for a defendant to knowingly:

(1) Manufacture methamphetamine;

(2) Deliver methamphetamine;

(3) Sell methamphetamine; or

(4) Possess methamphetamine with intent to manufacture, deliver or sell methamphetamine.

(b) It is an offense for a person to knowingly possess or casually exchange methamphetamine.

(c) If the violation is for methamphetamine, the defendant shall be charged, indicted, prosecuted and convicted under this section rather than §§39-17-417 or 39-17-418.

(d) Any reference in Tennessee Code Annotated that provides a penalty, forfeiture, punishment, fine, disability or other adverse effect for a violation of §§39-17-417 or 39-17-418, shall be considered to apply to a conviction under this section if the violation involves methamphetamine.

(e)(1) A violation of subsection (a) shall be punished as provided in §39-17-417.

(2) A violation of subsection (b) shall be punished as provided in §39-17-418.

39-17-435 Initiation of methamphetamine manufacture process

(a) It is an offense for a person to knowingly initiate a process intended to result in the manufacture of any amount of methamphetamine.

(b) It shall not be a defense to a violation of this section that the chemical reaction is not complete, that no methamphetamine was actually created, or that the process would not actually create methamphetamine if completed.

(c) For purposes of this section, "initiates" means to begin the extraction of an immediate methamphetamine precursor from a commercial product, to begin the active modification of a commercial product for use in methamphetamine creation, or to heat or combine any substance or substances that can be used in methamphetamine creation.

(d) Expert testimony of a qualified law enforcement officer shall be admissible for the proposition that a particular process can be used to manufacture methamphetamine. For purposes of this testimony, a rebuttable presumption is created that any commercially sold product contains or contained the product that it is represented to contain on its packaging or labels.

(e) A person may not be prosecuted for a violation of this section and of manufacturing a controlled substance in violation of §39-17-417 based upon the same set of facts.

(f) A violation of this section is a Class B felony.

39-17-437 Falsification of drug test

(a)(1) It is an offense for a person to intentionally use, or possess with the intent to use, any substance or device designed to falsify the results of a drug test of that person.

(2) Except as provided in subdivision (a)(3), it is an offense for a person to sell synthetic urine.

(3) It is not an offense for a person to sell synthetic urine to an individual for bona fide educational, medical or scientific purposes. Any person selling synthetic urine for such purposes shall maintain documentation as to the educational, medical or scientific purpose for each individual sale of such urine for a period not less than five (5) years.

(b) As used in this section:

(1) "Drug test" means a lawfully administered test designed to detect the presence of a controlled substance or a controlled substance analogue; and

(2) "Synthetic urine" means any product or substance which is designed to falsify the results of a drug test for a human being.

(c)(1) A violation of subdivision (a)(1) is a Class A misdemeanor.

(2) A violation of subdivision (a)(2) is a Class C misdemeanor.

39-17-438 Production, manufacture, distribution or possession of salvia divinorum A or synthetic cannabinoids

(a)(1) Unless specifically excepted or unless listed in another schedule, it is an offense to knowingly produce, manufacture, distribute, possess, or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant salvia divinorum or the following synthetic cannabinoids, including any of their isomers, esters, or salts:

(A) (6a, 10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol; including, but not limited to, HU 210 or HU 211;

(B) Naphthoylindoles being any compound structurally derived from 3-(1-naphthoyl) indole with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-015; JWH-210; AM-1220; or MAM-2201;

(C) Naphthylmethylindoles being any compound structurally derived from a 1-H-indole-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to, JWH-175; JWH-184; or JWH-199;

(D) Naphthoylpyrroles, being any compound structurally derived from 3-(1-naphthoyl) pyrrole with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any

extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to, JWH-307;

(E) Naphthylmethylindenes, being any compound structurally derived from 1-(1-naphthylmethyl) indene with substitution at the 3-position of the indene ring whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to, JWH-176;

(F) Phenylacetylindoles, being any compound structurally derived from 3-phenylacetylindole with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent; including, but not limited to, JWH-167; JWH-201; JWH-251; or JWH-302;

(G) Cyclohexylphenols, being any compound structurally derived from 2-(3-hydroxycyclohexyl) phenol with substitution at the 5-position of the phenolic ring whether or not further substituted in the cyclohexyl ring to any extent; including, but not limited to, the dimethylhexyl or dimethylnonyl homologues of CP 47,497;

(H) Tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives, except where contained in cannabis or cannabis resin;

(I) Benzoylindoles, being any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; including, but not limited to, Pravadoline (WIN 48,098); AM-1241; or AM-2233;

(J) WIN-55; 212-2 or 2,3-Dihydro-5-methyl-3-(4-Morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone;

(K) Cyclopropanoylindoles, being any compound structurally derived from a 3-(cyclopropylmethanoyl) indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the cyclopropyl ring to any extent; including, but not limited to, A-796,260;

(L) Adamantoylindoles, being any compound structurally derived from a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent; including, but not limited to, AM-1248 or AB-001;

(M) Adamantoylindolecarboxamides, being any compound structurally derived from an N-adamantyl-1-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent; including, but not limited to, STS-135; 2NE1;

(N) Adamantylindazolecarboxamides, being any compound structurally derived from an N-adamantyl-1-indazole-3-carboxamide with substitution at the nitrogen atom of the indazole ring, whether or not further substituted in the indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent;

(O) Naphthoylnaphthalene, being any compound structurally derived from naphthalene-1-yl-(naphthalene-1-yl) methanone with substitutions on either of the naphthalene rings to any extent; including, but not limited to, CB-13;

(P) Quinolinylindolecarboxylate, being any compound structurally derived from indole-3carboxylic acid-1H-quinolinyl ester structure with substitution at the nitrogen atom of the indole ring by alkyl; haloalkyl; alkenyl; cycloalkylmethyl; cycloalkylethyl; 1-(N-methyl-2-piperidinyl)methyl; or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinolinyl ring to any extent;

(Q) (1-Aminocarbonyl)propylindazolecarboxamides, being any compound structurally derived from 3-[(1-aminocarbonyl)-1-propyl] indazole carboxamide structure with substitution at either nitrogen atom of the indazole ring by alkyl; haloalkyl; alkenyl; cycloalkylmethyl; cycloalkylethyl; 1-(N-methyl-2-piperidinyl) methyl; or 2-(4-morphonlinyl) ethyl group, whether or not further substituted in the indazole ring

to any extent, whether or not substituted in the propyl chain to any extent; including, but not limited to, AB-PINACA;

(R) Naphthoylindazoles, being any compound structurally derived from 3-(1-naphthoyl) indazole structure with substitution at the nitrogen atom of the indazole ring, whether or not further substituted in the indazole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to THJ-2201;

(S) Methylindazolecarboxamidobutanoate, being any compound structurally derived from methyl-2-(indazole-3-carboxamido) butanoate structure with substitution at the nitrogen atom of the indazole ring whether or not further substituted in the indazole ring to any extent, whether or not substituted in the butanyl or methyl chain around the ester to any extent; including, but not limited to AMB and fluoro-AMB; and

(T) Naphthalenylindolecarboxylates, being any compound structurally derived from a naphthalen-1-yl 1H-indole-3-carboxylate structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthalene ring to any extent; including, but not limited to NM-2201.

(2) Subdivision (a)(1) concerning synthetic cannabinoids shall not apply to drugs or substances lawfully prescribed or to drugs or substances that have been approved or approved for study by the federal food and drug administration.

(b) This section shall not apply to the possession, planting, cultivation, growing, or harvesting of the hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.

(c) This section shall not apply to any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the federal food and drug administration as a homeopathic drug.

(d)(1) A first violation of this section is a Class D felony.

(2) A second or subsequent violation of this section is a Class C felony.

(3) If the violation of this section involved the delivery, dispensing, or sale of a controlled substance analogue to a minor, the person shall be punished one (1) classification higher than the punishment provided by this subsection (d) for delivering, dispensing, or selling to an adult.

39-17-440 Dextromethorphan

(a) It is unlawful for:

(1) Any commercial entity, or the entity's employee or representative acting on behalf of the entity, to knowingly sell a product containing dextromethorphan to a person that the employee or representative knows or has reason to know is less than eighteen (18) years of age and is not an emancipated minor, as defined in §39-11-106. However, no employee, representative, or person acting on behalf of a commercial entity shall be in violation of this section, or be subject to an adverse employment action for a violation of this section, unless the employee, representative, or person has completed an employer-provided course of instruction that is specifically designed to enable the employee, representative, or person to identify products containing dextromethorphan and distinguish those products from similar products that do not contain dextromethorphan; or

(2) Any person who is less than eighteen (18) years of age and who is not an emancipated minor, as defined in §39-11-106, to purchase a product the person knows or should know contains any quantity of dextromethorphan with the intent to use the product in a manner inconsistent with the recommended dosage and manner of use indicated on the container.

(b)(1) This section requires an entity, employee, or representative to manually obtain and verify proof of age or emancipation pursuant to subsection (c) as a condition of sale. Nothing in this section shall be construed to require additional compliance requirements, including placement of products in a specific place within a store, other restrictions on consumers' direct access to products, or the maintenance of transaction records.

(2) This section shall not apply to a product containing dextromethorphan that is sold pursuant to a valid prescription, including a pharmacist-generated prescription issued pursuant to §63-10-206.

(c) Before completing a retail sale of a product containing dextromethorphan, the seller shall require the purchaser to present:
(1) Valid government-issued photo identification proving that the purchaser is at least eighteen (18) years of age, unless from the purchaser's outward appearance the seller would reasonably believe the purchaser to be thirty (30) years of age or older; or
(2) Proof of emancipation, if the purchaser is less than eighteen (18) years of age but is an emancipated minor.
(d) A violation of subsection (a) is punishable by a civil penalty of not more than one hundred dollars ($100) for a first violation and five hundred dollars ($500) for a second or subsequent violation.
(e) This section shall not apply to a product containing dextromethorphan that is:
(1) Delivered or dispensed at a facility licensed under title 68, chapter 11, part 2, or title 33, chapter 2, part 4; or
(2) Delivered or dispensed by a licensed healthcare practitioner to an inmate at a jail or correctional facility.
(f) This section shall preempt any local ordinance regulating the retail sale of products containing dextromethorphan enacted by a local governmental entity of this state. Products containing dextromethorphan shall not be subject to further regulation by a local governmental entity.

39-17-452 Methcathinone

(a)(1) Unless specifically excepted or unless listed in another schedule, it is an offense to knowingly produce, manufacture, distribute, sell, offer for sale, or possess any capsule, pill, or other product composed of or containing any amount of any compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:
(A) Substitution in the phenyl ring to any extent with alkyl; alkoxy; alkylenedioxy; haloalkyl; or halide substituents, whether or not further substituted in the phenyl ring by one (1) or more other univalent substituents;
(B) Substitution at the 3-position with an alkyl substituent; or
(C) Substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.
(2) Compounds recognized under subdivision (a)(1) include, but are not limited to:
(A) 4-Methoxymethcathinone (Methedrone);
(B) 3-Methoxymethcathinone (HMMC);
(C) 4-Methyl-alpha-pyrrolidinobutyrophenone (MPBP);
(D) 4-Ethylmethcathinone (4-EMC);
(E) 3,4-Dimethylmethcathinone (3,4-DMMC);
(F) [beta]-Keto-Ethylbenzodioxolylbutanamine (Eutylone);
(G) 3,4-Methylenedioxy-N-ethylcathinone (Ethylone);
(H) Mitragynine and hydroxymitragynine;
(I) Desoxypipradol;
(J) URB 754; and
(K) URB602.
(3)(A) It is an offense for a person to knowingly:
(i) Sell, or offer for sale, Kratom unless labeled and in its natural form;
(ii) Distribute, sell, or offer for sale, Kratom to a person under the age of twenty-one (21) years; or
(iii) Purchase or possess Kratom if under the age of twenty-one (21) years.
(B) For purposes of this subdivision (a)(3):
(i) "Labeled" means a label containing the manufacturer's information and a warning that includes, at a minimum, "Warning: Do not use if you are pregnant or nursing. It is illegal to possess Kratom if under 21 years of age. Consult your healthcare professional before using. Do not combine with alcohol or medication. Consult a doctor prior to usage if you have any heart disease, liver disorder, high blood pressure, or medical condition or take medication."; and
(ii) "Natural form" means dried, cut, and sifted Kratom leaf or raw Kratom leaf powder.

(b) Subsection (a) shall not apply to drugs or substances lawfully prescribed or to drugs or substances that have been approved by the federal food and drug administration.
(c) A violation of subsection (a) is a Class A misdemeanor.

39-17-453 Imitation controlled substance–Violations and penalties

(a) It is an offense to knowingly manufacture, deliver, sell, or possess with the intent to sell, deliver or manufacture an imitation controlled substance.
(b) No person shall, for the purpose of causing a condition of intoxication, inebriation, elation, dizziness, excitement, stupefaction, paralysis, or the dulling of the brain or nervous system, or disturbing or distorting of the audio or visual processes, intentionally smell, inhale, inject, ingest or consume in any manner whatsoever an imitation controlled substance.
(c) No person shall, for the purpose of violating subsection (b), use, or possess for the purpose of so using, an imitation controlled substance.
(d) For purposes of this section:
(1)(A) "Imitation controlled substance" means a pill, capsule, tablet, or substance in any form whatsoever if it:
(i) Is not a controlled substance enumerated in this part;
(ii) Is subject to abuse;
(iii) Purports, by express or implied representations, to act like a controlled substance that is a stimulant or depressant of the central nervous system; and
(iv) Is not commonly used or recognized for use in that particular formulation for any purpose other than as a stimulant or depressant of the central nervous system; or
(B)(i) The chemical structure of the substance is a derivative or analogue of the chemical structure of a controlled substance; and
(ii) The substance is not commonly used or recognized for use in that particular formulation for any purpose other than as a stimulant or depressant of the central nervous system.
(2) "Imitation controlled substance" does not include a pill, capsule, tablet, or substance in any form whatsoever if it is marketed or promoted, or sold as permitted by the United States food and drug administration.
(e)(1) In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an imitation controlled substance, there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.
(2) In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, it may be inferred from, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell. Such inference shall be transmitted to the jury by the trial judge's charge.
(f)(1) A violation of subsection (a) is a Class E felony. In addition to any period of incarceration imposed, there shall be imposed a fine of not less than two thousand dollars ($2,000) and not more than five thousand dollars ($5,000).
(2) A violation of subsection (b) or (c) is a Class A misdemeanor. In addition to any period of incarceration imposed, there shall be imposed a fine of not less than two hundred fifty dollars ($250) and not more than two thousand five hundred dollars ($2,500).

(g) The building and premises of any business in or upon which a violation of this section is committed by an employee, agent or owner of such business is declared to be a public nuisance and shall be subject to abatement as provided in title 29, chapter 3.

39-17-454 Controlled substance analogue–Definitions and offenses

(a)(1) As used in this section, "controlled substance analogue" means a capsule, pill, powder, product or other substance, however constituted, that has the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance; and

(A) Has a chemical structure which is a derivative or structural analogue of the chemical structure of a controlled substance; provided, that as used in this subdivision (a)(1), "analogue" means the structure of the tested item differs in no more than two (2) atoms, one (1) functional group, or one (1) double bond, from the structure of a controlled substance; or

(B) Is prohibited by §39-17-452.

(2) "Controlled substance analogue" does not include:

(A) A controlled substance;

(B) Any substance for which there is an approved use or new drug application by the federal food and drug administration;

(C) Any compound, mixture, or preparation that contains any controlled substance that is not for administration to a human being or animal, and that is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or

(D) Any substance to which an investigational exemption applies under §505 of the Food, Drug and Cosmetic Act (21 U.S.C. §355), but only to the extent that conduct with respect to the substance is pursuant to such exemption.

(b)(1) In determining whether a substance is a controlled substance analogue, the following factors shall be considered, along with any other relevant factors:

(A) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;

(B) Its diversion from legitimate channels, and its clandestine importation, manufacture, or distribution;

(C) The defendant's prior convictions, if any, for a violation of any state or federal statute prohibiting controlled substances or controlled substance analogues; and

(D) Comparisons with accepted methods of marketing a legitimate nonprescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar nonmedical use, including:

(i) The packaging of the substance and its appearance in overall finished dosage form;

(ii) Oral or written statements or representations concerning the substance;

(iii) The methods by which the substance is distributed; and

(iv) The manner in which the substance is sold to the public.

(2) In determining whether a substance is a controlled substance analogue, the following scientific or pharmacological factors may be considered, along with any other relevant factors:

(A) Its actual or relative potential for abuse;

(B) Scientific evidence of its pharmacological effect, if known;

(C) The state of current scientific knowledge regarding the substance;

(D) The history of the substance and its current pattern of abuse;

(E) The scope, duration and significance of abuse;

(F) What, if any, risk there is to the public health;

(G) Its psychic or physiological dependence liability; and

(H) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(c) It is an offense to knowingly manufacture, deliver, dispense or sell a controlled substance analogue or to possess a controlled substance analogue with the intent to manufacture, deliver, dispense or sell such substance.

(d) It is an offense to knowingly possess or casually exchange a small amount of a controlled substance analogue not in excess of one (1) gram.

(e) It may be inferred from the amount of controlled substance analogue possessed by an offender, along with other relevant facts surrounding the arrest, that the controlled substance analogue was possessed with the purpose of selling or otherwise dispensing in violation of subsection (c). It may be inferred from circumstances indicating a casual exchange among individuals of a controlled substance analogue that the controlled substance analogue so exchanged was possessed not with the purpose of selling or otherwise dispensing in violation of subsection (c). The inferences shall be transmitted to the jury by the trial judge's charge, and the jury will consider the inferences along with the nature of the substance possessed when affixing the penalty.

(f)(1) It is an offense for a person to represent, orally or in writing, advertise, infer or intend that a controlled substance analogue has the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance; and

(A) Has a chemical structure which is a derivative or structural analogue of the chemical structure of a controlled substance; provided, that as used in this subdivision (f)(1), "analogue" means the structure of the tested item differs in no more than two (2) atoms, one (1) functional group, or one (1) double bond, from the structure of a controlled substance; or

(B) Is prohibited by §39-17-452.

(2) It is not a defense to prosecution under this subsection (f) that the controlled substance analogue:

(A) Is not a derivative of a controlled substance;

(B) Does not have a chemical structure which is a derivative or analogue, as defined in subdivision (f)(1)(A), of the chemical structure of a controlled substance;

(C) Does not have a stimulant, depressant, hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance; or

(D) Is not listed in §39-17-452.

(g)(1) A first violation of subsection (c) is a Class D felony.

(2) A second or subsequent violation of subsection (c) is a Class C felony.

(3) If the violation of subsection (c) involved the delivery, dispensing or sale of a controlled substance analogue to a minor, the person shall be punished one (1) classification higher than the punishment provided by this subsection (g) for delivering, dispensing or selling to an adult.

(4) A violation of subsection (d) or (f) is a Class A misdemeanor.

(h)(1) Nothing in this section shall preclude a violation of §39-17-453, involving an imitation controlled substance, or §39-17-452 from being prosecuted and punished as a violation of this section if the substance in question meets the definition of an analogue controlled substance under subsection (a).

(2) Nothing in this section shall preclude a violation of this section involving a controlled substance analogue from being prosecuted and punished under §39-17-452 or §39-17-453 if the controlled substance analogue in question also meets the definitions found in such sections.

(3) If the chemical analysis of a controlled substance analogue determines that it also contains a hazardous substance as defined by §68-131-102, nothing in this section shall preclude a violation of this section from also being prosecuted and punished under title 68, chapter 131, part 1.

(i) Any disability, disqualification, forfeiture, suspension, revocation, prohibition, tax or other adverse consequence provided by law that may result from a conviction for an offense involving a controlled substance shall also apply if the conviction involves a controlled substance analogue in violation of subsection (c).

(j) The building and premises of any business in or upon which a violation of subsection (c) or (f) is committed by an employee, agent or owner of such business is declared to be a public nuisance and shall be subject to abatement as provided in title 29, chapter 3.

39-17-455 Manufacture of marijuana concentrate by process which includes use of inherently hazardous substance

(a) As used in this section:

(1) "Inherently hazardous substance" means any liquid chemical, compressed gas, or commercial product that has a flash point at or lower than thirty-eight degrees Celsius (38° C) or one hundred degrees Fahrenheit (100° F), including butane, propane, and diethyl ether; and

(2) "Inherently hazardous substance" does not include all forms of alcohol and ethanol.

(b) It is an offense for a person to knowingly manufacture marijuana concentrate by a process which includes use of an inherently hazardous substance.

(c) It is an offense for any person who owns, manages, operates, or otherwise controls the use of any premises to knowingly allow marijuana concentrate to be manufactured on the premises by a process which includes use of an inherently hazardous substance.

(d)(1) A violation of subsection (b) is a Class E felony.

(2) A violation of subsection (c) is a Class A misdemeanor.

39-17-456 Xylazine—Possess, manufacture, sell

Added 2023

(a) It is an offense to knowingly possess xylazine.

(b) It is an offense to knowingly manufacture, deliver, or sell xylazine.

(c) It is an offense to knowingly possess xylazine with intent to manufacture, deliver, or sell xylazine.

(d) Notwithstanding subsections (a)–(c):

(1) It is not an offense to possess, manufacture, deliver, or sell xylazine in the course of legitimate veterinary practice; and

(2) It is not an offense to possess xylazine pursuant to a valid prescription from a licensed veterinarian;

(e) As used in this section, "xylazine" means xylazine and any salt, sulfate, isomer, homologue, analog, or other preparation of xylazine, and any salt, sulfate, isomer, compound, derivative, precursor, homologue, analog, or other preparation thereof that is substantially chemically equivalent or identical to xylazine.

(f) A violation of subsection (a) is a Class A misdemeanor; and

(g) A violation of subsection (b) or (c) is a Class C felony.

39-17-501 Gambling–Definitions

Amended 2023

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

(1) "Antique coin machine" means a gambling device or record that is at least twenty-five (25) years old and that is operated, played, worked, manipulated, or used by inserting or depositing a coin, slug, token, or thing of value to play a game, see pictures, hear music, or provide any other form of entertainment and includes, but is not limited to, antique slot machines, antique gambling devices, or antique gaming machines;

(2) "Gambling" is contrary to the public policy of this state and means risking anything of value for a profit whose return is to any degree contingent on chance, or any games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels and the like. For the purposes of this chapter gambling does not include:

(A) A lawful business transaction;

(B) Annual events operated for the benefit of nonprofit organizations that are authorized pursuant to a two-thirds (2/3) approval of the general assembly, so long as such events are not prohibited by the state constitution;

(C) A state lottery of the type in operation in Georgia, Kentucky, and Virginia in 2000 and authorized by amendment to the Constitution of Tennessee, if the lottery is approved by the general assembly;

(D) A fantasy sports contest conducted in accordance with the Fantasy Sports Act, compiled in ***title 4, chapter 49, part 2.***

(E) Lawfully accepting or placing a wager on a sporting event in accordance with the Tennessee Sports Gaming Act, compiled in title 4, ***chapter 49***; or

(F) A low-level sports entertainment pool;

(3) "Gambling bet" means anything of value risked in gambling;

(4) "Gambling device or record" means anything designed for use in gambling, intended for use in gambling, or used for gambling;

(5) “Lawful business transaction,” as used in subdivision (2), includes any futures or commodities trading;
(6) “Lottery” means the selling of anything of value for chances on a prize or stake;
(7) “Low-level sports entertainment pool” or “pool” means a type of pari-mutuel betting:
(A) In which a participant:
(i) Pays money for participation in a pool; and
(ii) Makes selections based on the participant’s predictions of either the outcome of a series of athletic contests of the same sport or the statistics of individual athletes selected by the participant to assemble an imaginary team of athletes;
(B) That does not involve laying odds; and
(C) That has the following characteristics:
(i) The total or cumulative entry fee paid by an individual participant is no more than twenty-five dollars ($25.00);
(ii) The total pool is no more than one thousand dollars ($1,000); and
(iii) The pool is managed by an individual and not by any type of business entity; and
(8) “Profit” means anything of value in addition to the gambling bet.

39-17-502 Gambling

(a) A person commits an offense who knowingly engages in gambling.
(b) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that a person reasonably and in good faith relied upon the representations of a gambling promoter that a gambling activity was lawful because it was an authorized annual event pursuant to title 3, chapter 17. It is not an affirmative defense to prosecution under this section that a person engaged in a gambling activity that was not an authorized type of lottery game pursuant to title 3, chapter 17.
(c) The offense of gambling is a Class C misdemeanor.

39-17-503 Gambling promotion

(a) A person commits an offense who knowingly induces or aids another to engage in gambling, and:
(1) Intends to derive or derives an economic benefit other than personal winnings from the gambling; or
(2) Participates in the gambling and has, other than by virtue of skill or luck, a lesser risk of losing or greater chance of winning than one (1) or more of the other participants.
(b) The offense of gambling promotion is a Class B misdemeanor.

39-17-504 Aggravated gambling promotion

(a) A person commits an offense who knowingly invests in, finances, owns, controls, supervises, manages or participates in a gambling enterprise.
(b) For purposes of this section, “gambling enterprise” means two (2) or more persons regularly engaged in gambling promotion as defined in §39-17-503.
(c) The offense of aggravated gambling promotion is a Class E felony.

39-17-505 Possession of gambling device or record

(a)(1) A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints, or makes any gambling device or record.
(2) It is not an offense for a person to own or possess in this state a lottery ticket originating from a state in which a lottery is lawful, if the ticket is not owned or possessed for the purpose of resale.
(3) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record if the device or record is owned, manufactured, possessed, bought, sold, rented, leased, stored, repaired, transported, printed or made pursuant to title 4, chapter 51, part 1 and part 6 of this chapter.
(4) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record if the device or record is for the purpose of conducting an annual event pursuant to title 3, chapter 17, and part 6 of this chapter.
(5)(A) It shall not be an offense for a manufacturer of gambling devices to knowingly own, manufacture, assemble, design, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device

or record solely intended for gambling outside of this state and in compliance with the laws of the United States. The requirement that the manufacturing, selling or leasing of gambling devices be intended solely for gambling outside of the state shall not restrict uses of the gambling devices by the manufacturer that are ancillary or accessorial to the manufacturing, selling or leasing process or business, including, but not limited to, using the gambling devices for research and development, employee training, compliance program initiatives, testing and quality assurance processes, showroom display, leasing or purchasing or selling of gambling devices or parts or equipment, storage or warehousing of gambling devices or parts or equipment, maintenance or refurbishing of gambling devices or parts or equipment, and safekeeping of gambling devices or parts or equipment for future litigation. Also considered ancillary or accessorial to the manufacturing, selling or leasing process or business shall be the use or operation of computers, computer servers, and similar electronic devices, hardware and software, and all gambling records, data or information owned, maintained or stored thereupon, or produced, generated, created, printed, transported or transmitted therefrom, whether paper, electronic or otherwise, in conjunction with legal gambling and in compliance with the laws of the United States. Ancillary or accessorial uses shall not include use of the gambling devices or records that would allow persons physically present in this state to place gambling bets. This subdivision (a)(5) shall not apply unless the manufacturer meets or exceeds federal government requirements pursuant to 15 U.S.C. §1171 et seq., and any regulations promulgated pursuant to 15 U.S.C. §1171 et seq., and provides the secretary of state with a copy of the request for registration pursuant to 15 U.S.C. §1173, together with copies of each gambling license or permit issued by any regulatory authority, including but not limited to any state, country, federally recognized tribe or United States territory, and pays a ten thousand dollar fee prior to January 1 of that year. Additionally, the manufacturer shall provide the secretary of state with proof of annual registration under 15 U.S.C. §1173 with the office of the United States attorney general within thirty (30) days of the receipt thereof.

(B) The fee imposed by subdivision (a)(5)(A) shall not apply to nonprofit corporations licensed by the department of mental health and substance abuse services and certified by the department of human services to provide vocational rehabilitation job training programs that otherwise qualify for the exemption under subdivision (a)(5)(A).

(6)(A) It is not an offense for a person to own, possess, buy, or sell an antique coin machine if:

(i) The antique coin machine is not used for gambling purposes; and

(ii) Members of the public are not permitted to operate any antique coin machine that is displayed in public.

(B) A person selling an antique coin machine shall indicate to all prospective buyers that the antique coin machine is not to be used for gambling purposes.

(b)(1) Any gambling device or record is contraband and shall be subject to seizure, confiscation and forfeiture in accordance with the forfeiture provisions, compiled in chapter 11, part 7 of this title.

(2) After a gambling device or record has been forfeited to the state pursuant to chapter 11, part 7 of this title, the court hearing the criminal charges resulting in the forfeiture shall order the destruction of the device or record. If the district attorney general or law enforcement agency does not believe that a gambling device or record should be destroyed in a particular case, the district attorney general shall petition the court for an alternate disposition of the record or device. If the court finds that the proposed alternate disposition reasonably ensures that the device will not be used in an unlawful manner in this state, the court may grant the petition and order the disposition of the device or record in accordance with the petition.

(c) Possession of a gambling device or record is a Class B misdemeanor.

39-17-702 Unlawful sale of alcoholic beverages

(a) It is unlawful for any person to sell wine, beer, ale, or any other beverage or mixed drink containing alcohol in any establishment unless the establishment is operating in compliance with all laws governing the sale of alcoholic beverages in the establishments.

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

39-17-715 Consuming alcoholic beverages on school premises

(a) It is unlawful to consume or possess any alcoholic beverage on the school plant or grounds of any public school in this state having any of the grades kindergarten through twelve (K-12).

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

39-17-901 Obscenity–Definitions

The following definitions apply in this part, unless the context requires otherwise:

(1) "Actual or constructive knowledge" means that a person is deemed to have constructive knowledge of the contents of material who has knowledge of facts that would put a reasonable and prudent person on notice as to the suspect nature of the material;

(2) "Community" means the judicial district, as defined in §16-2-506, in which a violation is alleged to have occurred;

(3) "Distribute" means to transfer possession of, whether with or without consideration;

(4) "Excess violence" means the depiction of acts of violence in such a graphic or bloody manner as to exceed common limits of custom and candor, or in such a manner that it is apparent that the predominant appeal of the material is portrayal of violence for violence's sake;

(5) "Final judgment" or "conviction" means all direct appeals have been exhausted including an application for appeal or for certiorari to the Tennessee or United States supreme court;

(6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, excess violence or sadomasochistic abuse when the matter or performance:

(A) Would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors;

(B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) Taken as whole lacks serious literary, artistic, political or scientific values for minors;

(7) "Matter" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture film, videocassette or other pictorial representation, or any statue, figure, device, theatrical production or electrical reproduction, or any other article, equipment, machine or material that is obscene as defined by this part;

(8) "Minor" means any person who has not reached eighteen (18) years of age and is not emancipated;

(9) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

(10) "Obscene" means:

(A) The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;

(B) The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and

(C) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value;

(11) "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters;

(12) "Prurient interest" means a shameful or morbid interest in sex;

(13) "Sadomasochistic abuse" means flagellation or torture or physical restraint by or upon a person for the purpose of sexual gratification of either person;

(14) "Sexual conduct" means:

(A) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated. A sexual act is simulated when it depicts explicit sexual activity that gives the appearance of ultimate sexual acts, anal, oral or genital. "Ultimate sexual acts" means sexual intercourse, anal or otherwise, fellatio, cunnilingus or sodomy; or

(B) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals; and

(15) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

39-17-902 Obscene material or exhibition–Distribution to or employment of minors

Amended 2023

(a***)(1***) It is unlawful to knowingly produce, send or cause to be sent, or bring or cause to be brought, into this state for sale, distribution, exhibition or display, or in this state to prepare for distribution, publish, print, exhibit, distribute, or offer to distribute, or to possess with intent to distribute or to exhibit or offer to distribute any obscene matter, or to do any of the aforementioned with any matter found legally obscene that violates the requirements of 18 U.S.C. §2257. It is unlawful to direct, present or produce any obscene theatrical production, peep show or live performance, and every person who participates in that part of the production which renders the production or performance obscene is guilty of the offense.

(2) It is unlawful for a book publisher, distributor, or seller to knowingly sell or distribute obscene matter to a public school serving any of the grades kindergarten through twelve (K-12).

(b) It is unlawful for any person to hire, employ or use a minor to do or assist in doing any of the acts described in subsection (a) with knowledge that the person is a minor under eighteen (18) years of age, or while in possession of the facts that the person should reasonably know that the person is a minor under eighteen (18) years of age. However, this section shall not apply to those acts that are prohibited by §§39-17-1003–39-17-1005.

(c)(1) A violation of ***subdivision*** (a***)(1***) is a Class A misdemeanor, and, in addition, any corporation or business entity that violates this section shall be fined an amount not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000).

(2) A second or subsequent violation of ***subdivision*** (a***)(1***) is a Class E felony; provided, that the second or subsequent violation occurs after a conviction has been obtained for the previous violation; provided further, that the range of fines authorized for a first violation by a corporation or business entity shall also be applicable for second or subsequent violations by the corporation or entity.

(3) A violation of subdivision (a)(2) is a Class E felony, and, in addition, a violator shall be fined an amount not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(d) A violation of subsection (b) is a Class E felony, and, in addition, a violator shall be fined an amount not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(e)(1) It is an exception to this section that the obscene material is possessed by a person having scientific, educational, governmental or other similar justification.

(2) The educational justification exception established in subdivision (e)(1) does not apply if the obscene material is possessed by a person with the intent to send, sell, distribute, exhibit, or display the material to a minor.

39-17-909 Promote or organizing gathering of minors in public place; location for public indecency

(a) It is an offense for a person eighteen (18) years of age or older to knowingly promote or organize a gathering of two (2) or more minors in a public place, as defined in §39-13-511, with the intent to provide a location for said minors to engage in public indecency as defined in §39-13-511.

(b) A violation of subsection (a) is a Class A misdemeanor.

(c) Any personal property used in the commission of a violation of this section is, upon conviction, subject to judicial forfeiture as provided in title 39, chapter 11, part 7.

(d) Nothing in this section shall deprive a court of any authority to suspend or cancel a license, declare the establishment a nuisance or impose costs and other monetary obligations if specifically authorized by law.

(e) For purposes of this section "public area on the property of that business or retail establishment" means a public place as defined in §39-13-511.

39-17-910 Child-like sex doll—Possess, sell, or distribute

(a) It is an offense for a person to knowingly possess a child-like sex doll.

(b) It is an offense for a person to knowingly sell or distribute a child-like sex doll.

(c) It is an offense for a person to knowingly transport a child-like sex doll into this state or within this state with the intent to sell or distribute the child-like sex doll.

(d) As used in this section, "child-like sex doll" means an obscene anatomically correct doll, mannequin, or robot that is intended for sexual stimulation or gratification and that has the features of, or has features that resemble those of, a minor.

(e) A violation of subsection (a) is a Class A misdemeanor.

(f) A violation of subsection (b) or (c) is a Class E felony, and in addition, notwithstanding § 40-35-111, a violator shall be fined an amount not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000). Any fine must be paid to the clerk of the court imposing the sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund pursuant to this subsection (f) are subject to appropriation by the general assembly for the exclusive purposes of funding child advocacy centers, court-appointed special advocates, and sexual assault centers.

39-17-911 Providing obscene material to minors

(a) It is unlawful for any person to knowingly sell or loan for monetary consideration or otherwise exhibit or make available to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film, video game, computer software game, or similar visual representation or image of a person or portion of the human body, that depicts nudity, sexual conduct, excess violence, or sado-masochistic abuse, and that is harmful to minors; or

(2) Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording, which contains any matter enumerated in subdivision (a)(1), or that contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, excess violence, or sado-masochistic abuse, and that is harmful to minors.

(b) It is unlawful for any person to knowingly exhibit to a minor for monetary consideration, or to knowingly sell to a minor an admission ticket or pass or otherwise admit a minor to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct, excess violence, or sado-masochistic abuse, and which is harmful to minors.

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

(d) It is an affirmative defense to prosecution under this section that the minor to whom the material or show was made available or exhibited was, at the time, accompanied by the person's parent or legal guardian, or by an adult with the written permission of the parent or legal guardian.

39-17-914 Display for sale or rental of material harmful to minors

(a) It is unlawful for a person to display for sale or rental a visual depiction, including a videocassette tape or film, video game, computer software game, or a written representation, including a book, magazine or pamphlet, that contains material harmful to minors anywhere minors are lawfully admitted.

(b) The state has the burden of proving that the material is displayed. Material is not considered displayed under this section if:

(1) The material is:

(A) Placed in "binder racks" that cover the lower two thirds (2/3) of the material and the viewable one third (1/3) is not harmful to minors;

(B) Located at a height of not less than five and one half feet (5½′) from the floor; and

(C) Reasonable steps are taken to prevent minors from perusing the material;

(2) The material is sealed, and, if it contains material on its cover that is harmful to minors, it must also be opaquely wrapped;

(3) The material is placed out of sight underneath the counter; or

(4) The material is located so that the material is not open to view by minors and is located in an area restricted to adults;

(5) Unless its cover contains material which is harmful to minors, a video cassette tape or film is not considered displayed if it is in a form that cannot be viewed without electrical or mechanical equipment and the equipment is not being used to produce a visual depiction; or

(6) In a situation if the minor is accompanied by the minor's parent or guardian, unless the area is restricted to adults as provided for in subdivision (b)(4).

(c) A violation of this section is a Class C misdemeanor for each day the person is in violation of this section.

39-17-918 Massage or exposure of erogenous areas

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

(1) "Compensation" means payment, loan, advance, contribution, deposit, or gift of money or anything of value;

(2) "Erogenous area" means the pubic area, penis, scrotum, vulva, vagina, perineum, anus or breast;

(3) "Massage" means the art of body massage, by hand or with a mechanical or vibratory device, for the purpose of massaging, reducing, or contouring the body, and may include the use of oil rubs, heat lamps, hot and cold packs, tub, shower or cabinet baths. The procedures involved include, but are not limited to, touching, stroking, kneading, friction, vibration, percussion and medical gymnastics; and

(4) "Masseur" or "masseuse" means a person engaged in the activities set forth in subdivision (a)(3).

(b) It is unlawful for a masseur or masseuse to expose the masseur's or masseuse's erogenous area for compensation or to touch with any part of the masseur's or masseuse's body, or fondle in any manner or massage an erogenous area for compensation. This section shall not apply to any person authorized by the laws of this state to practice any branch of medicine, surgery, osteopathy, chiropractic or chiropody, any person holding a drugless practitioner's certificate or any person licensed as a physical therapist, while such person is acting within the scope of the license.

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

39-17-1002 Sexual exploitation of children–Definitions

The following definitions apply in this part, unless the context otherwise requires:

(1) "Community" means the judicial district, as defined by §16-2-506, in which a violation is alleged to have occurred;

(2) "Material" means:

(A) Any picture, drawing, photograph, undeveloped film or film negative, motion picture film, videocassette tape or other pictorial representation;

(B) Any statue, figure, theatrical production or electrical reproduction;

(C) Any image stored on a computer hard drive, a computer disk of any type, or any other medium designed to store information for later retrieval;

(D) Any image transmitted to a computer or other electronic media or video screen, by telephone line, cable, satellite transmission, or other method that is capable of further transmission, manipulation, storage or accessing, even if not stored or saved at the time of transmission; or

(E) Any computer image, or computer-generated image, whether made or produced by electronic, mechanical, or other means;

(3) "Minor" means any person who has not reached eighteen (18) years of age;

(4) "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters;

(5) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one (1) or more persons;

(6) "Promote" means to finance, produce, direct, manufacture, issue, publish, exhibit or advertise, or to offer or agree to do those things;

(7) "Prurient interest" means a shameful or morbid interest in sex; and

(8) "Sexual activity" means any of the following acts:

(A) Vaginal, anal or oral intercourse, whether done with another person or an animal;

(B) Masturbation, whether done alone or with another human or an animal;

(C) Patently offensive, as determined by contemporary community standards, physical contact with or touching of a person's clothed or unclothed genitals, pubic area, buttocks or breasts in an act of apparent sexual stimulation or sexual abuse;
(D) Sadomasochistic abuse, including flagellation, torture, physical restraint, domination or subordination by or upon a person for the purpose of sexual gratification of any person;
(E) The insertion of any part of a person's body or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure by a licensed professional;
(F) Patently offensive, as determined by contemporary community standards, conduct, representations, depictions or descriptions of excretory functions; or
(G) Exhibition of the breast, genitals, buttocks, anus, or pubic or rectal area of any minor that can be reasonably construed as being for the purpose of the sexual arousal or gratification of the defendant or another.

39-17-1003 Sexual exploitation of minor

(a) It is unlawful for any person to knowingly possess material that includes a minor engaged in:
(1) Sexual activity; or
(2) Simulated sexual activity that is patently offensive.
(b) A person possessing material that violates subsection (a) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials possessed is greater than fifty (50), the person may be charged in a single count to enhance the class of offense under subsection (d).
(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly possessed the material, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.
(d) A violation of this section is a Class D felony; however, if the number of individual images, materials, or combination of images and materials, that are possessed is more than fifty (50), then the offense shall be a Class C felony. If the number of individual images, materials, or combination of images and materials, exceeds one hundred (100), the offense shall be a Class B felony.
(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.
(f) It shall not be a defense to a violation of this section that a minor victim of the offense consented to the conduct that constituted the offense.

39-17-1004 Aggravated sexual exploitation of minor

(a)(1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, that includes a minor engaged in:
(A) Sexual activity; or
(B) Simulated sexual activity that is patently offensive.
(2) A person who violates subdivision (a)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (a)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (a)(4).
(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.
(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(b)(1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material that is obscene, as defined in §39-17-901, or possess material that is obscene, with the intent to promote, sell, distribute, transport, purchase or exchange the material, which includes a minor engaged in:
(A) Sexual activity; or
(B) Simulated sexual activity that is patently offensive.
(2) A person who violates subdivision (b)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (b)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (b)(4).
(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.
(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials, that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.
(c) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.
(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange material within this state.
(e) It shall not be a defense to a violation of subsection (a) that the minor victim of the offense consented to the conduct that constituted the offense.

39-17-1005 Especially aggravated sexual exploitation of minor

(a) It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance of, or in the production of, acts or material that includes the minor engaging in:
(1) Sexual activity; or
(2) Simulated sexual activity that is patently offensive.
(b) A person violating subsection (a) may be charged in a separate count for each individual performance, image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation.
(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, employed, used, assisted, transported or permitted a minor to participate in the performance of or in the production of acts or material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.
(d) A violation of this section is a Class B felony. Nothing in this section shall be construed as limiting prosecution for any other sexual offense under this chapter, nor shall a joint conviction under this section and any other related sexual offense, even if arising out of the same conduct, be construed as limiting any applicable punishment, including consecutive sentencing under §40-35-115, or the enhancement of sentence under §40-35-114.
(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.
(f) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, employed, assisted, transported or permitted a minor to engage in the performance of, or production of, acts or material within this state.

(g) It shall not be a defense to a violation of subsection (a) that the minor victim of the offense consented to the conduct that constituted the offense.

39-17-1301 Weapons–Definitions

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

(1) "Adjudication as a mental defective or adjudicated as a mental defective" means:

(A) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease:

(i) Is a danger to such person or to others; or

(ii) Lacks the ability to contract or manage such person's own affairs due to mental defect;

(B) A finding of insanity by a court in a criminal proceeding; or

(C) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to Article 50a and 76b of the Uniform Code of Military Justice (10 U.S.C. §§850a and 876b respectively);

(2) "Club" means any instrument that is specially designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument;

(3) "Crime of violence" includes any degree of murder, voluntary manslaughter, aggravated rape, rape, rape of a child, aggravated rape of a child, aggravated sexual battery, especially aggravated robbery, aggravated robbery, burglary, aggravated burglary, especially aggravated burglary, aggravated assault, kidnapping, aggravated kidnapping, especially aggravated kidnapping, carjacking, trafficking for commercial sex act, especially aggravated sexual exploitation, felony child abuse, and aggravated child abuse;

(4)(A) "Explosive weapon" means any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

(iii) Rocket;

(iv) Mine; or

(v) Shell, missile or projectile that is designed, made or adapted for the purpose of inflicting serious bodily injury, death or substantial property damage;

(B) "Explosive weapon" also means:

(i) Any breakable container which contains a flammable liquid with a flashpoint of one hundred fifty degrees Fahrenheit (150° F) or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for purposes of illumination; or

(ii) Any sealed device containing dry ice or other chemically reactive substances for the purposes of causing an explosion by a chemical reaction;

(5) "Hoax device" means any device that reasonably appears to be or is purported to be an explosive or incendiary device and is intended to cause alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies;

(6) "Immediate vicinity" refers to the area within the person's immediate control within which the person has ready access to the ammunition;

(7) "Judicial commitment to a mental institution" means a judicially ordered involuntary admission to a private or state hospital or treatment resource in proceedings conducted pursuant to title 33, chapter 6 or 7;

(8) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument;

(9) "Knuckles" means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles;

(10) "Machine gun" means any firearm that is capable of shooting more than two (2) shots automatically, without manual reloading, by a single function of the trigger;

(11) "Mental institution" means a mental health facility, mental hospital, sanitarium, psychiatric facility and any other facility that provides diagnoses by a licensed professional of an intellectual disability or mental illness, including, but not limited to, a psychiatric ward in a general hospital;

(12) “Restricted firearm ammunition” means any cartridge containing a bullet coated with a plastic substance with other than a lead or lead alloy core or a jacketed bullet with other than a lead or lead alloy core or a cartridge of which the bullet itself is wholly composed of a metal or metal alloy other than lead. “Restricted firearm ammunition” does not include shotgun shells or solid plastic bullets;
(13) “Rifle” means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;
(14) “Short barrel” means a barrel length of less than sixteen inches (16”) for a rifle and eighteen inches (18”) for a shotgun, or an overall firearm length of less than twenty-six inches (26”);
(15) “Shotgun” means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire through a smooth-bore barrel either a number of ball shot or a single projectile by a single function of the trigger;
(16) “Switchblade knife” means any knife that has a blade which opens automatically by:
(A) Hand pressure applied to a button or other device in the handle; or
(B) Operation of gravity or inertia; and
(17) “Unloaded” means the rifle, shotgun or handgun does not have ammunition in the chamber, cylinder, clip or magazine, and no clip or magazine is in the immediate vicinity of the weapon.

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) Deleted 2022;
(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.

39-17-1303 Unlawful sale, loan or gift of firearm

(a) A person commits an offense who:
(1) Intentionally, knowingly or recklessly sells, loans or makes a gift of a firearm to a minor;
(2) Intentionally, knowingly or recklessly sells a firearm or ammunition for a firearm to a person who is intoxicated; or
(3) Intentionally, knowingly, recklessly or with criminal negligence violates §39-17-1316.
(b) It is a defense to prosecution under subdivision (a)(1) that:
(1) A firearm was loaned or given to a minor for the purposes of hunting, trapping, fishing, camping, sport shooting or any other lawful sporting activity; and
(2) The person is not required to obtain a license under §39-17-1316.
(c) For purposes of this section, "intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.
(d) An offense under this section is a Class A misdemeanor.

39-17-1304 Restrictions on firearm ammunition

(a) It is an offense for any person to possess, use or attempt to use restricted firearm ammunition while committing or attempting to commit a crime of violence. A violation of this section constitutes a separate and distinct felony.
(b) It is an offense for any person or corporation to manufacture, sell, offer for sale, display for sale or use in this state any ammunition cartridge, metallic or otherwise, containing a bullet with a hollow-nose cavity that is filled with an explosive material and designed to detonate upon impact; provided, that this section shall not apply to any state or federal military unit or personnel for use in the performance of its duties.
(c)(1) A violation of subsection (a) by possession of restricted firearm ammunition is a Class E felony.
(2) A violation of subsection (a) by use or attempted use of restricted firearm ammunition is a Class D felony.
(3) A violation of subsection (b) is a Class E felony.

39-17-1306 Carrying weapons during judicial proceedings

(a) No person shall intentionally, knowingly, or recklessly carry on or about the person while inside any building in which judicial proceedings are in progress any weapon prohibited by § 39-17-1302(a), for the purpose of going armed; provided, that if the weapon carried is a firearm, the person is in violation of this section regardless of whether the weapon is carried for the purpose of going armed.
(b) Any person violating subsection (a) commits a Class E felony.
(c) Subsection (a) shall not apply to any person who:
(1) Is in the actual discharge of official duties as a law enforcement officer, or is employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard in the line of duty and pursuant to military regulations, or is in the actual discharge of official duties as a guard employed by a penal institution, or as a bailiff, marshal or other court officer who has responsibility for protecting persons or property or providing security;
(2) Has been directed by a court to bring the firearm for purposes of providing evidence;

(3) Is in the actual discharge of official duties as a judge, and:
(A) Is authorized to carry a handgun pursuant to § 39-17-1351;
(B) Keeps the handgun concealed at all times when in the discharge of such duties; and
(C) Is vested with judicial powers under § 16-1-101;
(4) Is in the actual discharge of official duties as an elected official of any county or municipality, and:
(A) Is authorized to carry a handgun pursuant to § 39-17-1351; and
(B) Is not in the room in which judicial proceedings are in progress; or
(5) Is in the actual discharge of official duties as the county attorney of any county in this state, and:
(A) Is authorized to carry a handgun pursuant to § 39-17-1351; and
(B) Is not in the room in which judicial proceedings are in progress.

39-17-1307 Carrying or possession of weapon

(a)(1) A person commits an offense who carries, with the intent to go armed, a firearm or a club.
(2)(A) The first violation of subdivision (a)(1) is a Class C misdemeanor, and, in addition to possible imprisonment as provided by law, may be punished by a fine not to exceed five hundred dollars ($500).
(B) A second or subsequent violation of subdivision (a)(1) is a Class B misdemeanor.
(C) A violation of subdivision (a)(1) is a Class A misdemeanor if the person's carrying of a handgun occurred at a place open to the public where one (1) or more persons were present.
(b)(1) A person commits an offense who unlawfully possesses a firearm, as defined in §39-11-106, and:
(A) Has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, or a felony involving use of a deadly weapon; or
(B) Has been convicted of a felony drug offense.
(2) An offense under subdivision (b)(1)(A) is a Class B felony.
(3) An offense under subdivision (b)(1)(B) is a Class C felony.
(c)(1) A person commits an offense who possesses a handgun and has been convicted of a felony unless:
(A) The person has been pardoned for the offense;
(B) The felony conviction has been expunged; or
(C) The person's civil rights have been restored pursuant to title 40, chapter 29, and the restoration order does not specifically prohibit the person from possessing firearms.
(2) An offense under subdivision (c)(1) is a Class E felony.
(d)(1) A person commits an offense who possesses a deadly weapon other than a firearm with the intent to employ it during the commission of, attempt to commit, or escape from a dangerous offense as defined in §39-17-1324.
(2) A person commits an offense who possesses any deadly weapon with the intent to employ it during the commission of, attempt to commit, or escape from any offense not defined as a dangerous offense by §39-17-1324.
(3)(A) Except as provided in subdivision (d)(3)(B), a violation of this subsection (d) is a Class E felony.
(B) A violation of this subsection (d) is a Class E felony with a maximum fine of six thousand dollars ($6,000), if the deadly weapon is a switchblade knife.
(e)(1) It is an exception to the application of subsection (a) that a person is carrying or possessing a firearm, loaded firearm, or firearm ammunition in a motor vehicle or boat if the person:
(A) Is not prohibited from possessing or receiving a firearm by 18 U.S.C. §922(g) or purchasing a firearm by §39-17-1316; and
(B) Is in lawful possession of the motor vehicle or boat.
(2)(A) As used in this subsection (e):
(i) "Boat" means any watercraft, other than a seaplane on the water, designed and used primarily for navigation or transportation on the water; and
(ii) "Motor vehicle" has the same meaning as defined in §55-1-103.
(B) This subsection (e) shall not apply to a motor vehicle or boat that is:

(i) Owned or leased by a governmental or private entity that has adopted a written policy prohibiting firearms, loaded firearms, or firearm ammunition not required for employment within the motor vehicle or boat; and

(ii) Provided by such entity to an employee for use during the course of employment.

(f)(1) A person commits an offense who possesses a firearm, as defined in §39-11-106(a), and:

(A) Has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921, and is still subject to the disabilities of such a conviction;

(B) Is, at the time of the possession, subject to an order of protection that fully complies with 18 U.S.C. §922(g)(8); or

(C) Is prohibited from possessing a firearm under any other state or federal law.

(2) If the person is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual possesses firearms that constitute the business inventory under the federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the bureau of alcohol, tobacco, firearms and explosives.

(3) For purposes of this section, a person does not possess a firearm, including, but not limited to, firearms registered under the National Firearms Act (26 U.S.C. §5801 et seq.), if the firearm is in a safe or similar container that is securely locked and to which the respondent does not have the combination, keys or other means of normal access.

(4) A violation of subdivision (f)(1) is a Class A misdemeanor and each violation constitutes a separate offense.

(5) If a violation of subdivision (f)(1) also constitutes a violation of §36-3-625(h) or §39-13-113(h), the respondent may be charged and convicted under any or all such sections.

(g) It is an exception to the application of subsection (a) that a person is carrying, whether openly or concealed, a handgun and:

(1)(A) The person is at least twenty-one (21) years of age; or

(B) The person is at least eighteen (18) years of age and:

(i) Is an honorably discharged or retired veteran of the United States armed forces;

(ii) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; or

(iii) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program;

(2) The person lawfully possesses the handgun; and

(3) The person is in a place where the person is lawfully present.

(h)(1) A person commits an offense who carries, with the intent to go armed, a firearm and:

(A) Has been convicted of stalking as prohibited by § 39-17-315;

(B) Has been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within the prior ten (10) years or one (1) time within the prior five (5) years;

(C) Has been adjudicated as a mental defective, judicially committed to or hospitalized in a mental institution pursuant to title 33, or had a court appoint a conservator for the person by reason of a mental defect; or

(D) Is otherwise prohibited from possessing a firearm by 18 U.S.C. 922(g) as it existed on January 1, 2021.

(2) An offense under subdivision (h)(1) is a Class B misdemeanor.

39-17-1308 Possession or carrying of weapon–Defenses

(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).

39-17-1309 Carrying or possession weapons on school property

Amended 2023

(a) As used in this section, "weapon of like kind" includes razors and razor blades, except those used solely for personal shaving, and any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance.
(b)(1) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.
(2)(A) It is not an offense under this subsection (b) for a nonstudent adult to possess a pocket knife while the adult is on school property for the sole purpose of voting in an election if the pocket knife is concealed on the adult's person and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult.
(B) As used in this subdivision (b)(2), "pocket knife" means a knife with one (1) or more blades that fold or collapse into the knife's attached handle and that can be carried inside a person's pocket when collapsed or folded.
(3) A violation of this subsection (b) is a Class E felony.

(c)(1)(A) It is an offense for any person to possess or carry, whether openly or concealed, any firearm, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(B) It is not an offense under this subsection (c) for a nonstudent adult to possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult, while the vehicle is on school property.

(2) A violation of this subsection (c) is a Class B misdemeanor.

(d)(1) Each chief administrator of a public or private school shall display in prominent locations about the school a sign, at least six inches (6") high and fourteen inches (14") wide, stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF SIX (6) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED THREE THOUSAND DOLLARS ($3,000) FOR CARRYING WEAPONS ON SCHOOL PROPERTY.

(2) As used in this subsection (d), "prominent locations about a school" includes, but is not limited to, sports arenas, gymnasiums, stadiums and cafeterias.

(e) Subsections (b) and (c) do not apply to the following persons:

(1) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(2) Civil officers of the United States in the discharge of their official duties;

(3) Officers and soldiers of the militia and the national guard when called into actual service;

(4) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, when in the discharge of their official duties;

(5) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(6) Any private police employed by the administration or board of trustees of any public or private institution of higher education in the discharge of their duties;

(7) Any registered security guard/officer who meets the requirements of title 62, chapter 35, and who is discharging the officer's official duties;

(8)(A) Persons possessing a handgun, who are authorized to carry the handgun pursuant to §39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place;

(B) Subdivision (e)(8)(A) shall not apply if the enhanced handgun carry permit holder:

(i) Possessed a handgun on property described in subdivision (e)(8)(A) that is owned or operated by a board of education, school, college, or university board of trustees, regents, or directors unless the permit holder's possession is otherwise excepted by this subsection (e); or

(ii) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or any similar multi-use field; and

(iii) Knew or should have known that:

(a) An athletic event or school-related activity described in subdivision (e)(8)(B)(ii) was taking place on the property at the time of the possession; or

(b) The property on which the possession occurred was owned or operated by a school entity described in subdivision (e)(8)(B)(ii); or

(iv) Failed to take reasonable steps to leave the area of the athletic field or school-related activity or the property after being informed or becoming aware of:

(a) Its use for athletic or school-related purposes; or

(b) That it was, at the time of the possession, owned or operated by a school entity described in (e)(8)(B)(ii);

(9) Persons permitted to carry a handgun on the property of private K-12 schools by §49-50-803, and persons permitted to carry a handgun on the property of private for-profit or nonprofit institutions of higher education pursuant to §49-7-161; provided, that this subdivision (e)(9) shall apply only:

(A) To the school or institution where the person is located, when that school or institution has adopted a handgun carry policy pursuant to §49-50-803 or §49-7-161;

(B) While the person is on the property or grounds covered by the private school or institution's policy; and

(C) When the person is otherwise in compliance with the policy adopted by the private school or institution;

(10) Persons carrying a handgun pursuant to §49-6-809, §49-6-815, or §49-6-816; provided, that this subdivision (e)(10) shall apply only within and on the grounds of the school for which the person is authorized;

(11)(A) Employees authorized to carry a handgun pursuant to §39-17-1351 on property owned, operated, or controlled by the public institution of higher education at which the employee is employed;

(B)(i) Any authorized employee who elects to carry a handgun pursuant to this subdivision (e)(11) shall provide written notification to the law enforcement agency or agencies with jurisdiction over the property owned, operated, or controlled by the public institution of higher education that employs the employee;

(ii) The employee's name and any other information that might identify the employee as a person who has elected to carry a handgun pursuant to this subdivision (e)(11) shall be confidential, not open for public inspection, and shall not be disclosed by any law enforcement agency with which an employee registers; except that the employee's name and other information may be disclosed to an administrative officer of the institution who is responsible for school facility security; provided, however, that the administrative officer is not the employee's immediate supervisor or a supervisor responsible for evaluation of the employee. An administrative officer to whom such information is disclosed shall not disclose the information to another person. Identifying information about the employee collected pursuant to this subdivision (e)(11) shall not be disclosed to any person or entity other than another law enforcement agency and only for law enforcement purposes; and

(iii) Law enforcement agencies are authorized to develop and implement:

(a) Policies and procedures designed to implement the notification and confidentiality requirements of this subdivision (e)(11)(B); and

(b) A voluntary course or courses of special or supplemental firearm training to be offered to the employees electing to carry a handgun pursuant to this subdivision (e)(11). Firearm safety shall be a component of any firearm course;

(C) Unless carrying a handgun is a requirement of the employee's job description, the carrying of a handgun pursuant to this subdivision (e)(11) is a personal choice of the employee and not a requirement of the employer. Consequently, an employee who carries a handgun on property owned, operated, or controlled by the public institution of higher education at which the employee is employed is not:

(i) Acting in the course of or scope of their employment when carrying or using the handgun;

(ii) Entitled to workers' compensation benefits under §9-8-307(a)(1)(K) for injuries arising from the carrying or use of a handgun;

(iii) Immune from personal liability with respect to use or carrying of a handgun under §9-8-307(h);

(iv) Permitted to carry a handgun openly, or in any other manner in which the handgun is visible to ordinary observation; or

(v) Permitted to carry a handgun at the following times and at the following locations:

(a) Stadiums, gymnasiums, and auditoriums when school-sponsored events are in progress;

(b) In meetings regarding disciplinary matters;

(c) In meetings regarding tenure issues;

(d) A hospital, or an office where medical or mental health services are the primary services provided; and

(e) Any location where a provision of state or federal law, except the posting provisions of §39-17-1359, prohibits the carrying of a handgun on that property;

(D) Notwithstanding any other law to the contrary, a public institution of higher education shall be absolutely immune from claims for monetary damages arising solely from or related to an employee's use of, or failure to use, a handgun; provided the employee is employed by the institution against whom the claim is filed and the employee elects to carry the handgun pursuant to this subdivision (e)(11). Nothing in this section shall expand the existing conditions under which sovereign immunity is waived pursuant to §9-8-307; and

(E) As used in subdivisions (e)(11)-(13):

(i) "Employee" includes***:***

(a) All faculty, staff, and other persons who are employed on a full-time basis by a public institution of higher education; and

(b) All faculty, staff, and other persons who:

(1) Are retired federal, state, or local law enforcement officers;

(2) Served as a federal, state, or local law enforcement officer for at least twenty (20) years prior to retirement;

(3) Retired in good standing as certified by the chief law enforcement officer of the organization from which the officer retired; and

(4) Are employed on a part-time basis by a public institution of higher education; and

(ii) "Employee" does not include a person who is enrolled as a student at a public institution of higher education, regardless of whether the person is also an employee;

(12)(A) Any employee of the University of Tennessee institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system when in the discharge of the employee's official duties and with prior authorization from the chancellor of the University of Tennessee institute of agriculture; or

(B) Any employee of the University of Tennessee institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system, and any member of the employee's household, living in a residence owned, used, or operated by the University of Tennessee, if the employee has prior authorization from the chancellor of the University of Tennessee institute of agriculture and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; and

(13)(A) Any employee of the university's college or department of agriculture when in the discharge of the employee's official duties and with prior authorization from the president of a university in the board of regents system;

(B) Any employee of the university's college or department of agriculture, and any member of the employee's household, living in a residence owned, used, or operated by the university, if the employee has prior authorization from the president of a university in the board of regents system and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; or

(C) Any employee, with prior authorization of the president of a university in the board of regents system, who is engaged in wildlife biology or ecology research and education for the purpose of capture or collection of specimens.

39-17-1310 Carrying weapons on school property–Defenses

It is an affirmative defense to prosecution under §39-17-1309(a)-(d) that the person's behavior was in strict compliance with the requirements of one (1) of the following classifications:

(1) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the administrator of the educational institution;

(2) A person possessing unloaded hunting weapons while transversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the

intent to hunt on the public or private lands unless the lands of the educational institution are posted prohibiting entry;

(3) A person possessing guns or knives when conducting or attending "gun and knife shows" and the program has been approved by the administrator of the educational institution; or

(4) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove, utilize or allow to be removed or utilized any weapon from the vehicle.

39-17-1311 Carrying weapons on public property

(a) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any weapon prohibited by §39-17-1302(a), not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.

(b)(1) Subsection (a) shall not apply to the following persons:

(A) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(B) Civil officers of the United States in the discharge of their official duties;

(C) Officers and soldiers of the militia and the national guard when called into actual service;

(D) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, in the discharge of their official duties;

(E) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(F) Any private police employed by the municipality, county, state or instrumentality thereof in the discharge of their duties;

(G) A registered security guard/officer, who meets the requirements of title 62, chapter 35, while in the performance of the officer's duties;

(H)(i) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351 or § 39-17-1366, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place that is owned or operated by the state, a county, a municipality, or instrumentality of the state, a county, or municipality;

(ii) Subdivision (b)(1)(H)(i) shall not apply if the permit holder:

(a) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field; and

(b) Knew or should have known the athletic activity or school-related activity described in subdivision (b)(1)(H)(ii)(a) was taking place on the property; or

(c) Failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use;

(iii) For purposes of subdivision (b)(1)(H)(ii)(a) and (c), property described in subdivision (b)(1)(H)(i) is "in use" only when one (1) or more students are physically present on the property for an activity a reasonable person knows or should know is an athletic event, or other school event or school-related activity. Property listed in subdivision (b)(1)(H)(i) is not in use solely because equipment, materials, supplies, or other property owned or used by a school is stored, maintained, or permitted to remain on the property;

(I) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351 or § 39-17-1366, while within or on property designated by the federal government as a national park, forest, preserve, historic park, military park, trail or recreation area, to the extent permitted by federal law; and

(J) Also, only to the extent a person strictly conforms the person's behavior to the requirements of one (1) of the following classifications:

(i) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof and designated as open to hunting by law or by the appropriate official;

(ii) A person possessing unloaded hunting weapons while traversing the grounds of any public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting entry;

(iii) A person possessing guns or knives when conducting or attending "gun and knife shows" when the program has been approved by the administrator of the recreational building or property;

(iv) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner; or

(v) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in the park or recreational area.

(2) At any time the person's behavior no longer strictly conforms to one (1) of the classifications in subdivision (b)(1), the person shall be subject to subsection (a).

(c) A violation of subsection (a) is a Class A misdemeanor.

(d) For the purposes of this section, a "greenway" means an open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, conservation, and to link services and facilities. A greenway is a paved, gravel-covered, woodchip covered, or wood-covered path that connects one greenway entrance with another greenway entrance. In the event a greenway traverses a park that is owned or operated by a county, municipality or instrumentality thereof, the greenway shall be considered a portion of that park unless designated otherwise by the local legislative body. Except as provided in this part, the definition of a greenway in this section shall not be applicable to any other provision of law.

39-17-1312 Minor illegally possessing firearm–Adult responsibility

(a) It is an offense if a person eighteen (18) years of age or older, including a parent or other legal guardian, knows that a minor or student is in illegal possession of a firearm in or upon the premises of a public or private school, in or on the school's athletic stadium or other facility or building where school sponsored athletic events are conducted, or public park, playground or civic center, and the person, parent or guardian fails to prevent the possession or fails to report it to the appropriate school or law enforcement officials.

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

39-17-1313 Transportation and storage of firearms in personal motor vehicles

(a) Notwithstanding any law or any ordinance or resolution adopted by the governing body of a city, county, or metropolitan government, including any ordinance or resolution enacted before April 8, 1986, that prohibits or regulates the possession, transportation, or storage of a firearm or firearm ammunition, a person who has a valid enhanced handgun carry permit or concealed handgun carry permit or who lawfully carries a handgun pursuant to § 39-17-1307(g) may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the person's motor vehicle, as defined in § 55-1-103, while on or utilizing any public or private parking area if:

(1) The person's motor vehicle is parked in a location where the motor vehicle is permitted to be; and

(2) The firearm or ammunition being transported or stored in the motor vehicle:

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

(B) Is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to the motor vehicle if the person is not in the motor vehicle.

(b) No business entity, public or private employer, or the owner, manager, or legal possessor of the property shall be held liable in any civil action for damages, injuries or death resulting from or arising out of another's actions involving a firearm or ammunition transported or stored by a person in a person's motor vehicle pursuant to subsection (a) unless the business entity, public or private employer, or the owner, manager, or legal possessor of the property commits an offense involving the use of the stored firearm or ammunition or intentionally solicits or procures the conduct resulting in the damage, injury or death. Nor shall a business

entity, public or private employer, or the owner, manager, or legal possessor of the property be responsible for the theft of a firearm or ammunition stored by a person in a person's motor vehicle pursuant to subsection (a).

(c) For purposes of this section:

(1) "Motor vehicle" means any motor vehicle as defined in § 55-1-103, which is in the lawful possession of the person, but does not include any motor vehicle which is owned or leased by a governmental or business entity and that is provided by such entity to an employee for use during the course of employment if the entity has adopted a written policy prohibiting firearms or ammunition not required for employment within the entity's motor vehicles; and

(2)(A) "Parking area" means any property provided by a business entity, public or private employer, or the owner, manager, or legal possessor of the property for the purpose of permitting its invitees, customers, clients or employees to park privately owned motor vehicles; and

(B) "Parking area" does not include the grounds or property of an owner-occupied, single-family detached residence, or a tenant-occupied single-family detached residence.

(d) A person transporting, storing or both transporting and storing a firearm or firearm ammunition in accordance with this section does not violate this section if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the person securing the firearm or firearm ammunition from observation in or on a motor vehicle.

39-17-1314 Preemption of local regulation of firearms, ammunition, and knives

(a) Except as otherwise provided by state law or as specifically provided in subsection (b), the general assembly preempts the whole field of the regulation of firearms, ammunition, or components of firearms or ammunition, or combinations thereof including, but not limited to, the use, purchase, transfer, taxation, manufacture, ownership, possession, carrying, sale, acquisition, gift, devise, licensing, registration, storage, and transportation thereof, to the exclusion of all county, city, town, municipality, or metropolitan government law, ordinances, resolutions, enactments or regulation. No county, city, town, municipality, or metropolitan government nor any local agency, department, or official shall occupy any part of the field regulation of firearms, ammunition or components of firearms or ammunition, or combinations thereof.

(b) A city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in §39-17-1313;

(2) The discharge of firearms within the boundaries of the applicable city, county, town, municipality or metropolitan government, except when and where the discharge of a firearm is expressly authorized or permitted by state law;

(3) The location of a sport shooting range, except as otherwise provided in §§ 39-17-316 and 13-3-412. To the extent that a city, county, town, municipality, or metropolitan government has or enforces any regulation of privately owned or operated sport shooting ranges, the city, county, town, municipality, or metropolitan government shall not impose greater restrictions or requirements on privately owned or operated ranges than are applicable to any range located within the same unit of local government and owned or operated by a government entity. A party may challenge any regulation of a sport shooting range that violates this subdivision (b)(3) in the manner described in subsection (g); and

(4) The enforcement of any state or federal law pertaining to firearms, ammunition, or components of firearms or ammunition, or combinations thereof, except as prohibited by § 38-3-115.

(c) The general assembly declares that the lawful design, marketing, manufacture and sale of firearms and ammunition to the public are not unreasonably dangerous activities and do not constitute a nuisance per se.

(d)(1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association or dealer by or on behalf of any state entity, county, municipality or metropolitan government for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the public shall be reserved exclusively to the state.

(2) Nothing in this subsection (d) shall be construed to prohibit a county, municipality, or metropolitan government from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by such county, municipality, or metropolitan government.

(3) Nothing in this subsection (d) shall preclude an individual from bringing a cause of action for breach of a written contract, breach of an express warranty, or for injuries resulting from defects in the materials or workmanship in the manufacture of the firearm.

(e) Subsections (c) and (d) shall not apply in any litigation brought by an individual against a firearms or ammunition manufacturer, trade association or dealer.

(f) It is the intent of the general assembly that this part is preemptive with respect to the transfer, ownership, possession or transportation of knives and no city, county, or metropolitan government shall occupy any part of the field of regulation of the transfer, ownership, possession or transportation of knives.

(g)(1)(A) Notwithstanding title 29, chapter 20; title 9, chapter 8; and § 20-13-102, a party may file an action in a court of competent jurisdiction against any of the persons or entities listed in subdivisions (g)(1)(A)(i) and (ii), if the party is adversely affected by:

(i) An ordinance, resolution, policy, rule, or other enactment that is adopted or enforced by a county, city, town, municipality, or metropolitan government or any local agency, department, or official that violates this section; or

(ii) The creation or maintenance of a record, database, registry, or collection of records, in violation of § 39-17-1305, by a state or local government entity, official, employee, or agent.

(B) The adversely affected party may seek:

(i) Declaratory and injunctive relief; and

(ii) Damages, as provided in subsection (i).

(2) This subsection (g) shall apply to any ordinance, resolution, policy, rule, or other enactment that is adopted or enforced on or after July 1, 2017, or any record, database, registry, or collection of records that is made or maintained on or after July 1, 2021.

(h) As used in subsection (g), a party is "adversely affected" if:

(1) The party is an individual who:

(A) Lawfully resides within the United States;

(B) May legally possess a firearm under Tennessee law; and

(C) Is or was subject to the ordinance, resolution, policy, rule, or other enactment or was included as an entry on a database, registry, or collection of records, that is the subject of an action filed under subsection (g). An individual is or was subject to the ordinance, resolution, policy, rule, or other enactment if the individual is or was physically present within the boundaries of the political subdivision for any reason; or

(2) The party is a membership organization that:

(A) Includes two (2) or more individuals described in subdivision (h)(1); and

(B) Is dedicated in whole or in part to protecting the rights of persons who possess, own, or use firearms for competitive, sporting, defensive, or other lawful purposes.

(i) A prevailing plaintiff in an action under subsection (g) is entitled to recover from the county, city, town, municipality, or metropolitan, state, or local government entity the following:

(1) The greater of:

(A) Actual damages, including consequential damages, attributable to the ordinance, resolution, policy, rule, enactment, database, registry, or collection of records; or

(B) Three (3) times the plaintiff's attorney's fees;

(2) Court costs, including fees; and

(3) Reasonable attorney's fees; provided, that attorney's fees shall not be awarded under this subdivision (i)(3) if the plaintiff recovers under subdivision (i)(1)(B).

39-17-1315 Written directive and permit to carry handguns

(a)(1)(A) The following persons may carry handguns at all times pursuant to a written directive by the executive supervisor of the organization to which the person is or was attached or employed, regardless of the person's regular duty hours or assignments:

(i) Any law enforcement officer, police officer, bonded and sworn deputy sheriff, director, commissioner, county magistrate or retired law enforcement officer who is bonded and who, at the time of receiving the written directive, has successfully completed and, except for a law enforcement officer who has retired in good standing as certified by the chief law enforcement officer of the organization from which the officer retired, continues to successfully complete on an annual basis a firearm training program of at least eight (8) hours duration;

(ii) Any director or full-time employee of the Tennessee emergency management agency in the performance of the director's or employee's duty;

(iii) Any duly authorized representative or full-time employee of the department of correction who has been specifically designated by the commissioner of the department to execute warrants issued pursuant to §40-28-121 or §40-35-311 or to perform such other duties as specifically designated by the commissioner; or

(iv) Any other officer or person authorized to carry handguns by this, or any other law of this state.

(B) A copy of the written directive shall be retained as a portion of the records of the particular law enforcement agency that shall issue the directive. Nothing in this subdivision (a)(1) shall prevent federal officers from carrying firearms as prescribed by federal law.

(2)(A) Any duly elected and sworn constable in any county having a population of not less than eleven thousand one hundred (11,100) nor more than eleven thousand two hundred (11,200), according to the 1970 federal census or any subsequent federal census, and being a county in which constables retain law enforcement powers and duties under §§8-10-108, 40-6-210, 55-8-152, 57-5-202 and 57-9-101, are authorized to and may carry handguns at all times and may equip their vehicles with blue and red lights and sirens. The sheriff of such county shall issue a written directive or permit authorizing the constables to carry a handgun; provided, that each constable has completed the same eight-hour annual firearm training program as is required by this subsection (a).

(B) The county commission may, by a two-thirds (2/3) vote, require the constable to have in effect a liability policy or a corporate surety bond in an amount of not less than fifty thousand dollars ($50,000).

(b)(1) An individual, corporation or business entity is authorized to prohibit the possession of weapons by employees otherwise authorized by this subsection (b) on premises owned, operated or managed by the individual, corporation or business entity. Notice of the prohibition shall be posted or otherwise noticed to all affected employees.

(2) An individual, corporation, business entity or governmental entity or agent thereof is authorized to prohibit possession of weapons by any person otherwise authorized by this subsection (b), at meetings conducted by, or on premises owned, operated, managed or under control of the individual, corporation, business entity or governmental entity. Notice of the prohibition shall be posted or announced.

39-17-1316 Sales of dangerous weapons

(a)(1) Any person appropriately licensed by the federal government may stock and sell firearms to persons desiring firearms; however, sales to persons who have been convicted of the offense of stalking, as prohibited by §39-17-315, who are addicted to alcohol, who are ineligible to receive firearms under 18 U.S.C. §922, or who have been judicially committed to a mental institution pursuant to title 33 or adjudicated as a mental defective are prohibited. For purposes of this subdivision (a)(1), the offense of violation of a protective order as prohibited by §39-13-113 shall be considered a "misdemeanor crime of domestic violence" for purposes of 18 U.S.C. §921.

(2) The provisions of this subsection (a) prohibiting the sale of a firearm to a person convicted of a felony shall not apply if:

(A) The person was pardoned for the offense;

(B) The conviction has been expunged or set aside; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29; and
(D) The person is not prohibited from possessing a firearm by §39-17-1307.

(b)(1) As used in this section, "firearm" has the meaning as defined in §39-11-106, including handguns, long guns, and all other weapons that meet the definition except "antique firearms" as defined in 18 U.S.C. §921.

(2) As used in this section, "gun dealer" means a person engaged in the business, as defined in 18 U.S.C. §921, of selling, leasing, or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker, or otherwise.

(c) Except with respect to transactions between persons licensed as dealers under 18 U.S.C. §923, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(1) The purchaser shall present to the dealer current identification meeting the requirements of subsection (f);

(2) The gun dealer shall complete a firearms transaction record as required by 18 U.S.C. §§921-929, and obtain the signature of the purchaser on the record;

(3) The gun dealer shall request by means designated by the bureau that the Tennessee bureau of investigation conduct a criminal history record check on the purchaser and shall provide the following information to the bureau:

(A) The federal firearms license number of the gun dealer;
(B) The business name of the gun dealer;
(C) The place of transfer;
(D) The name of the person making the transfer;
(E) The make, model, caliber and manufacturer's number of the firearm being transferred;
(F) The name, gender, race, and date of birth of the purchaser;
(G) The social security number of the purchaser, if one has been assigned; and
(H) The type, issuer and identification number of the identification presented by the purchaser; and

(4) The gun dealer shall receive a unique approval number for the transfer from the bureau and record the approval number on the firearms transaction record.

(d) Upon receipt of a request of the gun dealer for a criminal history record check, the Tennessee bureau of investigation shall immediately, during the gun dealer's telephone call or by return call:

(1) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under subdivision (a)(1) from completing the purchase; and

(2) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(e)(1) The Tennessee bureau of investigation may charge a reasonable fee, not to exceed ten dollars ($10.00), for conducting background checks and other costs incurred under this section, and shall be empowered to bill gun dealers for checks run.

(2) Funds collected by the Tennessee bureau of investigation pursuant to this section shall be deposited in a continuing deferred interest-bearing revenue fund that is created in the state treasury. This fund will not revert to the general fund on June 30 of any year. This fund shall be used to offset the costs associated with conducting background checks. By February 1 of each year the Tennessee bureau of investigation shall report to the judiciary committee of the senate and the criminal justice committee of the house of representatives the amount of money collected pursuant to this section in excess of the costs associated with conducting background checks as required by this section. The excess money shall be appropriated by the general assembly to the Tennessee bureau of investigation for other law enforcement related purposes as it deems appropriate and necessary.

(f)(1) Identification required of the purchaser under subsection (c) shall include one (1) piece of current, valid identification bearing a photograph and the date of birth of the purchaser that:

(A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(2) If the identification presented by the purchaser under subdivision (f)(1)(A) does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser.

(g) The Tennessee bureau of investigation may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the bureau.

(h) The Tennessee bureau of investigation shall establish a telephone number that shall be operational seven (7) days a week between the hours of eight o'clock a.m. and ten o'clock p.m. Central Standard Time (8:00 a.m.-10:00 p.m. (CST)), except Christmas Day, Thanksgiving Day, and Independence Day, for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(i) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section; provided the employee, official or agency acts in good faith and without malice.

(j) Upon the determination that receipt of a firearm by a particular individual would not violate this section, and after the issuance of a unique identifying number for the transaction, the Tennessee bureau of investigation shall destroy all records (except the unique identifying number and the date that it was assigned) associating a particular individual with a particular purchase of firearms.

(k) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(l)(1) The following transactions or transfers are exempt from the criminal history record check requirement of subdivision (c)(3):

(A) Transactions between licensed:

(i) Importers;

(ii) Manufacturers;

(iii) Dealers; and

(iv) Collectors who meet the requirements of subsection (b) and certify prior to the transaction the legal and licensed status of both parties;

(B) Transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or the agency's personnel. However, all other requirements of subsection (c) are applicable to a transaction or transfer under this subdivision (l)(1)(B); and

(C) Transactions by a gun dealer, as defined in subdivision (b)(2), making occasional sales, exchanges, or transfers of firearms that comprise all or part of the gun dealer's personal collection of firearms.

(2) The burden of proving the legality of any transaction or transfer under this subsection (l) is upon the transferor.

(m) The director of the Tennessee bureau of investigation is authorized to make and issue all rules and regulations necessary to carry out this section.

(n) In addition to the other grounds for denial, the bureau shall deny the transfer of a firearm if the background check reveals information indicating that the purchaser has been charged with a crime for which the purchaser, if convicted, would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm; and, either there has been no final disposition of the case, or the final disposition is not noted.

(o) Upon receipt of the criminal history challenge form indicating a purchaser's request for review of the denial, the bureau shall proceed with efforts to obtain the final disposition information. The purchaser may attempt to assist the bureau in obtaining the final disposition information. If neither the purchaser nor the bureau is able to obtain the final disposition information within fifteen (15) calendar days of the bureau's receipt of the criminal history challenge form, the bureau shall immediately notify the federal firearms licensee that the transaction that was initially denied is now a "conditional proceed." A "conditional proceed" means that the federal firearms licensee may lawfully transfer the firearm to the purchaser.

(p) In any case in which the transfer has been denied pursuant to subsection (n), the inability of the bureau to obtain the final disposition of a case shall not constitute the basis for the continued denial of the transfer as long as the bureau receives written notice, signed and verified by the clerk of the court or the clerk's designee, that indicates that no final disposition information is available. Upon receipt of the letter by the bureau, the bureau shall immediately reverse the denial.

(q)(1) It is an offense for a person to purchase or attempt to purchase a firearm knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(2) It is an offense to sell or offer to sell a firearm to a person knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(3) It is an offense to transfer a firearm to a person knowing that the person:

(A) Has been judicially committed to a mental institution or adjudicated as a mental defective unless the person's right to possess firearms has been restored pursuant to title 16; or

(B) Is receiving inpatient treatment, pursuant to title 33, at a treatment resource, as defined in § 33-1-101, other than a hospital.

(4) A violation of this subsection (q) is a Class A misdemeanor.

(r) The criminal history records check required by this section shall not apply to an occasional sale of a used or second-hand firearm by a person who is not engaged in the business of importing, manufacturing, or dealing in firearms, pursuant to 18 U.S.C. §§ 921 and 923.

39-17-1317 Confiscation and disposition of confiscated weapons

(a)(1) Any weapon that is possessed, used, or sold in violation of the law shall be confiscated by a law enforcement officer and declared to be contraband by a court of record exercising criminal jurisdiction.

(2)(A) The sheriff or chief of police for the jurisdiction where the weapon was confiscated may petition the court for permission to dispose of the weapon in accordance with this section.

(B) If the weapon was confiscated by a judicial district drug task force, then the director of the task force where the weapon was confiscated may petition the court for disposal of the weapon in accordance with this section.

(C) If the weapon was confiscated by the department of safety, then the commissioner of safety may petition the court for disposal of the weapon in accordance with this section.

(D) If the weapon was confiscated by the Tennessee bureau of investigation, then the director may petition the court for disposal of the weapon in accordance with this section.

(b) Any weapon declared contraband, secured by a law enforcement officer or agency after being abandoned, voluntarily surrendered to a law enforcement officer or agency, or obtained by a law enforcement agency, including through a buyback program, shall be, pursuant to a written order of the court:

(1) Sold in a public sale;

(2) Used for legitimate law enforcement purposes, at the discretion of the court; or

(3) Relinquished in accordance with subsection (i).

(c) If the weapon was confiscated, or obtained after being abandoned and secured, after being voluntarily surrendered, or through a buyback program, by a local law enforcement agency or a judicial district drug task force and if the court orders the weapon to be sold, then:

(1) It shall be sold at a public auction not later than six (6) months from the date of the court order. The sale shall be conducted by the sheriff of the county or the chief of police of the municipality in which it was seized or obtained;

(2) The proceeds from the sale shall be deposited in the county or municipal general fund and allocated solely for law enforcement purposes;

(3) The sale shall be advertised:

(A) In a daily or weekly newspaper circulated within the county. The advertisement shall run for not less than three (3) editions and not less than thirty (30) days prior to the sale; or

(B) By posting the sale on a website maintained by the state or a political subdivision of the state not less than thirty (30) days prior to the sale; and

(4) If required by federal or state law, then the sale can be conducted under contract with a licensed firearm dealer, whose commission shall not exceed twenty percent (20%) of the gross sales price. However, the dealer shall not hold any elective or appointed position within the federal, state, or local government in this state during any stage of the sales contract.

(d) If the weapon was confiscated, or obtained after being abandoned and secured, after being voluntarily surrendered, or through a buyback program, by the department of safety or the Tennessee bureau of investigation and if the court orders it to be sold, then it shall be turned over to the department of general services, which shall sell the weapon and dispose of the proceeds of the sale in the same manner as it currently does for other confiscated weapons.

(e) If the court orders the weapon to be retained and used for legitimate law enforcement purposes, then:

(1) Title to the weapon shall be placed in the law enforcement agency or judicial district drug task force retaining the weapon; and

(2) When the weapon is no longer needed for legitimate law enforcement purposes, it shall be sold in accordance with this section.

(f) If the weapon is sold, then the commissioner of safety or the director of the Tennessee bureau of investigation, the sheriff, chief of police, or director of the judicial district drug task force shall file an affidavit with the court issuing the sale order. The affidavit shall:

(1) Be filed within thirty (30) days after the sale;

(2) Identify the weapon, including any serial number, and shall state the time, date, and circumstances of the sale; and

(3) List the name and address of the purchaser and the price paid for the weapon.

(g) Notwithstanding any other provisions of this section:

(1) A weapon that may be evidence in an official proceeding shall be retained or otherwise preserved in accordance with the rules or practices regulating the preservation of evidence. The weapon shall be sold or retained for legitimate law enforcement purposes not less than sixty (60) days nor more than one hundred eighty (180) days after the last legal proceeding involving the weapon; provided, that the requirements of subdivision (g)(2) have been met; and

(2) A law enforcement agency possessing a weapon declared contraband, retained as evidence in an official proceeding, secured after being abandoned, or surrendered by someone other than the owner shall use best efforts to determine whether the weapon has been lost by or stolen or borrowed from an innocent owner, and if so, the agency shall return the weapon to the owner, if ascertainable, unless that person is ineligible to possess, receive, or purchase such weapon under state or federal law.

(h)(1) Except in accordance with this section, no weapon seized by law enforcement officials or judicial district drug task force members shall be used for law enforcement purposes, sold, or destroyed.

(2) No weapon seized by law enforcement officials or judicial district drug task force members shall be used for any personal use.

(i) Notwithstanding this section, if the chief of police, sheriff, director of the judicial district drug task force, commissioner of safety, or director of the Tennessee bureau of investigation, depending upon who confiscated or obtained the weapon, certifies to the court that a weapon is inoperable or unsafe, then the court shall order the weapon:

(1) Destroyed or recycled; or

(2) Transferred to a museum or historical society that displays such items to the public and is lawfully eligible to receive the weapon.

(j) A violation of this section is a Class B misdemeanor.

(k) Nothing in this section shall authorize the purchase of any weapon, the possession of which is otherwise prohibited by law.

(l)(1) The commissioner of safety, the director of the Tennessee bureau of investigation, the executive director of the Tennessee alcoholic beverage commission, the executive head of any local law enforcement agency, or the director of a judicial district drug task force may petition the criminal court or the court in the official's county having criminal jurisdiction for permission to exchange firearms that have previously been

properly titled, as specified by this section, to the law enforcement agency or the drug task force for other firearms, ammunition, body armor, or equipment suitable for use for legitimate law enforcement purposes by the law enforcement agency or drug task force.

(2) The exchange of firearms for the specified items used for legitimate law enforcement purposes is permitted only between the department of safety, the director of the Tennessee bureau of investigation, the executive director of the Tennessee alcoholic beverage commission, a local law enforcement agency, a judicial district drug task force, and a licensed and qualified law enforcement firearms dealer.

(3) No firearm obtained by a law enforcement agency through a buyback program shall be eligible to be exchanged under this subsection (l).

39-17-1318 New serial numbers for confiscated firearms

(a) If any firearm confiscated and adjudicated as contraband pursuant to this part or any other law could be sold at public auction or retained by a law enforcement agency for law enforcement as provided in §39-17-1317, but for the fact that the serial number of the firearm has been defaced or destroyed, the commissioner of safety or the sheriff or chief of police, as appropriate, of the county in which the firearm was confiscated may send the firearm to the director of the Tennessee bureau of investigation. The director shall assign the firearm a new serial number, permanently affix the number to the firearm, record the number in the bureau's computer system, and send the firearm back to the commissioner of safety, the sheriff or chief of police for disposition in accordance with this part.

(b) If any firearm assigned a new serial number pursuant to subsection (a) is later sold at public auction, ten percent (10%) of the proceeds of the sale shall be returned to the general fund of the state to defray the costs incurred by the director in administering this section.

39-17-1319 Handgun possession–Juvenile

(a) As used in this section and §39-17-1320, unless the context otherwise requires:

(1) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve inches (12″); and

(2) "Juvenile" means any person less than eighteen (18) years of age.

(b) Except as provided in this section, it is an offense for a juvenile to knowingly possess a handgun.

(c)(1) Illegal possession of a handgun by a juvenile is a delinquent act and, in addition to any other disposition authorized by law, the juvenile may be required to perform not more than one hundred (100) hours of community service work to be specified by the judge, and the juvenile's driving privileges shall be suspended for a period of one (1) year in accordance with the procedure set out in title 55, chapter 10, part 7.

(2) A second or subsequent violation of this section is a delinquent act and, in addition to any other disposition authorized by law, the juvenile may be required to perform not less than one hundred (100) nor more than two hundred (200) hours of community service work to be specified by the judge, and the juvenile's driving privileges shall be suspended for a period of two (2) years in accordance with the procedure set out in title 55, chapter 10, part 7.

(3) Any handgun illegally possessed in violation of this section shall be confiscated and disposed of in accordance with §39-17-1317.

(d)(1) It is a defense to prosecution under this section that the juvenile is:

(A) In attendance at a hunter's safety course or a firearms safety course;

(B) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(C) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group which is exempt from federal income taxation under §501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)), as amended, and which uses firearms as part of the performance;

(D) Hunting or trapping pursuant to a valid license issued to the juvenile pursuant to title 70;

(E) Accompanied by the juvenile's parent or guardian and is being instructed by the adult or guardian in the use of the handgun possessed by the juvenile;
(F) On real property which is under the control of an adult and has the permission of that adult and the juvenile's parent or legal guardian to possess a handgun;
(G) Traveling to or from any activity described in subdivision (d)(1) with an unloaded gun; or
(H) At the juvenile's residence and with the permission of the juvenile's parent or legal guardian, possesses a handgun and is justified in using physical force or deadly force.
(2) For purposes of subdivision (d)(1)(G), a handgun is "unloaded" if:
(A) There is not a cartridge in the chamber of the handgun;
(B) There is not a cartridge in the cylinder of the handgun if the handgun is a revolver; or
(C) The handgun, and the ammunition for the handgun, are not carried on the person of a juvenile or are not in such close proximity to the juvenile that the juvenile could readily gain access to the handgun and the ammunition and load the handgun.
(e) Notwithstanding any other provision of this part to the contrary, this section shall govern a juvenile who possesses a handgun.

39-17-1320 Providing handgun to juvenile

(a) It is an offense for a person intentionally, knowingly or recklessly to provide a handgun with or without remuneration to any person that the person providing the handgun knows or has reason to believe is a juvenile in violation of §39-17-1319.
(b) It is an offense for a parent or guardian intentionally, knowingly or recklessly to provide a handgun to a juvenile or permit a juvenile to possess a handgun, if the parent or guardian knows of a substantial risk that the juvenile will use a handgun to commit a felony.
(c) Unlawfully providing or permitting a juvenile to possess a handgun in violation of subsection (a) is a Class A misdemeanor and in violation of subsection (b) is a Class D felony.

39-17-1321 Possession of handgun while under the influence of alcohol or a controlled substance

(a) Notwithstanding whether a person has a permit issued pursuant to § 39-17-1315 or § 39-17-1351 or § 39-17-1366, it is an offense for a person to possess a handgun while under the influence of alcohol or any controlled substance or controlled substance analogue.
(b) It is an offense for a person to possess a firearm if the person is both:
(1) Within the confines of an establishment open to the public where liquor, wine or other alcoholic beverages, as defined in § 57-3-101(a), or beer, as defined in § 57-6-102, are served for consumption on the premises; and
(2) Consuming any alcoholic beverage listed in subdivision (b)(1).
(c)(1) A violation of this section is a Class A misdemeanor.
(2) In addition to the punishment authorized by subdivision (c)(1), if the violation is of subsection (a), occurs in an establishment described in subdivision (b)(1), and the person has a handgun permit issued pursuant to § 39-17-1351 or § 39-17-1366, such permit shall be suspended in accordance with § 39-17-1352 for a period of three (3) years.

39-17-1322 Self defense–Defenses

(a) A person shall not be charged with or convicted of a violation under this part if the person possessed, displayed or employed a handgun in justifiable self-defense or in justifiable defense of another during the commission of a crime in which that person or the other person defended was a victim.
(b) A person who discharges a firearm within the geographical limits of a municipality shall not be deemed to have violated any ordinance in effect or be subject to any citation or fine the municipality may impose for discharging a firearm within the limits of the municipality if it is determined that when the firearm was discharged the person was acting in justifiable self-defense, defense of property, defense of another, or to prevent a criminal offense from occurring.

39-17-1323 Unlawful use of body armor

(a) A person commits an offense who knowingly wears a body vest, when acting either alone or with one (1) or more other persons, while committing:

(1) Any felony whose statutory elements involve the use or threat of violence to a human being;

(2) Any burglary, car-jacking, theft of a motor vehicle, or arson; or

(3) Any felony offense involving a controlled substance or controlled substance analogue.

(b) For purposes of this section, a "body vest" means a bullet-resistant soft armor providing, as a minimum standard, the level of protection known as threat level I which shall mean at least seven (7) layers of bullet-resistant material providing protection from three (3) shots of one hundred fifty-eight-grain lead ammunition fired from a .38 caliber handgun at a velocity of eight hundred fifty feet (850′) per second.

(c) The unlawful wearing of a body vest is a Class E felony.

(d) Nothing in this section shall prohibit the possession of a body vest for lawful purposes.

(e) Any sentence imposed under this section shall run consecutively to any other sentence imposed for the conviction of the underlying offense.

39-17-1324 Armed dangerous felonies

(a) It is an offense to possess a firearm or antique firearm with the intent to go armed during the commission of or attempt to commit a dangerous felony.

(b) It is an offense to employ a firearm or antique firearm during the:

(1) Commission of a dangerous felony;

(2) Attempt to commit a dangerous felony;

(3) Flight or escape from the commission of a dangerous felony; or

(4) Flight or escape from the attempt to commit a dangerous felony.

(c) A person may not be charged with a violation of subsection (a) or (b) if possessing or employing a firearm or antique firearm is an essential element of the underlying dangerous felony as charged. In cases where possession or employing a firearm or antique firearm are elements of the charged offense, the state may elect to prosecute under a lesser offense wherein possession or employing a firearm or antique firearm is not an element of the offense.

(d) A violation of subsection (a) or (b) is a specific and separate offense, which shall be pled in a separate count of the indictment or presentment and tried before the same jury and at the same time as the dangerous felony. The jury shall determine the innocence or guilt of the defendant unless the defendant and the state waive the jury.

(e)(1) A sentence imposed for a violation of subsection (a) or (b) shall be served consecutive to any other sentence the person is serving at the time of the offense or is sentenced to serve for conviction of the underlying dangerous felony.

(2) A person sentenced for a violation of subsection (a) or (b) shall not be eligible for pretrial diversion pursuant to title 40, chapter 15, judicial diversion pursuant to § 40-35-313, probation pursuant to § 40-35-303, community correction pursuant to title 40, chapter 36, participation in a drug court program or any other program whereby the person is permitted supervised or unsupervised release into the community prior to service of the entire mandatory minimum sentence imposed less allowable sentence credits earned and retained as provided in § 40-35-501(j).

(f) In a trial for a violation of subsection (a) or (b), where the state is also seeking to have the person sentenced under subdivision (g)(2) or (h)(2), the trier of fact shall first determine whether the person possessed or employed a firearm or antique firearm. If the trier of fact finds in the affirmative, proof of a qualifying prior felony conviction pursuant to this section shall then be presented to the trier of fact.

(g)(1) A violation of subsection (a) is a Class D felony, punishable by a mandatory minimum three-year sentence to the department of correction.

(2) A violation of subsection (a) is a Class D felony, punishable by a mandatory minimum five-year sentence to the department of correction, if the defendant, at the time of the offense, had a prior felony conviction.

(h)(1) A violation of subsection (b) is a Class C felony, punishable by a mandatory minimum six-year sentence to the department of correction.

(2) A violation of subsection (b) is a Class C felony, punishable by a mandatory minimum ten-year sentence to the department of correction, if the defendant, at the time of the offense, had a prior felony conviction.

(i) As used in this section, unless the context otherwise requires:

(1) "Dangerous felony" means:

(A) Attempt to commit first degree murder, as defined in §§39-12-101 and 39-13-202;

(B) Attempt to commit second degree murder, as defined in §§39-13-210 and 39-12-101;

(C) Voluntary manslaughter, as defined in §39-13-211;

(D) Carjacking, as defined in §39-13-404;

(E) Especially aggravated kidnapping, as defined in §39-13-305;

(F) Aggravated kidnapping, as defined in §39-13-304;

(G) Especially aggravated burglary, as defined in § 39-13-1004;

(H) Aggravated burglary, as defined in § 39-13-1003;

(I) Especially aggravated stalking, as defined in §39-17-315(d);

(J) Aggravated stalking, as defined in §39-17-315(c);

(K) Initiating the process to manufacture methamphetamine, as defined in §39-17-435;

(L) A felony involving the sale, manufacture, distribution or possession with intent to sell, manufacture or distribute a controlled substance or controlled substance analogue defined in part 4 of this chapter; or

(M) Any attempt, as defined in §39-12-101, to commit a dangerous felony;

(2)(A) "Prior conviction" means that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of a dangerous felony prior to or at the time of committing a dangerous felony on or after January 1, 2008;

(B) "Prior conviction" includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute a dangerous felony. If a felony offense in a jurisdiction other than Tennessee is not identified as a dangerous felony in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for a dangerous felony; and

(3) "Separate period of incarceration or supervision" includes a sentence to any of the sentencing alternatives set out in §40-35-104(c)(3)-(9). A dangerous felony shall be considered as having been committed after a separate period of incarceration or supervision if the dangerous felony is committed while the person was:

(A) On probation, parole or community correction supervision for a dangerous felony;

(B) Incarcerated for a dangerous felony;

(C) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for a dangerous felony; or

(D) On escape status from any correctional institution when incarcerated for a dangerous felony.

(j) Any person convicted under this section who has a prior conviction under this section shall be sentenced to incarceration with the department of correction for not less than fifteen (15) years. A person sentenced under this subsection (j) shall serve one hundred percent (100%) of the sentence imposed.

39-17-1325 Immunity for failure to adopt policy that prohibits weapons on premises

(a) A person, business, or other entity that owns, controls, or manages property and has the authority to prohibit weapons on that property by posting, pursuant to §39-17-1359, shall be immune from civil liability with respect to any claim based on such person's, business's, or other entity's failure to adopt a policy that prohibits weapons on the property by posting pursuant to §39-17-1359.

(b) Immunity under subsection (a) does not apply to a person, business, or other entity whose conduct or failure to act is the result of gross negligence or willful or wanton misconduct.

39-17-1351 Handgun carry permits

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(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department of safety for an enhanced handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant; provided:

(1) The applicant is at least twenty-one (21) years of age; or

(2) The applicant is at least eighteen (18) years of age; and

(A)(i) Is an honorably discharged or retired veteran of the United States armed forces; and

(ii) Includes with the application a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214);

(B)(i) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a certified copy of the applicant's honorable discharge certificate, department of defense form 256 (DD 256), or report of separation and record of service, NGB form 22, that indicates an honorable discharge characterization; or

(C)(i) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active duty member of the military or a current member of the national guard or United States military reserve, who has successfully completed a basic training program.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining an enhanced handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

(1) Full legal name and any aliases;

(2) Addresses for the last five (5) years;

(3) Date of birth;

(4) Social security number;

(5) Physical description (height, weight, race, sex, hair color and eye color);

(6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;

(9) That the applicant is not a fugitive from justice;

(10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:

(A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or

(B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;

(11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;

(12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness;

(13) That the applicant is not an alien and is not illegally or unlawfully in the United States;

(14) That the applicant has not been discharged from the armed forces under dishonorable conditions;

(15) That the applicant has not renounced the applicant's United States citizenship;

(16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;

(17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and

(18) That the applicant has not been convicted of the offense of stalking.

(d)(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars ($5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the person whose picture appears on the photo identification, the department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course within one (1) year of the date of application. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours; provided, that an applicant shall not be required to comply with the firing range requirements if the applicant submits proof to the department that the applicant has successfully passed small arms qualification training or combat pistol training in any branch of the United States armed forces. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and § 39-17-1321.

An applicant shall not be required to comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for an enhanced handgun carry permit is filed the applicant has:

(1) Been certified by the peace officer standards and training commission;

(2) Successfully completed training at the law enforcement training academy;

(3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b);

(4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military; provided, however, that an applicant who seeks waiver of the training course pursuant to this subdivision (e)(4) may have completed the military handgun training at any time prior to submission of proof; or

(5) Successfully completed Tennessee department of correction firearms qualification.

(f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.

(g)(1) Upon receipt of a permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.

(h) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall:

(1) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the applicant's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the department;

(2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and

(3) Send one (1) set of the fingerprints received from the department to the federal bureau of investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.

(i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged;

(2) An applicant's conviction has been set aside by a court of competent jurisdiction;

(3) The applicant, who was rendered infamous or deprived of the rights of citizenship by judgment of any state or federal court, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however, that this subdivision (j)(3) shall not apply to any person who has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or

(4) The applicant, who was adjudicated as a mental defective or judicially committed to a mental institution, as defined in § 39-17-1301, has had the applicant's firearm disability removed by an order of the court pur-

suant to title 16, and either a copy of that order has been provided to the department by the TBI or a certified copy of that court order has been provided to the department by the applicant.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any reports, records or inquiries reviewed or relied upon by the department.

(l) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than ninety (90) days after the date the department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew an enhanced handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining an enhanced handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of an enhanced handgun carry permit within eight (8) years from the date of expiration.

(n)(1) Except as provided in subdivision (n)(2) and subsection (x), a permit issued pursuant to this section shall be good for eight (8) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun in a location or manner that would be prohibited if not for the person's status as an enhanced handgun carry permit holder and shall display the permit on demand of a law enforcement officer under such circumstances.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this state, unless the permit is sooner suspended, cancelled or revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(3) After the initial issuance of an enhanced handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(o)(1) The permit shall be issued on a wallet-sized card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

(A) The permit holder's name, address and date of birth;

(B) A description of the permit holder by sex, height, weight and eye color;

(C) A visible full face photograph of the permit holder; and

(D) The permit number, issuance date, and expiration date.

(2) The following language must be printed on the back of the card: This permit is valid beyond the expiration date if the permit holder can provide documentation of the holder's active military status and duty station outside Tennessee.

(p)(1) Except as provided in subsection (x), the department shall charge an application and processing fee of one hundred dollars ($100). The fee shall cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars ($15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. By February 1 of each year the bureau shall provide documentation to the judiciary committee of the senate and the criminal justice committee of the house of representatives that the extra fifteen dollars ($15.00) is being used exclusively for the intended purposes. The documentation shall state in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose

of any equipment purchased. Any person, who has been honorably discharged from any branch of the United States armed forces or who is on active duty in any branch of the armed forces or who is currently serving in the national guard or armed forces reserve, and who makes initial application for an enhanced handgun carry permit shall be required to pay only that portion of the initial application fee that is necessary to conduct the required criminal history record checks.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars ($15.00) for the purpose of fingerprint data base updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars ($250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar ($15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars ($15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the applicant's answers as provided in subdivision (g)(1).

[Note: The following subsection (4), and its dependent subparagraphs, is NOT effective UNTIL 1/1/2024.]

(4)(A) Subject to appropriations in the general appropriations act, the department is authorized to utilize the application and processing fee received under subdivision (p)(1) to pay reimbursements to an approved handgun safety school of up to thirty dollars ($30.00) for each person who, for the first time, completes a handgun safety course meeting the requirements set forth in subsection (e) on or after January 1, 2024, subject to the requirements established by the department to seek reimbursement.

(B) A reimbursement issued to an approved handgun safety school pursuant to this subdivision (p)(4) must be used to offset the costs of the handgun safety course for the person taking the course.

(C) The department may reimburse a handgun safety school pursuant to this subdivision (p)(4), regardless of whether the person taking the handgun safety course has applied for an enhanced handgun carry permit.

(D)(i) The department shall annually provide information to licensed federal firearms dealers in this state, through cooperation with the Tennessee bureau of investigation and other state agencies, on handgun safety training courses provided to residents of this state and approved by the department.

(ii)(a) A licensed federal firearms dealer in this state may display in a prominent location where firearms are sold, a sign containing the following information:

HANDGUN SAFETY TRAINING
THE STATE OF TENNESSEE WILL PAY $30.00
YOUR COST:_____
COURSE AVAILABLE AT
(Name, Address, and Telephone Number of Approved Entity or Entities Providing the Course)
HANDGUN PURCHASE NOT REQUIRED.

(b) The department may make a template of the sign available on the department's website.

(iii) A licensed federal firearms dealer may also provide the information contained in the sign pursuant to subdivision (p)(4)(D)(ii)(a) in the form of a flyer.

(iv) The department shall provide information on approved handgun safety training courses provided to residents of this state at minimal cost pursuant to this section on the department's website.

(E) By February 1, 2025, the department shall report to the chair of the judiciary committee of the senate and the chair of the criminal justice committee of the house of representatives the number of handgun safety courses provided to persons during the preceding year pursuant to this subdivision (p)(4).

(F) This subdivision (p)(4) is repealed January 1, 2025.

(q)(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars ($50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this

section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit. The department is authorized to contract with a local government agency for the provision of any service related to the renewal of enhanced handgun carry permits, subject to applicable contracting statutes and regulations. An agency contracting with the department is authorized to charge an additional fee of four dollars ($4.00) for each renewal application, which shall be retained by the agency for administrative costs.

(2)(A) A person may renew that person's enhanced handgun carry permit beginning six (6) months prior to the expiration date on the face of the card, and, if the permit is not expired, the person shall only be required to comply with the renewal provisions of subdivision (q)(1).

(B) Any person who applies for renewal of that person's enhanced handgun carry permit after the expiration date on the face of the card shall only be required to comply with the renewal provisions of subdivision (q)(1) unless the permit has been expired for more than eight (8) years.

(C) Any person who applies for renewal of an enhanced handgun carry permit when the permit has been expired for more than eight (8) years, shall, for all purposes, be considered a new applicant.

(3) If a person whose enhanced handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within eight (8) years of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed eight (8) years or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes, be considered a new applicant.

(r)(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, this subsection (r) shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this state.

(3)(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor enhanced handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from

the last day of the sixth month of regular employment in this state to obtain a Tennessee enhanced handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) This subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(iii) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of sick leave, annual leave, administrative leave or compensatory time.

(s)(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the enhanced handgun carry permit law, and the average time for issuance of an enhanced handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding calendar year shall be provided to each member of the general assembly.

(2)(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or individuals; provided, that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for an enhanced handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

(x)(1) Any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a lifetime enhanced handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall

issue a permit to the applicant. The lifetime enhanced handgun carry permit shall entitle the permit holder to carry any handgun or handguns the permit holder legally owns or possesses and shall entitle the permit holder to any privilege granted to enhanced handgun carry permit holders. The requirements imposed on enhanced handgun carry permit holders by this section shall also apply to lifetime enhanced handgun carry permit holders.

(2) The department shall charge an application and processing fee for a lifetime enhanced handgun carry permit equal to the application and processing fee charged under subsection (p) plus a lifetime enhanced handgun carry permit fee of two hundred dollars ($200); provided, however, that a permit holder who is applying for the renewal of an enhanced handgun carry permit under subsection (q) may instead obtain a lifetime enhanced handgun carry permit by submitting to the department a fee of two hundred dollars ($200). The application process shall otherwise be the same as the application process for an enhanced handgun carry permit as set out in this section. Any funds from the fees paid pursuant to this subdivision (x)(2) that are not used for processing applications and issuing permits shall be retained by the department to fund any necessary system modifications required to create a lifetime enhanced handgun carry permit and monitor the eligibility of lifetime enhanced handgun carry permit holders as required by subdivision (x)(3).

(3) A lifetime enhanced handgun carry permit shall not expire and shall continue to be valid for the life of the permit holder unless the permit holder no longer meets the requirements of this section. A lifetime enhanced handgun carry permit shall not be subject to renewal; provided, however, that every five (5) years after issuance of the lifetime enhanced handgun carry permit, the department shall conduct a criminal history record check in the same manner as required for enhanced handgun carry permit renewals. Upon discovery that a lifetime enhanced handgun carry permit holder no longer satisfies the requirements of this section, the department shall suspend or revoke the permit pursuant to § 39-17-1352.

(4)(A) If the lifetime enhanced handgun carry permit holder's permit is suspended or revoked, the permit holder shall deliver, in person or by mail, the permit to the department within thirty (30) days of the suspension or revocation.

(B) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the suspension or revocation, the department shall send notice to the permit holder that:

(i) The permit holder has thirty (30) days from the date of the notice to deliver the permit, in person or by mail, to the department; and

(ii) If the permit holder fails to deliver the suspended or revoked permit to the department within thirty (30) days of the date of the notice, the department will suspend the permit holder's driver license.

(C) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the date of the notice provided by the department, the department shall suspend the permit holder's driver license in the same manner as provided in § 55-50-502.

(5) The total fee required by subdivision (x)(2) shall be waived if the applicant:

(A) Is a retired federal, state, or local law enforcement officer, as defined in § 39-11-106;

(B) Served for at least ten (10) years prior to retirement and was POST-certified, or had equivalent training, on the date the officer retired;

(C) Was in good standing at the time of leaving the law enforcement agency, as certified by the chief law enforcement officer or designee of the organization that employed the applicant; and

(D) Is a resident of this state on the date of the application.

(y) An applicant shall not be required to comply with the firing range requirements of this section if the applicant:

(1) Is an active duty service member or honorably discharged or retired veteran of the United States armed forces;

(2) Has a military occupational specialty, special qualification identifier, skill identifier, specialty code, or rating that identifies a service qualification in military police, special operations, or special forces; and

(3) Presents to the department a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or other official documentation that provides proof of the service criteria required under this subsection (y).

39-17-1359 Weapon prohibition at certain properties; posting requirement

(a)(1) Except as provided in § 39-17-1313, an individual, corporation, business entity, or local, state, or federal government entity or agent thereof is authorized to:

(A) Prohibit the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity; or

(B) Restrict the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity by allowing a handgun to be carried in a concealed manner only by persons authorized to carry a handgun pursuant to § 39-17-1351 or § 39-17-1366.

(2) The prohibition in subdivision (a)(1) shall apply to any person who is authorized to carry a firearm by authority of § 39-17-1351 or § 39-17-1366.

(b)(1) Notice of the prohibition or restriction permitted by subsection (a) shall be accomplished by displaying the notice described in subdivision (b)(3) in prominent locations, including all entrances primarily used by persons entering the property, building, or portion of the property or building where weapon possession is prohibited or restricted. The notice shall be plainly visible to the average person entering the building, property, or portion of the building or property, posted.

(2) The notice required by this section shall be in English, but a duplicate notice may also be posted in any language used by patrons, customers, or persons who frequent the place where weapon possession is prohibited or restricted.

(3)(A) A sign shall be used as the method of posting.

(B)(i) A sign prohibiting possession in accordance with subdivision (a)(1)(A) shall include the phrase "NO FIREARMS ALLOWED", and the phrase shall measure at least one inch (1") high and eight inches (8") wide. The sign shall also include the phrase "As authorized by T.C.A. § 39-17-1359".

(ii) The sign shall include a pictorial representation of the phrase "NO FIREARMS ALLOWED" that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle under the diagonal line. The entire pictorial representation shall be at least four inches (4") high and four inches (4") wide. The diagonal line shall be at a forty-five degree (45°) angle from the upper left to the lower right side of the circle.

(C)(i) A sign restricting possession in accordance with subdivision (a)(1)(B) shall include the phrase "CONCEALED FIREARMS BY PERMIT ONLY", and the phrase shall measure at least one inch (1") high and eight inches (8") wide. The sign shall also include the phrase "As authorized by T.C.A. §§ 39-17-1351, 39-17-1359, and 39-17-1366".

(ii) The sign shall include a pictorial representation of the phrase "CONCEALED FIREARMS BY PERMIT ONLY" that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle. The entire pictorial representation shall be at least four inches (4") high and four inches (4") wide. The diagonal line shall be at a forty five degree (45°) angle from the upper left to the lower right side of the circle.

(4) An individual, corporation, business entity, or government entity that, as of January 1, 2018, used signs to provide notice of the prohibition permitted by subsection (a) shall have until January 1, 2019, to replace existing signs with signs that meet the requirements of subdivision (b)(3).

(c)(1) It is an offense to possess a weapon in a building or on property that is properly posted in accordance with this section.

(2) Possession of a weapon on posted property in violation of this section is a Class B misdemeanor punishable by fine only of five hundred dollars ($500).

(d) Nothing in this section shall be construed to alter, reduce or eliminate any civil or criminal liability that a property owner or manager may have for injuries arising on their property.

(e) This section shall not apply to title 70 regarding wildlife laws, rules and regulations.
(f) Except as provided in subsection (g), this section shall not apply to the grounds of any public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof. The carrying of firearms in those areas shall be governed by § 39-17-1311.
(g)(1) Except as provided in subdivision (g)(2), nothing in this section shall authorize an entity of local government or a permittee thereof to enact or enforce a prohibition or restriction on the possession of a handgun by an enhanced handgun carry permit holder or concealed handgun carry permit holder on property owned or administered by the entity unless the following are provided at each public entrance to the property:
(A) Metal detection devices;
(B) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and
(C) That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or private security officer described in subdivision (g)(1)(B) or an authorized representative with the authority to deny entry to the property.
(2) Subdivision (g)(1) does not apply to:
(A) Facilities that are licensed under title 33, 37, or 68;
(B) Property on which firearms are prohibited by § 39-17-1309 or § 39-17-1311(b)(1)(H)(ii);
(C) Property on which firearms are prohibited by § 39-17-1306 at all times regardless of whether judicial proceedings are in progress;
(D) Buildings that contain a law enforcement agency, as defined in § 39-13-519;
(E) Libraries; or
(F) Facilities that are licensed by the department of human services, under title 71, chapter 3, part 5, and administer a Head Start program.

39-17-1362 Display of imitation firearm in public

(a) As used in this section, unless the context otherwise requires:
(1) "Imitation firearm" means an object or device substantially similar in coloration and overall appearance to a firearm, as defined in §39-11-106(a), as to lead a reasonable person to perceive that the object or device is a firearm; and
(2) "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 proscribed consequences in a public place, even if the person engaging in the prohibited conduct is not in a public place.
(b) A person commits an offense who intentionally displays in a threatening manner an imitation firearm in a public place in a way that would cause a reasonable person to fear bodily injury to themselves or another.
(c) It is a defense to a violation of subsection (b) if the imitation firearm is displayed in connection with, or as a part of, any justifiable defense as set forth in chapter 11, part 6 of this title.
(d) A violation of this section is a Class B misdemeanor.
(e) Nothing in this section shall be construed to prohibit prosecution under any other law.

39-17-1366 Concealed handgun carry permits

(a) Any resident of this state who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department for a concealed handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant.
(b) To be eligible to receive a concealed handgun carry permit, the person must:

(1) Apply in person to the department on a concealed handgun carry permit application developed by the department;

(2) Provide proof of the person's identity and state residency by presenting:

(A) A driver license or photo identification issued by this state; or

(B) Other proof satisfactory to the department showing the person's identity and residency;

(3) Meet the qualifications for the issuance of an enhanced handgun carry permit under § 39-17-1351(b) and (c) and provide the department with two (2) sets of fingerprints in the manner required in § 39-17-1351(d);

(4)(A) Provide proof the person has demonstrated competence with a handgun; provided, that any safety or training course or class must have been completed no more than one (1) year prior to the application for the concealed handgun carry permit. The person may demonstrate such competence by one (1) of the following, but a person is not required to submit to any additional demonstration of competence:

(i) Completing any hunter education or hunter safety course approved by the Tennessee wildlife resources agency or a similar agency of another state;

(ii) Completing any firearms safety or training course administered by an organization specializing in firearms training and safety;

(iii) Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, private or public institution or organization, or firearms training school utilizing instructors certified by an organization specializing in firearms training and safety or the department;

(iv) Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

(v) Presenting evidence of equivalent experience with a firearm through current military service or proof of an honorable discharge from any branch of the armed services;

(vi) Obtaining or previously having held a license to carry a firearm in this state, unless such license has been revoked for cause;

(vii) Completing any firearms training or safety course or class, including an electronic, video, or online course, that:

(a) Is conducted by a firearms instructor who is certified by the state or an organization specializing in firearms training and safety; and

(b) Meets the qualifications established by the department pursuant to subsection (l);

(viii) Completing any governmental law enforcement agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

(ix) Completing any other firearms training that the department deems adequate; and

(B) Proof of competence under this subdivision (b)(4) is evidenced by a photocopy of a certificate of completion of any of the courses or classes described in subdivision (b)(4)(A); an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or required experience;

(5) Pay an application and processing fee of sixty-five dollars ($65.00) to the department; and

(6) Provide a signed printed copy of the form provided by the department, pursuant to subdivision (k)(4), stating that the applicant has read and understands the current state law on carrying handguns.

(c)(1) Upon receipt of a concealed handgun carry permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of § 39-17-1351(c) that is within the knowledge of the sheriff.

(3) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall conduct searches and record checks in the same manner required in § 39-17-1351(h) and send the results to the department.

(d) If an applicant meets all the requirements of this section, the department shall issue the applicant a concealed handgun carry permit that entitles the permit holder to carry any handgun that the permit holder legally owns or possesses in a concealed manner. The concealed handgun permit is valid for eight (8) years from the date of issuance.

(e) The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun in a location or manner that would be prohibited if not for the person's status as a concealed handgun carry permit holder and shall display the permit on demand of a law enforcement officer under such circumstances.

(f) The permit shall be issued on a wallet-sized card of the same approximate size as is used by this state for driver licenses and contain only the following information concerning the permit holder:

(1) The permit holder's name, address, and date of birth;

(2) A description of the permit holder by sex, height, weight, and eye color;

(3) A visible full face photograph of the permit holder; and

(4) The permit number, issuance date, and expiration date.

(g) The issuance of a concealed handgun carry permit under this section does not relieve a person from complying with all requirements of § 39-17-1351 in order to be issued an enhanced handgun carry permit pursuant to that section.

(h) A concealed handgun carry permit issued under this section shall authorize the permit holder to carry or possess a handgun as authorized by § 39-17-1313.

(i) A concealed handgun carry permit issued under this section is subject to the same restrictions and requirements found in §§ 39-17-1352 -- 39-17-1359.

(j)(1) Prior to the expiration of a concealed handgun carry permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application. The renewal application must be on a standard form developed by the department; must require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (b); and must require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a concealed handgun carry permit. In the event the permit holder's current concealed handgun carry permit expires prior to the department's approval or issuance of notice of denial regarding a pending renewal application, the permit holder is entitled to continue to use the expired permit until the department issues an approval or denial of the renewal application.

(2) A person may renew that person's concealed handgun carry permit beginning six (6) months prior to the expiration date on the face of the permit.

(3) The department shall charge a renewal fee of fifty dollars ($50.00).

(k) The department shall maintain the following material on the department's website:

(1) Current state law on carrying handguns;

(2) An explanation of the different handgun carry permits available;

(3) A list of various providers that conduct department-approved training courses or classes, pursuant to subdivision (b)(4)(A); and

(4) A printable form to be signed by the applicant pursuant to subdivision (b)(6).

(l) The department shall determine that a firearms training or safety course or class meets the requirement of subdivision (b)(4)(A)(vii) if the course or class curriculum does the following:

(1) Conveys the basic knowledge and skills necessary for safe handling and storage of firearms and ammunition and includes firearm safety rules, handgun uses, features, basic skills and techniques, safe cleaning, transportation, and storage methods;

(2) Conveys the current state law on carrying handguns;

(3) Is not less than ninety (90) minutes in length;

(4) Includes a test or quiz that confirms competency of the course or class curriculum; and

(5) Provides a printable certificate of course or class completion.

(m) Any law enforcement officer of this state or of any county or municipality may, within the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm

a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer, or another individual. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, the permit holder, or another individual; provided, that the permit holder has not violated this section or committed any other violation that results in the arrest of the permit holder.

(n) As used in this section, "department" means the department of safety.

(o)(1) After the initial issuance of a concealed handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(2) If the applicant is prohibited from purchasing or possessing a firearm in this state pursuant to §39-17-1307(b), 18 U.S.C. §922(g), or any other state or federal law, the department shall revoke the applicant's permit pursuant to §39-17-1352.

39-17-1503 Youth access to tobacco–Definitions

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

(1) "Age-restricted venue" means a legal establishment that affirmatively restricts access to its buildings or facilities at all times to persons who are twenty-one (21) years of age or older by requiring each person who attempts to gain entry to those buildings or facilities to submit for inspection an acceptable form of identification for the express purpose of determining if the person is twenty-one (21) years of age or older;

(2) "Beedies" or "bidis" means a product containing tobacco that is wrapped in temburni leaf (dispyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as beedies or bidis. For purposes of this chapter, beedies or bidis shall be considered a tobacco product;

(3) "Cigar bar" means a legal establishment that:

(A) Holds a valid license or permit for the on-premises consumption of alcoholic beverages;

(B) Generates a portion of its total annual gross income from the on-site sale of cigars and the rental of humidors;

(C) Does not knowingly sell products or services, or permit entrance to the premises, to a person who is less than twenty-one (21) years of age; and

(D) Does not permit vaping or the smoking of products other than cigars on the premises;

(4) "Commissioner" means the commissioner of agriculture or the commissioner's duly authorized representative;

(5) "Department" means the department of agriculture;

(6) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(7) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association;

(8) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as twenty-one (21) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid. Except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee is twenty-one (21) years of age or older;

(9) "Public place" means any public street, sidewalk or park, or any area open to the general public in any publicly owned or operated building;

(10) "Retail tobacco store" means a retail store that derives its largest category of sales from tobacco products and accessories;

(11) "Retail vapor product store" means a retail store that derives its largest category of sales from vapor products and accessories;

(12) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(13) "Sampling" means the distribution of samples to members of the general public in a public place;

(14) "Smokeless nicotine product":

(A) Means nicotine that is in the form of a solid, gel, gum, or paste that is intended for human consumption or placement in the oral cavity for absorption into the human body by any means other than inhalation;
(B) Does not include tobacco or tobacco products; and
(C) Does not include nicotine replacement therapy products as defined and approved by the federal food and drug administration;
(15) "Smoking hemp" means hemp that is offered for sale to the public with the intention that it is consumed by smoking and that does not meet the definition of a vapor product;
(16) "Tobacco product" means any product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes and bidis; and
(17) "Vapor product":
(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;
(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge, any substance used to refill a vapor cartridge, or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and
(C) Does not include any product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. §351 et seq.).

39-17-1504 Sale of tobacco, smoking hemp, smokeless nicotine, or vapor product to minor

(a) It is unlawful for any person to sell or distribute any tobacco, smoking hemp, vapor product, or smokeless nicotine product to another person who has not attained twenty-one (21) years of age or to purchase a tobacco, smoking hemp, vapor product, or smokeless nicotine product on behalf of such person under twenty-one (21) years of age.
(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained twenty-one (21) years of age to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco, smoking hemp, vapor product, or smokeless nicotine product. This section and §39-17-1505 do not preclude law enforcement efforts involving:
(1) The use of a minor if the minor's parent or legal guardian has consented to this action; or
(2) The use of an individual under twenty-one (21) years of age who is not a minor if the individual has consented to this action.
(c) No person shall distribute tobacco, smoking hemp, vapor product, or smokeless nicotine product samples in or on any public street, sidewalk, or park.
(d) A person engaged in the sale or distribution of tobacco, smoking hemp, vapor product, or smokeless nicotine product shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under thirty (30) years of age. In the case of distribution by mail, the distributor of tobacco, smoking hemp, vapor product, or smokeless nicotine product shall obtain from the addressee an affirmative statement that the person is twenty-one (21) years of age or older, and shall inform the recipient that the person is strictly prohibited from distributing any tobacco, smoking hemp, vapor product, or smokeless nicotine product, as defined by this part, to any person under twenty-one (21) years of age.

39-17-1505 Tobacco, smoking hemp, smokeless nicotine, and vapor product offenses by minors

(a) It is unlawful for a person who has not attained twenty-one (21) years of age to possess either a tobacco, smoking hemp, vapor product, or smokeless nicotine product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco, smoking hemp, vapor product, or smokeless nicotine product.

(b) Any person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the general sessions or juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), which may be charged against a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age, or, in the case of a minor, against a parent, guardian, or custodian. The general sessions or juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed court program for a second or subsequent violation within a one-year period.

(d) A person who has not attained twenty-one (21) years of age and who is cooperating with law enforcement officers in an operation designed to test the compliance of other persons with this part is not subject to sanctions under this section.

(e) As used in this section, "law enforcement officer" means an officer, employee or agent of government who is authorized by law to investigate the commission or suspected commission of violations of Tennessee law.

(f) It is not unlawful for a person under twenty-one (21) years of age to handle or transport:

(1) Tobacco, tobacco products, smoking hemp, vapor products, or smokeless nicotine products as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco, smoking hemp, vapor products, or smokeless nicotine products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

(g) Nothing in this section shall be construed to prohibit a person under twenty-one (21) years of age from handling or transporting tobacco or hemp as part of and in the course of the person's involvement in any aspect of the agricultural production or storage of tobacco or hemp, the sale of raw tobacco or hemp at market or the transportation of raw tobacco or hemp to a processing facility.

39-17-1506 Tobacco-Required posting

(a) Every person who sells tobacco, smoking hemp, vapor products, or smokeless nicotine products at retail shall post conspicuously and keep so posted at the place of business a sign, no smaller than ninety-three and one-half (93 ½) square inches, to ensure that it is likely to be read at each point of sale, stating the following:
STATE LAW STRICTLY PROHIBITS THE SALE OF TOBACCO PRODUCTS, VAPOR PRODUCTS, SMOKELESS NICOTINE PRODUCTS, OR SMOKING PARAPHERNALIA TO PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS
PROOF OF AGE MAY BE REQUIRED

(b) Unless another notice is required by federal law, the notice required by this section and the notice required by §39-15-411 shall be the only notice regarding tobacco, smoking hemp, vapor products, or smokeless nicotine products required to be posted or maintained in any store that sells tobacco, smoking hemp, vapor products, or smokeless nicotine products at retail.

39-17-1507 Cigarette vending machine

(a) It is unlawful for any person to sell tobacco, smoking hemp, vapor products, or smokeless nicotine products through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public;

(2) In places that are open to the public but to which persons under twenty-one (21) years of age are denied access;

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, and is inaccessible to the public when the establishment is closed; and

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, or the machine can be operated only by the

use of a token purchased from the owner or lessee of the premises or an employee of the owner or lessee of the premises prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In any place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under thirty (30) years of age.

39-17-1510 Youth access to tobacco–Penalties

A person who violates §39-17-1504, §39-17-1506, §39-17-1507, or §39-17-1508 commits a Class C misdemeanor.

39-17-1603 Clean indoor air–Definitions

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

(1) "Children" means individuals who have not attained eighteen (18) years of age;

(2) "Community center" means any center operated by any city or county government that is used for children's activities;

(3) "Day care center" means any place, operated by a person, society, agency, corporation, institution or religious organization, or any other group wherein are received thirteen (13) or more children for group care for less than twenty-four (24) hours per day without transfer of custody;

(4) "Designated smoking area" means an enclosed indoor area or an outdoor area in which smoking is permitted pursuant to this part. If indoors, the smoking area shall be clearly demarcated and separate from any area in which smoking is not permitted, and shall not include more than twenty-five percent (25%) of the area of the building. The indoor smoking area shall be a fully enclosed area;

(5) "Group care home" means a home operated by any person, society, agency, corporation, or institution or any group which receives seven (7) or more children for full-time care outside their own homes in facilities owned or rented and operated by the organization;

(6) "Museum" means those indoor museums and art galleries owned or operated by the state or any political subdivision of the state, and those museums, historical societies, and art galleries owned and operated by not-for-profit corporations;

(7) "Residential treatment facility" means a residential treatment facility licensed under title 33, chapter 2, part 4;

(8) "School grounds" means any building, structure, and surrounding outdoor grounds contained within a public or private preschool, nursery school, kindergarten, elementary or secondary school's legally defined property boundaries as registered in a county register's office, and any publicly owned or leased vehicle used to transport children to or from school or any officially sanctioned or organized school event;

(9) "Smoking" means the burning of a lighted cigarette, cigar, pipe or any other substance containing tobacco;

(10) "Vapor product" has the same meaning as defined in § 39-17-1503;

(11) "Youth development center" means a center established under title 37, chapter 5, part 2, for the detention, treatment, rehabilitation and education of children found to be delinquent; and

(12) "Zoo" means any indoor area open to the public for the purpose of viewing animals.

39-17-1604 Places where smoking or vaping prohibited

Smoking or the use of vapor products is not permitted, and no person shall smoke or use vapor products, in the following places:

(1) Child care centers; provided, that the prohibition of this section does not apply to child care services provided in a private home. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access. However, the child care center shall give written notification to the parent or legal guardian upon enrollment if the child care center has an indoor area designated for smoking or the use of vapor products;

(2) Any room or area in a community center while the room or area is being used for children's activities;

(3) Group care homes. Adults may smoke or use vapor products in any fully enclosed adult staff residential quarters contained within a group care home, but not in the presence of children who reside as clients in the group care home;
(4) Healthcare facilities, excluding nursing home facilities. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access, and adults may be permitted to smoke or use vapor products outside the facility;
(5) Museums, except when used after normal operating hours for private functions not attended by children. Adult staff members may be permitted to smoke or use vapor products while at work in designated smoking areas to which children are not allowed access;
(6) All public and private kindergartens and elementary and secondary schools. Adult staff members may be permitted to smoke or use vapor products outdoors but not within one hundred feet (100′) of any entrance to any building. Adults may also smoke or use vapor products in any fully enclosed adult staff residential quarters but not in the presence of children attending the school;
(7) Residential treatment facilities for children and youth. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access;
(8) Youth development centers and facilities. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access;
(9) Zoos. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access; and
(10) School grounds, including any public seating areas, such as bleachers used for sporting events, or public restrooms.

39-17-1606 Clean indoor air offenses–Penalties

(a) An institution violating this part or failing to take reasonable measures to enforce this part commits a Class B misdemeanor, punishable only by a fine not to exceed five hundred dollars ($500).
(b) Any law enforcement officer may issue a citation regarding a violation of this part.

39-17-1702 Curfew

(a) It is unlawful for any minor between seventeen (17) and eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the county during the following time frames:
(1) Monday through Thursday between the hours of eleven o'clock p.m. (11:00 p.m.) to six o'clock a.m. (6:00 a.m.); and
(2) Friday through Sunday between the hours of twelve o'clock (12:00) midnight to six o'clock a.m. (6:00 a.m.).
(b) It is unlawful for any minor sixteen (16) years of age and under to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the county during the following time frames:
(1) Monday through Thursday between the hours of ten o'clock p.m. (10:00 p.m.) to six o'clock a.m. (6:00 a.m.); and
(2) Friday through Sunday between the hours of eleven o'clock p.m. (11:00 p.m.) to six o'clock a.m. (6:00 a.m.).
(c) It is unlawful for a parent or guardian of a minor to knowingly permit or by inefficient control to allow the minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of subsections (a) and (b). The term "knowingly" includes knowledge that a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. The term "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of the minor child.
(d)(1) The following are valid exceptions to the operation of the curfew:
(A) At any time, if a minor is accompanied by the minor's parent or guardian;

(B) When accompanied by an adult authorized by a parent or guardian of the minor to take the parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;

(C) Until the hour of twelve-thirty a.m. (12:30 a.m.), if the minor is on an errand as directed by the minor's parent;

(D) While engaged in a lawful employment activity, or while going directly to or returning directly from the minor's home and place of lawful employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's lawful employment. To come within this exception, the minor must be carrying written evidence of employment that is issued by the employer;

(E) Until the hour of twelve-thirty a.m. (12:30 a.m.) if the minor is on the property of or the sidewalk directly adjacent to the place where the minor resides or the place immediately adjacent to the place where the minor resides, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(F) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond one o'clock a.m. (1:00 a.m.).

(G) In the case of reasonable necessity, but only after the minor's parent has communicated to law enforcement personnel the facts establishing the reasonable necessity relating to specified streets at a designated time for a described purpose including place or origin and destination. A copy of the communication, or the record of the communication, an appropriate notation of the time it was received and of the names and addresses of the parent or guardian and minor constitute evidence of qualification under this exception;

(H) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of the exercise and provide notice to the city officials by first delivering to the appropriate law enforcement authority a written communication, signed by the minor, with the minor's home address and telephone number, addressed to the mayor of the county specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in the communication; and

(I) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

(2) Each of the exceptions contained in subdivision (d)(1), and the limitations are severable.

(e) When any child is in violation of this section, the apprehending officer shall act in one (1) of the following ways:

(1) In the case of a first violation, and if in the opinion of the officer the action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(2) Take the minor into custody and transport the minor to a designated curfew center;

(3) Issue a summons to the child or parents or guardians to appear at the juvenile court; or

(4) Bring the child into the custody of the juvenile court for disposition.

(f)(1) A minor violating this section shall commit an unruly act disposition of which shall be governed pursuant to title 37.

(2) Any parent, guardian, or other person having the care, custody and control of a minor violating this section commits a Class C misdemeanor and shall be fined no more than fifty dollars ($50.00) for each offense. Each violation of this section shall constitute a separate offense.

Title 40
Criminal Procedure
Chapter 39
Sexual Offender Registration and Monitoring

40-39-202 Sex offender registration–Definitions

Amended 2023

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

(1) “Conviction” means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. “Conviction” includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court in any other state of the United States, other jurisdiction or other country. A conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court for an offense committed in another jurisdiction that would be classified as a sexual offense or a violent sexual offense if committed in this state shall be considered a conviction for the purposes of this part. An adjudication in another state for a delinquent act committed in another jurisdiction that would be classified as a violent juvenile sexual offense under this section, if committed in this state, shall be considered a violent juvenile sexual offense for the purposes of this part. “Convictions,” for the purposes of this part, also include a plea taken in conjunction with § 40-35-313 or its equivalent in any other jurisdiction. “Conviction” also includes a juvenile delinquency adjudication for a violent juvenile sexual offense if the offense occurs on or after July 1, 2011;

(2) “Designated law enforcement agency” means any law enforcement agency that has jurisdiction over the primary or secondary residence, place of physical presence, place of employment, school or institution of higher education where the student is enrolled or, for offenders on supervised probation or parole, the department of correction or court ordered probation officer;

(3) “Employed or practices a vocation” means any full-time or part-time employment in the state, with or without compensation, or employment that involves counseling, coaching, teaching, supervising, volunteering or working with minors in any way, regardless of the period of employment, whether the employment is financially compensated, volunteered or performed for the purpose of any government or education benefit;

(4) “Institution of higher education” means a public or private:

(A) Community college;

(B) College;

(C) University; or

(D) Independent postsecondary institution;

(5) “Law enforcement agency of any institution of higher education” means any campus law enforcement arrangement authorized by § 49-7-118;

(6) “Local law enforcement agency” means:

(A) Within the territory of a municipality, the municipal police department;

(B) Within the territory of a county having a metropolitan form of government, the metropolitan police department; or

(C) Within the unincorporated territory of a county, the sheriff’s office;

(7) “Minor” means any person under eighteen (18) years of age;

(8) “Month” means a calendar month;

(9) “Offender” means sexual offender, violent sexual offender and violent juvenile sexual offender, unless otherwise designated. An offender who qualifies both as a sexual offender and a violent sexual offender or as a violent juvenile sexual offender and as a violent sexual offender shall be considered a violent sexual offender;

(10) “Offender against children” means any sexual offender, violent sexual offender or violent juvenile sexual offender if the victim in one (1) or more of the offender’s crimes was a child of twelve (12) years of age or less;

(11) “Parent” means any biological parent, adoptive parent or step-parent, and includes any legal or court-appointed guardian or custodian; however, “parent” shall not include step-parent if the offender’s victim was a minor less than thirteen (13) years of age;

(12) “Primary residence” means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for five (5) consecutive days;

(13) “Register” means the initial registration of an offender, or the re-registration of an offender after deletion or termination from the SOR;

(14) “Registering agency” means a sheriff’s office, municipal police department, metropolitan police department, campus law enforcement agency, the Tennessee department of correction, a private contractor with the Tennessee department of correction or the board;
(15) “Relevant information deemed necessary to protect the public” means that information set forth in § 40-39-206(d)(1)-(15);
(16) “Report” means appearance before the proper designated law enforcement agency for any of the purposes set out in this part;
(17) “Resident” means any person who abides, lodges, resides or establishes any other living accommodations in this state, including establishing a physical presence in this state;
(18) “Secondary residence” means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for a period of fourteen (14) or more days in the aggregate during any calendar year and that is not the person’s primary residence; for a person whose primary residence is not in this state, a place where the person is employed, practices a vocation or is enrolled as a student for a period of fourteen (14) or more days in the aggregate during any calendar year; or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and that is not the person’s primary residence, including any out-of-state address;
(19) “Sexual offender” means a person who has been convicted in this state of committing a sexual offense or has another qualifying conviction;
(20) “Sexual offense” means:
(A) The commission of any act that, on or after November 1, 1989, constitutes the criminal offense of:
(i) Sexual battery, under § 39-13-505;
(ii) Statutory rape, under § 39-13-506, if the defendant has one (1) or more prior convictions for mitigated statutory rape under § 39-13-506(a), statutory rape under § 39-13-506(b) or aggravated statutory rape under § 39-13-506(c), or if the judge orders the person to register as a sexual offender pursuant to § 39-13-506(d);
(iii) Aggravated prostitution, under § 39-13-516, provided the offense occurred prior to July 1, 2010;
(iv) Sexual exploitation of a minor, under § 39-17-1003;
(v) False imprisonment where the victim is a minor, under § 39-13-302, except when committed by a parent of the minor;
(vi) Kidnapping, where the victim is a minor, under § 39-13-303, except when committed by a parent of the minor;
(vii) Indecent exposure, under § 39-13-511, upon a third or subsequent conviction;
(viii) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class D felony, Class E felony or a misdemeanor;
(ix) Spousal sexual battery, for those committing the offense prior to June 18, 2005, under former § 39-13-507 [repealed];
(x) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (20)(A);
(xi) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (20)(A);
(xii) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (20)(A);
(xiii) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (20)(A);
(xiv) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (20)(A);
(xv) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (20)(A);
(xvi) Aggravated statutory rape, under § 39-13-506(c);
(xvii) Soliciting sexual exploitation of a minor -- exploitation of a minor by electronic means, under § 39-13-529;
(xviii) Promotion of prostitution, under § 39-13-515;
(xix) Patronizing prostitution where the victim is a minor, under § 39-13-514;

(xx) Observation without consent, under § 39-13-607, upon a third or subsequent conviction;
(xxi) Observation without consent, under § 39-13-607 when the offense is classified as a Class E felony;
(xxii) Unlawful photographing under § 39-13-605 when the offense is classified as a Class E or Class D felony;
(xxiii) Sexual contact with inmates, under § 39-16-408;
(xxiv) Unlawful photographing, under § 39-13-605, when convicted as a misdemeanor if the judge orders the person to register as a sexual offender pursuant to § 39-13-605;
(xxv) Aggravated unlawful photography, under § 39-13-611; or
(xxvi) Sexual abuse of a corpse, under § 39-17-312(a)(4);

(B) The commission of any act, that prior to November 1, 1989, constituted the criminal offense of:
(i) Sexual battery, under § 39-2-607 [repealed];
(ii) Statutory rape, under § 39-2-605 [repealed], only if the facts of the conviction satisfy the definition of aggravated statutory rape;
(iii) Assault with intent to commit rape or attempt to commit sexual battery, under § 39-2-608 [repealed];
(iv) Incest, under § 39-4-306 [repealed];
(v) Use of a minor for obscene purposes, under § 39-6-1137 [repealed];
(vi) Promotion of performance including sexual conduct by a minor, under § 39-6-1138 [repealed];
(vii) Criminal sexual conduct in the first degree, under § 39-3703 [repealed];
(viii) Criminal sexual conduct in the second degree, under § 39-3704 [repealed];
(ix) Criminal sexual conduct in the third degree, under § 39-3705 [repealed];
(x) Kidnapping where the victim is a minor, under § 39-2-303 [repealed], except when committed by a parent of the minor;
(xi) Solicitation, under § 39-1-401 [repealed] or § 39-118(b) [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);
(xii) Attempt, under § 39-1-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);
(xiii) Conspiracy, under § 39-1-601 [repealed] or § 39-1104 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B); or
(xiv) Accessory before or after the fact, or aider and abettor, under title 39, chapter 1, part 3 [repealed], to any of the offenses enumerated in this subdivision (20)(B);

(21) "Social media" means websites and other online means of communication that are usually used by large groups of people to share information, to develop social and professional contacts, and that customarily require an identifying password and user identification to participate;

(22) "SOR" means the TBI's centralized record system of offender registration, verification and tracking information;

(23) "Student" means a person who is enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning;

(24) "TBI" means the Tennessee bureau of investigation;

(25) "TBI registration form" means the Tennessee sexual offender registration, verification and tracking form;

(26) "TDOC" means the Tennessee department of correction;

(27) "TIES" means the Tennessee information enforcement system;

(28)(A) "Violent juvenile sexual offender" means a person who is adjudicated delinquent in this state for any act that constitutes a violent juvenile sexual offense; provided, that the person is at least fourteen (14) years of age but less than eighteen (18) years of age at the time the act is committed;

(B) Upon an adjudication of delinquency in this state for an act that constitutes a violent juvenile sexual offense, the violent juvenile sexual offender shall also be considered a violent sexual offender under this part, unless otherwise set out in this part;

(29)(A) "Violent juvenile sexual offense" means an adjudication of delinquency, for any act committed on or after July 1, 2011, that, if committed by an adult, constitutes the criminal offense of:

(i) Aggravated rape, under § 39-13-502;
(ii) Rape, under § 39-13-503;
(iii) Rape of a child, under § 39-13-522, provided the victim is at least four (4) years younger than the offender;
(iv) Aggravated rape of a child, under § 39-13-531; or
(v) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (29)(A);
(B) "Violent juvenile sexual offense" also means an adjudication of delinquency, for any act committed on or after July 1, 2014, that, if committed by an adult, constitutes the criminal offense of:
(i) Aggravated sexual battery, under § 39-13-504;
(ii) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (29)(B);
(30) "Violent sexual offender" means a person who has been convicted in this state of committing a violent sexual offense or has another qualifying conviction;
(31) "Violent sexual offense" means the commission of any act that constitutes the criminal offense of:
(A) Aggravated rape, under § 39-2-603 [repealed] or § 39-13-502;
(B) Rape, under § 39-2-604 [repealed] or § 39-13-503;
(C) Aggravated sexual battery, under § 39-2-606 [repealed] or § 39-13-504;
(D) Rape of a child, under § 39-13-522;
(E) Attempt to commit rape, under § 39-2-608 [repealed];
(F) Aggravated sexual exploitation of a minor, under § 39-17-1004;
(G) Especially aggravated sexual exploitation of a minor under § 39-17-1005;
(H) Aggravated kidnapping where the victim is a minor, under § 39-13-304, except when committed by a parent of the minor;
(I) Especially aggravated kidnapping where the victim is a minor, under § 39-13-305, except when committed by a parent of the minor;
(J) Sexual battery by an authority figure, under § 39-13-527;
(K) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class B or Class C felony;
(L) Spousal rape, under § 39-13-507(b)(1) [repealed];
(M) Aggravated spousal rape, under § 39-13-507(c)(1) [repealed];
(N) ***Deleted 2023.***
(O) Statutory rape by an authority figure, under § 39-13-532;
(P) Criminal attempt, under § 39-12-101, § 39-12-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (31);
(Q) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (31);
(R) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (31);
(S) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (31);
(T) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (31);
(U) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (31);
(V) Incest, under § 39-15-302;
(W) Aggravated rape of a child under § 39-13-531;
(X) Aggravated prostitution, under § 39-13-516; provided, that the offense occurs on or after July 1, 2010;
(Y) Trafficking for a commercial sex act, under § 39-13-309;
(Z) Promotion of prostitution, under § 39-13-515, where the person has a prior conviction for promotion of prostitution; or
(AA) Continuous sexual abuse of a child, under § 39-13-518; and

(32) “Within forty-eight (48) hours” means a continuous forty-eight-hour period, not including Saturdays, Sundays or federal or state holidays.

40-39-208 Sex offender registration offenses

(a) It is an offense for an offender to knowingly violate any provision of this part. Violations shall include, but not be limited to:

(1) Failure of an offender to timely register or report;

(2) Falsification of a TBI registration form;

(3) Failure to timely disclose required information to the designated law enforcement agency;

(4) Failure to sign a TBI registration form;

(5) Failure to pay the annual administrative costs, if financially able;

(6) Failure to timely disclose status as a sexual offender or violent sexual offender to the designated law enforcement agency upon reincarceration;

(7) Failure to timely report to the designated law enforcement agency upon release after reincarceration;

(8) Failure to timely report to the designated law enforcement agency following reentry in this state after deportation;

(9) Failure to timely report to the offender’s designated law enforcement agency when the offender moves to another state; and

(10) Conviction of a new sexual offense, violent sexual offense, or violent juvenile sexual offense.

(b) A violation of this part is a Class E felony. No person violating this part shall be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.

(c) The first violation of this part is punishable by a fine of not less than three hundred fifty dollars ($350) and imprisonment for not less than ninety (90) days.

(d) A second violation of this part is punishable by a fine of not less than six hundred dollars ($600) and imprisonment for not less than one hundred eighty (180) days.

(e) A third or subsequent violation of this part is punishable by a fine of not less than one thousand one hundred dollars ($1,100) and imprisonment for not less than one (1) year.

(f) A violation of this part is a continuing offense. If an offender is required to register pursuant to this part, venue lies in any county in which the offender may be found or in any county where the violation occurred.

(g) In a prosecution for a violation of this section, upon the request of a district attorney general, law enforcement agency, the Department of Correction, or its officers or a court of competent jurisdiction and for any lawful purpose permitted by this part, the records custodian of SOR shall provide the requesting agency with certified copies of specified records being maintained in the registry.

(h) The records custodian providing copies of records to a requesting agency, pursuant to subsection (g), shall attach the following certification:

I, _____, HAVING BEEN APPOINTED BY THE DIRECTOR OF THE TENNESSEE BUREAU OF INVESTIGATION AS CUSTODIAN OF THE BUREAU’S CENTRALIZED RECORDS SYSTEM OF SEXUAL AND VIOLENT SEXUAL OFFENDERS, REGISTRATION, VERIFICATION AND TRACKING INFORMATION (SOR), HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECORDS MAINTAINED WITHIN SAID REGISTRY.

SIGNATURE _____

TITLE _____

DATE _____

AFFIX THE BUREAU SEAL HERE

(i) Sexual offender, violent sexual offender and violent juvenile sexual offender registry files and records maintained by the TBI may be digitized. A digitized copy of any original file or record in the TBI’s possession shall be deemed to be an original for all purposes, including introduction into evidence in all courts or administrative agencies.

(j) Notwithstanding any law to the contrary, a violent juvenile sexual offender who knowingly violates this part commits a delinquent act as defined by the juvenile code.

40-39-304 Tampering with tracking device

(a) Intentional tampering with, removal of, or vandalism to a device issued pursuant to a location tracking and crime correlation based monitoring and supervision program described in §40-39-302 by a person duly enrolled in the program is a Class A misdemeanor for the first offense, punishable by confinement in the county jail for not less than one hundred eighty (180) days. The minimum one hundred eighty-day sentence provided for this Class A misdemeanor offense is mandatory, and no person committing the offense shall be eligible for suspension of sentence, diversion, or probation until the minimum sentence is served in its entirety. A second or subsequent violation under this section is a Class E felony. Additionally, if the person violating this section is on probation, parole, or any other alternative to incarceration, then the violation shall also constitute sufficient grounds for immediate revocation of probation, parole, or other alternative to incarceration. Any violation of this section shall result in the imposition of the mandatory release condition specified in §40-39-303(a) and (b).

(b) Any person who knowingly aids, abets, or assists a person duly enrolled in a location tracking and crime correlation based monitoring and supervision program described in §40-39-302 in tampering with, removing, or vandalizing a device issued pursuant to the program commits a Class A misdemeanor.

Title 43
Agriculture and Horticulture
Chapter 27
Hemp

43-27-101 Hemp—Definitions

As used in this chapter:

(1) "Commissioner" means the commissioner of agriculture;

(2) "Department" means the department of agriculture;

(3) "Hemp" means the plant cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;

(4) "Hemp concentrate" means a concentrate with a delta-9 tetrahydrocannabinol (THC) concentration of not more than five percent (5%) that is derived from hemp solely for purposes of reconstitution into consumer products with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%); and

(5) "THC" means delta-9 tetrahydrocannabinol.

43-27-103 Hemp—Prohibited acts

(a) The following acts within this state are prohibited:

(1) Possession of rooted hemp by any person, other than a common carrier, without a valid license issued by the department;

(2) Possession of cannabis with THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis;

(3) Failure to pay upon reasonable notice any license, sampling, or inspection fee assessed by the department;

(4) Violation of this chapter or any rule promulgated under this chapter; or

(5) Willful hindrance of the commissioner or the commissioner's authorized agent in performance of their official duties.

(b) It is an exception to the application of subdivision (a)(2) that the only cannabis with a THC concentration greater than three-tenths of one percent (0.3%) on a dry weight basis in the person's possession was hemp concentrate and the person was transporting the hemp concentrate within this state from the location where the hemp concentrate was produced to a location where the hemp concentrate was to be reconstituted into consumer products with a THC concentration of not more than three-tenths of one percent (0.3%); provided, however, that the person transporting the hemp concentrate under this subsection (b) must maintain proof of a grower's license from the department in the transport vehicle.

43-27-202 Hemp-derived cannabinoid—Definitions

Added 2023

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

(1) "Batch" means a single stock keeping unit with common cannabinoid input or a hemp flower of the same varietal and harvested on the same date and manufactured during a defined cycle in such a way that it could be expected to be of a uniform character and should be designated as such;

(2) "Hemp-derived cannabinoid":

(A) Means:

(i) A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than one-tenth of one percent (0.1%); or

(ii) A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of three-tenths of one percent (0.3%) or less on a dry weight basis;

(B) Includes, but is not limited to:

(i) Delta-8 tetrahydrocannabinol;

(ii) Delta-10 tetrahydrocannabinol;

(iii) Hexahydrocannabinol;

(iv) Tetrahydrocannabiphorol (THCp);

(v) Tetrahydrocannabivarin (THCv); and

(vi) Tetrahydrocannabinolic acid (THCa); and

(C) Does not include:

(i) Cannabichromene (CBC/CBCa/CBCv);

(ii) Cannabicitran (CBT/CBTa);

(iii) Cannabicyclol (CBL/CBLa);

(iv) Cannabidiol (CBD/CBDa/CBDv/CBDp);

(v) Cannabielsoin (CBE/CBEa);

(vi) Cannabigerol (CBG/CBGa/CBGv/CBGm);

(vii) Cannabinol (CBN/CBNa);

(viii) Cannabivarin (CBV/CBVa);

(ix) Hemp-derived feed products allowed under title 44, chapter 6;

(x) Hemp-derived fiber, grain, or topical products; or

(xi) A substance that is categorized as a Schedule I controlled substance on or after July 1, 2023, including a substance that may be identified in subdivision (2)(B);

(3) "Manufacture" means to compound, blend, extract, infuse, cook, or otherwise make or prepare products containing a hemp-derived cannabinoid, including the processes of extraction, infusion, packaging, repackaging, labeling, and relabeling of products containing a hemp-derived cannabinoid;

(4) "Proof of age" means a valid driver license or other government-issued identification card that contains a photograph of the person and confirms the person's age as twenty-one (21) years of age or older;

(5) "Retailer" means a person or entity that sells products containing a hemp-derived cannabinoid for consumption and not for resale;

(6) "Serving" means a quantity of a hemp-derived cannabinoid product reasonably suitable for a single person's daily use; and

(7) "Supplier" means a person or entity that manufactures hemp-derived cannabinoids or sells products containing hemp-derived cannabinoids to retailers.

43-27-203 Hemp-derived cannabinoid products—Offenses

Added 2023

[Note: The following subsection (a)(1)–(a)(2) is NOT effective UNTIL 7/1/2024.]

(a)(1) It is an offense for a person or entity to engage in the business of manufacturing, producing, or selling products containing a hemp-derived cannabinoid in this state without a valid license required by this part.

(2) A product containing a hemp-derived cannabinoid that is sold or offered for sale in violation of subdivision (a)(1) is subject to seizure and forfeiture pursuant to §53-11-451.

(b)(1) It is an offense to knowingly sell or distribute a product containing a hemp-derived cannabinoid without having first obtained proof of age from the purchaser or recipient.

(2) It is an offense for a person to knowingly sell or distribute a product containing a hemp-derived cannabinoid to a person who is under twenty-one (21) years of age or to purchase a product containing a hemp-derived cannabinoid on behalf of a person who is under twenty-one (21) years of age.

(3) It is an offense for a person to knowingly assist a person who is under twenty-one (21) years of age to purchase, acquire, receive, or attempt to purchase a product containing a hemp-derived cannabinoid.

(4) It is an offense for a person who is under twenty-one (21) years of age to knowingly purchase, possess, or accept receipt of a product containing a hemp-derived cannabinoid or to knowingly present purported proof of age that is false, fraudulent, or not actually that person's for the purpose of purchasing or receiving a product containing a hemp-derived cannabinoid.

(5) This subsection (b) does not preclude law enforcement efforts involving:

(A) The use of a minor if the minor's parent or legal guardian has consented to this action; or

(B) The use of a person under twenty-one (21) years of age who is not a minor if the individual has consented to this action.

(c) It is an offense to knowingly distribute samples of products containing a hemp-derived cannabinoid in or on a public street, sidewalk, or park.

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

(e) Notwithstanding this part to the contrary and except as provided in § 43-27-205, state and local law enforcement officers have concurrent jurisdiction to enforce violations of this section and § 43-27-204.

43-27-210 Hemp-derived cannabinoid products—Limitations on use

Added 2023 NOT effective UNTIL 7/1/2024

(a) This part does not permit a person to:

(1) Undertake any task under the influence of a hemp-derived cannabinoid when doing so would constitute negligence or professional malpractice; or

(2) Operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle while under the influence of a hemp-derived cannabinoid.

(b) This part does not require:

(1) An employer to accommodate the use of a hemp-derived cannabinoid in a workplace or an employee working while under the influence of a hemp-derived cannabinoid;

(2) An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use a hemp-derived cannabinoid on or in that property; or

(3) An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is impaired as a result of the person's use of a hemp-derived cannabinoid.

(c) This part does not exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from use of a hemp-derived cannabinoid or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

(d) This part does not:

(1) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy;

(2) Create a cause of action against an employer for wrongful discharge or discrimination; or

(3) Allow the possession, sale, manufacture, or distribution of any substance that is otherwise prohibited by title 39, chapter 17, part 4.

44-8-408 Dog at large

Amended 2023

(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 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;

(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 (h) 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.

(k)(1) In addition to other penalties provided by this section, a person convicted of a violation of this section in which the dog running at large causes bodily injury, serious bodily injury, or death of another, or damage to the property of another, 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 person or property owner.

(2) This subsection (k) does not prohibit a person who is bodily injured, seriously bodily injured, or killed, or a person whose property is damaged, by a dog running at large from pursuing the remedies provided under §44-8-413, or another law.

Title 49
Education
Chapter 6
Elementary and Secondary Information

49-6-2008 Trespass on school premises

(a) In order to maintain the conditions and atmosphere suitable for learning, no person shall enter onto school buses, or during school hours, enter upon the grounds or into the buildings of any school, except students assigned to that bus or school, the staff of the school, parents of students and other persons with lawful and valid business on the bus or school premises.

(b) Any person improperly on the premises of a school shall depart on the request of the school principal or other authorized person.

(c) A violation of subsection (a) is a Class A misdemeanor.

(d) In addition to any criminal penalty provided by law, there is created a civil cause of action for an intentional assault upon educational personnel by any person during school hours or during school functions, if the parties are on school grounds or in vehicles owned, leased or under contract by the LEA and used for transporting students or faculty. A person who commits such assault shall be liable to the victim for all damages resulting from the assault, including compensatory and punitive damages. Upon prevailing, a victim shall be entitled to three (3) times the amount of the actual damages and shall be entitled to reasonable attorney fees and costs.

53-11-402 Drug fraud

(a) It is unlawful for any person knowingly or intentionally to:

(1) Distribute as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by §53-11-307;

(2) Use in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended or issued to another person;

(3) Acquire or obtain, or attempt to acquire or attempt to obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge. Any person who violates this subdivision (a)(3) may, upon first conviction, have the sentence suspended and may as a condition of the suspension be required to participate in a program of rehabilitation at a drug treatment facility operated by the state or a comprehensive community mental health center;

(4) Furnish false or fraudulent material information in, or omit any material information from, any application, report or other document required to be kept or filed under part 3 of this chapter and this part, or title 39, chapter 17, part 4, or any record required to be kept by part 3 of this chapter and this part, or title 39, chapter 17, part 4;

(5) Make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name, or other identifying mark, imprint or device of another or any likeness of the trademark, trade name, or other identifying mark, imprint or device of another upon any drug or container or labeling of any drug or container so as to render the drug a counterfeit substance; or

(6) Notwithstanding §71-5-2601, deceive or fail to disclose to a physician, nurse practitioner, ancillary staff or other health care provider from whom the person obtains a controlled substance or a prescription for a controlled substance that the person has received either the same controlled substance or a prescription for the same controlled substance or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use from another practitioner within the previous thirty (30) days.

(b)(1) A violation of this section is a Class D felony, except that a violation of subdivision (a)(6) is a Class A misdemeanor and any violation of subdivision (a)(6) involving more than two hundred fifty (250) units of a controlled substance is a Class E felony. For purposes of this subdivision (b)(1), a "unit" means an amount of a controlled substance in any form that would equate to the initial single individual dosage recommended by the manufacturer of the controlled substance.

(2) Notwithstanding §40-35-111, regarding the authorized fine for a Class D felony, the authorized fine for a violation of this section shall be as follows:

For a violation involving a Schedule I or II controlled substance	$100,000
For a violation involving a Schedule III or IV controlled substance	50,000
For a violation involving a Schedule V or VI controlled substance	5,000
For a violation involving a Schedule VII controlled substance	1,000
For any other violation of this section not involving a scheduled controlled substance	20,000

(3) Nothing contained in this section shall preclude a prosecution under the general drug laws.

(c) Any person who violates subdivision (a)(3) may, upon first conviction, have the sentence suspended and may as a condition of the suspension be required to participate in a program of rehabilitation at a drug treatment facility operated by the state or a comprehensive community mental health center.

53-11-416 Prescription drug fraud

(a) It is unlawful for any person knowingly or intentionally to acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge or in violation of §39-14-150. A violation of this section shall be deemed the offense of prescription drug fraud.

(b) Prescription drug fraud is a continuing offense because the offense may involve an unlawful taking and use of personal identifying information that remains in the lawful possession of a victim wherever the victim currently resides or is found. As provided in this section, such unlawful taking and use may be elements of an offense of prescription drug fraud and continues to occur wherever the victim resides or is found.

(c) For purposes of a violation of this section, "victim" includes, but is not limited to, the person whose personal identifying information, as defined in §39-14-150(e), was acquired, obtained, possessed, bought, or used in violation of this section or sold, transferred, given, traded, loaned, delivered, or possessed in violation of this section. "Victim" also includes, but is not limited to, a physician, nurse practitioner, or other health care provider whose personal identifying information was unlawfully used.

(d) Pursuant to §§39-11-103 and 39-14-150(j)(2), if a victim of prescription drug fraud resides or is found in this state, an essential element of the offense is committed in this state, and a defendant is subject to prosecution in this state, regardless of whether the defendant was ever actually in this state.

(e) Venue for the offense of prescription drug fraud shall be in any county where an essential element of the offense was committed, including, but not limited to, in any county where the victim resides or is found, regardless of whether the defendant was ever actually in such county.

(f) The offense of prescription drug fraud shall be punished in the same manner as a violation of §53-11-402.

Title 54
Highways, Bridges and Ferries
Chapter 1
Department of Transportation

54-1-134 Vandalism of highway structures

(a)(1) As used in this subsection (a), "state highway structure" includes any state highway facility; building; bridge; overpass; tunnel; barricade; fence; wall; traffic control device; right-of-way; sign or marker of any nature whatsoever erected upon or maintained within or adjacent to a state highway or the state highway right-of-way by any authorized source or under the authority of the department; and letters or figures of any nature whatsoever on any sign, marker, barricade or fence.

(2) It is an offense for any person who is not authorized to construct or repair a state highway structure to knowingly carve upon, write, paint or otherwise mark upon, deface, rearrange, or alter any state highway structure.

(3) It is an offense for any person who is not authorized to construct or repair a state highway structure to knowingly, in any manner, destroy, damage, knock down, mutilate, mar, steal or remove any state highway structure.

(4) A violation of subdivision (a)(2) or (a)(3) is a Class A misdemeanor.

(5) Whenever any state highway structure described in this subsection (a) is damaged knowingly or negligently by any person, firm or corporation, the person, firm or corporation shall be liable for the damage to the state highway structure, to be recovered by a civil action in the name of the state. The civil action shall be instituted by the attorney general and reporter, whose duty it shall be to represent the state in the action.

(b)(1) Any person who reports information to a law enforcement officer that leads to the apprehension and conviction of a person for a violation of this section shall receive a reward of two hundred fifty dollars ($250). The county where the conviction occurs shall provide the reward money from the proceeds of the fines collected under this section.

(2) The proceeds from the fines imposed for violations of this section shall be collected by the respective court clerks and then deposited in a dedicated county fund. The fund shall not revert to the county general fund at the end of a fiscal year but shall remain for the vandalism enforcement rewards established in subdivision (b)(1).

(3) Each county shall expend the funds generated by the fines provided for in this section by appropriation for the vandalism enforcement rewards. Excess funds, if any, may be expended for litter control programs on adoption of an appropriate resolution by the county legislative body.

Title 55
Motor and Other Vehicles
Chapter 1
Motor Vehicle Title and Registration Law–Definitions

55-1-103 Autocycle, motor bicycle, motorcycle, and motor vehicle–Defined

(a) "Autocycle" means a three-wheeled motorcycle that is equipped with safety belts, steering wheel, and nonstraddle seating, and is manufactured to comply with federal safety requirements for motorcycles.

(b) "Motor bicycle" means a motorized bicycle as defined in § 55-8-101.

(c) "Motor vehicle" means every vehicle that is self-propelled, excluding electric scooters, motorized bicycles, personal delivery devices, and every vehicle that is propelled by electric power obtained from overhead trolley wires. "Motor vehicle" means any low speed vehicle or medium speed vehicle as defined in this chapter. "Motor vehicle" means any mobile home or house trailer as defined in § 55-1-105.

(d) "Motorcycle" means every motor vehicle that has a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including an autocycle and does not include a tractor or motorized bicycle.

(e) "Vehicle" and "freight motor 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 moved by human power or used exclusively upon stationary rails or tracks.

55-1-104 Farm tractor, motor home, truck & truck tractor–Defined

(a) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(b) "Motor home" has the same meaning as defined in §55-28-102.[1]

(c) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(d) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

[1]Note: Per 55-28-102, "'Motor home' means a motorized vehicle designed to provide temporary living quarters for recreational, camping, or travel use. The vehicle must contain at least four (4) of the following permanently installed independent life support systems which meet the National Fire Protection Association Standard for Recreational Vehicles:

(A) A cooking facility with an on-board fuel source;

(B) A potable water supply system that includes at least a sink, faucet, and water tank with an exterior service supply connection;

(C) A toilet with exterior evacuation;

(D) A gas or electric refrigerator;

(E) A heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine; or

(F) An electric power system separate from the vehicle engine;"

55-1-105 Mobile home or house trailer, pole trailer, semitrailer and trailer–Defined

(a) "Manufactured home" means any structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) or more body-feet in width or forty (40) or more body-feet in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection (a) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established by title 42 of the United States Code. As defined in this subsection (a), "manufactured home" also has the same meaning as "mobile home," as defined in title 68, chapter 126, and "manufactured home," as defined in §47-9-102.

(b) "Mobile home or house trailer" means any vehicle or conveyance, not self-propelled, designed for travel upon the public highways, and designed for use as a residence, office, apartment, storehouse, warehouse, or any other similar purpose. "Mobile home or house trailer" includes any "manufactured home" as defined in subsection (a).

(c) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(d) "Semitrailer" means every vehicle without motive power and not a motor vehicle as defined in this section, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(e) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

55-1-106 Essential parts, reconstructed vehicle & specially constructed vehicle–Defined

(a) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(b) "Reconstructed vehicle" means every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(c) "Specially constructed vehicle" means every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

55-1-108 Implement of husbandry–Defined

"Implement of husbandry" means every vehicle which is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of the owner's agricultural operations, but does not include any truck, truck-tractor or farm truck whenever such vehicle is driven upon a highway of this state except as provided in §55-3-101(a)(2).

55-1-110 Metal tire, pneumatic tire & solid tire–Defined

(a) "Metal tire" means every tire, the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient materials.

(b) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(c) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

55-1-113 Nonresident–Defined

"Nonresident" means every person who is not a resident of this state.

55-1-116 Highway or street–Defined

"Highway" or "street" means the entire width between boundary lines of every way publicly maintained, when any part thereof is open to the use of the public for purposes of vehicular travel.

55-1-118 Freight–Defined

"Freight" means any kind of property which may be carried by motor vehicle over the streets and highways by either public or private carrier.

55-1-119 Farm truck–Defined

(a) "Farm truck" means any truck motor vehicle used by the owner in connection with the agricultural pursuits usual and normal to the owner's farming operations, such as the transportation of products of the soil, livestock, poultry, seed, or any materials to be used by the owner in the production, cultivation, growing, or harvesting of agricultural commodities; also for uses incidental to farming as the transportation of the farm

laborers or bringing to the farm products or materials that may be used for its improvement or promote its operation.

(b) "Farm truck" shall not be so construed as to permit the vehicle's use either part time or incidentally in the conduct of any commercial enterprise, or for the transportation of farm products after such commodities have entered the "channels of commerce," as for example in the "house to house" delivery of milk.

55-1-120 Gross weight–Defined

"Gross weight" means the weight of a vehicle without load, plus the weight of any load thereon, which, more specifically, includes the total weights of a truck or a truck-tractor and a semitrailer, trailer or pole trailer, or any combination of such vehicles, including the load thereon, towed by one (1) vehicle with motive power.

55-1-121 Odometer–Defined

(a) "Odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation.

(b) "Odometer" does not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

55-1-122 Low speed vehicle–Defined

"Low speed vehicle" means any four-wheeled electric or gasoline vehicle, excluding golf carts, whose top speed is greater than twenty miles per hour (20 mph) but not greater than twenty-five miles per hour (25 mph), including neighborhood electric vehicles. Low speed vehicles must comply with the standards in 49 CFR 571.500.

55-1-123 Golf cart–Defined

"Golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and equipped with safety belts installed for use in the left front and right front seats and that is not capable of exceeding speeds of twenty miles per hour (20 mph).

55-1-125 Medium-speed vehicles

"Medium speed vehicle" means any four-wheeled electric or gasoline-powered vehicle, excluding golf carts, whose top speed is greater than thirty miles per hour (30 mph), but whose maximum speed allowed is thirty-five miles per hour (35 mph) only on streets with a forty mile per hour (40 mph) or less posted speed limit pursuant to §55-8-191(b)(1), including neighborhood electric vehicles and mini-trucks. Medium speed vehicles must meet or exceed the federal safety standards set forth in 49 CFR 571.500, except as otherwise provided in §55-4-136.

Chapter 3
Certificates of Title

55-3-102 Driving or moving unregistered vehicle upon highway

(a)(1) It is a Class C misdemeanor for any person to:

(A) Drive or move or for any owner knowingly to permit to be driven or moved on any highway any vehicle of a type required to be registered under chapters 1-6 of this title that is not registered or for which the appropriate fee has not been paid when and as required under chapters 1-6 of this title; or

(B) Operate or for any owner knowingly to permit to be operated on lands, other than a highway, an off-highway motor vehicle for which certificate of title has not been issued or for which the appropriate fee has not been paid when and as required under chapters 1-6 of this title.

(2) Notwithstanding subdivisions (a)(1)(A) and (B), when application accompanied by proper fee has been made for a certificate of title for a vehicle, the vehicle may be operated temporarily pending issuance of a certificate of title upon displaying a duplicate application for the certificate of title, duly verified by the county clerk of the county in which the vehicle has been registered, which shall be prepared by the county clerk, upon request, without the payment of an additional fee.

(b)(1) It is a Class C misdemeanor for any person to occupy or for any owner knowingly to permit to be occupied any mobile home or house trailer required to be registered under chapters 1-6 of this title, that is not registered, for which certificate of title has not been issued or for which the appropriate fee has not been paid when and as required under chapters 1-6 of this title.

(2) Notwithstanding subdivision (b)(1), when an application accompanied by proper fee has been made for a certificate of title for a mobile home or house trailer, the mobile home or house trailer may be occupied temporarily pending issuance of a certificate of title upon the displaying of a duplicate application for the certificate of title, duly verified by the county clerk of the county in which the house trailer has been registered, which shall be prepared by the county clerk, upon request, without the payment of an additional fee.

(c) The duly authorized agent, employee, or representative of any town, city, incorporated municipality, county, and the department are authorized and empowered to enforce chapters 1-6 of this title, and the agent, employee or representative shall be expressly authorized without the necessity of a search warrant to go upon the premises, land or real property of any person for the purpose of inspection or examination of any mobile home or house trailer, located on the property, for the purpose of carrying out chapters 1-6 of this title.

Chapter 4
Registration and Licensing of Motor Vehicles

55-4-108 Registration must be signed and carried

(a) Every certificate of registration shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving, or in control of the vehicle, who shall display the certificate upon demand of any officer or employee of the department. The owner may, in order to ensure its safekeeping, provide a duplicate or facsimile of the certificate of registration to be kept in the vehicle for display by any person who may legally operate the vehicle under the owner's registration.

(b) The provision of subsection (a) requiring that a certificate of registration be carried in the vehicle to which it refers, or by the person driving the vehicle, shall not apply when the certificate of registration is used for the purpose of making application for renewal of registration or upon a transfer of the vehicle.

(c) For purposes of any vehicle operating as part of a platoon, as defined by §55-8-101, the requirements of subsection (a) are satisfied if the certificate of registration is at all times carried in the first or lead vehicle in the platoon.

(d) For purposes of an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the certificate of registration is at all times carried in or available electronically through, the vehicle to which it refers.

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

55-4-110 Display of plates

(a) The registration plate issued for passenger motor vehicles shall be attached on the rear of the vehicle. The registration plate issued for those trucks with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a panel or pickup body style, and also those issued for all motor homes, regardless of ton rating or body style thereof, shall be attached to the rear of the vehicle. The registration plate issued for all other trucks and truck tractors shall be attached to the front of the vehicle. All dealers' plates, as provided in § 55-4-226, and those registration plates issued for motorcycles, trailers or semitrailers shall be attached to the rear of the vehicle.

(b) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so to prevent the plate from swinging and at a height of not less than twelve inches (12″) from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible. The mounting or placement of a trailer hitch ball in front of a registration plate shall not be considered when making a determination whether the registration plate is clearly visible. If a motorcycle is equipped with vertically mounted license plate brackets, its license plate shall be mounted vertically with the top of the license plate fastened along the right vertical edge. No tinted materials may be placed over a license plate even if the information upon the license plate is not concealed.

(c)(1) Except as provided in subdivision (c)(2), for all motor vehicles that are factory-equipped to illuminate the registration plate, the registration plate shall be illuminated at all times that headlights are illuminated.

(2) Subdivision (c)(1) shall not apply to any antique motor vehicle as defined in § 55-4-111(b).

(d)(1) As used in this subsection (d), "historic military vehicle" means a vehicle, including a trailer, that is at least twenty-five (25) years old at the time of making application for registration, was manufactured for use in any country's military forces, and is maintained to represent the vehicle's military design and markings, regardless of the vehicle's size or weight.

(2) An owner or operator of a historic military vehicle is not required to display the vehicle's registration plate on the vehicle in accordance with this section. In lieu of such display, the owner or operator shall maintain the vehicle's registration plate in the vehicle and produce the plate for inspection upon the request of any law enforcement officer.

(e)(1) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection (e) shall be deposited in the state general fund.

(2) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars ($10.00) for a first violation, and twenty dollars ($20.00) on second and subsequent violations to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(3) If the violation of this section results solely from the failure to illuminate the registration plate at all times headlights are required to be displayed, the fine set out in this subsection (e) shall be the only amount the person is assessed. No litigation tax levied pursuant to title 67, chapter 4, part 6 shall be imposed or assessed against anyone convicted of a violation of this section nor shall any clerk's fee or court costs, including, but not limited to, any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this section. Further, the lighting violation described in this subdivision (e)(3) shall be considered a nonmoving traffic violation and no points shall be added to a driver's record for such violation.

55-4-129 Removal of registration decal or plate

(a) Unless lawfully transferred in accordance with this chapter, it is unlawful to willfully cut, clip or otherwise remove the registration decal from a registration plate, or to remove a registration plate from a motor vehicle if either are removed for the purpose of selling the decal or plate, attaching the decal or plate to another registration plate or motor vehicle, or otherwise using the decal or plate to circumvent or avoid the vehicle registration laws of this chapter.

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

55-4-131 Change of address on title or registration

(a) Whenever any person, after applying for or receiving a title or registration, moves from the address named in the application or title or registration, or when the name of an applicant is changed for any reason, the person shall within ten (10) days thereafter, notify the department of the change or changes.

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

55-4-138 Electronic proof of registration

In addition to the provisions of §55-12-139 authorizing a person to display evidence of financial responsibility through the use of electronic devices, a person may also display evidence of vehicle registration in electronic format. The electronic images shall state that the vehicle is properly registered and that a certificate of registration has been issued to the owner or operator of the vehicle. For purposes of this section, acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device. If a person displays the evidence in an electronic format pursuant to this section, the person is not consenting for law enforcement to access any other contents of the electronic device.

Chapter 5
Anti-Theft Provisions

55-5-104 Rental vehicle–Joyriding

(a) Any person who, with intent to defraud the owner of any motor vehicle or a person in lawful possession of the motor vehicle, obtains possession of the vehicle from the owner, or the servant, agents or employees of the owner, by agreeing in writing, to pay a rental for use of the vehicle based in whole or part on the distance the vehicle is driven, commits a Class E felony.

(b) Obtaining possession of the vehicle by means of trick, false or fraudulent misrepresentation, or false impersonation of another, or by giving a bad or worthless check as a deposit or in payment of the rental, in obtaining possession of the vehicle, shall be prima facie evidence of intent to defraud.

(c) Any person who, after hiring, leasing or renting a motor vehicle under an agreement in writing, which provides for return of the vehicle to a particular place, or at a particular time, abandons this vehicle, or refuses or willfully neglects to return the vehicle to the place and at the time specified in the agreement, or who secretes, converts, sells or attempts to sell the motor vehicle, or any part of the motor vehicle, commits a Class E felony.

(d) The failure, or refusal, or neglect to return the vehicle within seventy-two (72) hours subsequent to the date or time specified in the written agreement shall be prima facie evidence of willful intent to violate this section; provided, that failure, refusal or neglect to return the vehicle within the seventy-two-hour period shall not be evidence of willful intent if the person provides written notification to the owner within the seventy-two-hour period of the person's intention to return the vehicle and returns the vehicle within twenty-four (24) hours of the notification, or when agreed upon by the owner and the person, and if the person pays the fair rental value for the vehicle.

(e) A violation of this section is a Class E felony.

55-5-108 Used parts records

(a)(1) Any person, firm, or corporation engaged in the business of buying or selling used automobile parts shall keep permanent records of transactions of buying or selling engines, transmissions, vehicle bodies, chassis, doors, deck lids, front end clips (fenders and grill), seats, differentials, tires and wheels, steering wheels, automobile radios and automobile tape players, and bumpers. The record must include from whom the item was purchased and the seller's address and driver license number, and to whom the item was sold and the purchaser's address and driver license number, as well as the description of the item and any identifying number or numbers. The records must be kept for a period of three (3) years from the date of the transaction and made available to all law enforcement officers for inspection at any reasonable time during business hours without prior notice or the necessity of obtaining a search warrant.

(2) Notwithstanding this title to the contrary, any motor vehicle dismantler and recycler that is licensed pursuant to § 55-17-109, and is fully compliant with the reporting requirements of § 55-3-203(c), is not required to keep the records required by subdivision (a)(1), with regard to transactions of selling the parts described. All other required records must be kept.

(3) Any person, firm, or corporation engaged in the business of selling used automobile parts must provide a bill of sale, including the source of the part, when requested by the purchaser of any major component part, in order to comply with § 55-3-206, which requires the inspection and certification of any rebuilt motor vehicle.

(4) Any person, firm, or corporation required to keep records by §§ 55-5-106 – 55-5-110 and knowingly failing to do so commits a Class C misdemeanor.

(5) For the purpose of locating stolen vehicles, establishing lawful ownership, possession, titling, or registration, any motor vehicle investigator designated by the commissioner of revenue or the commissioner of safety, except as provided in subdivision (a)(6), may inspect any vehicle, whether intact, wrecked, or dismantled, at an automobile dismantler's lot, salvage lot, or other similar establishment required to keep records under subdivision (a)(1), within this state.

(6) Inspection conducted pursuant to subdivision (a)(1), (a)(4), or (a)(5) must be conducted during normal business hours and at a time and in a manner so as to minimize any interference with or delay of business operations. The inspection does not apply to a scrap processor when the scrap processor obtains any vehicle that has been crushed or flattened. "Scrap processor" means any person, firm, or corporation engaged in the business of buying motor vehicles or motor vehicle parts to process into scrap metal for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous or nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap for these purposes.

(b)(1) As used in this subsection (b), unless the context otherwise requires, "property" means any vehicle, aircraft, boat or other vessel, special mobile equipment, boat trailer, mobile self-propelled construction, farm or forestry machinery, similar equipment, or any component part.

(2) Any property on which the manufacturer's serial number, engine number, transmission number, vehicle identification number, or other distinguishing number or identification mark has been removed, defaced, covered, altered, destroyed or otherwise rendered unidentifiable is hereby declared to be contraband and subject to forfeiture to the state. This subdivision (b)(2) applies to all persons, including, but not limited to, those persons designated in subsection (a). It is the duty of the commissioner or the commissioner's designee, and of any other state, county, or municipal law enforcement officer or campus police officer as defined in §49-7-118, internal affairs director or internal affairs special agent of the department of correction, when such person has reason to believe that property constitutes contraband under this section, to seize and impound or otherwise take custody of the property on behalf of the department of safety.

(3) Where there is only one (1) claimant to the property seized or taken into the custody of the department of safety, the claimant may elect to give a bond payable to the state in an amount double the value of the property seized, with corporate sureties approved by the commissioner of safety or the commissioner's designee. If a claimant elects to give a bond, the commissioner of safety or the commissioner's designee has the discretion to deliver the property to the claimant, pending a hearing to determine whether or not the property constitutes contraband under this section. The condition of the bond shall be that the obligors shall pay to the state, through the department of safety, the amount of the bond upon failure of the claimant to surrender the property in substantially the same condition as when it was released, to the department of safety upon a final determination adverse to the claimant.

(4) Whenever any property believed to constitute contraband under this section comes into the custody of the commissioner of safety or the commissioner's designee, the person from whom the property was taken and any other possible claimant whose interest or title may be found of record in the department of safety shall be notified within a reasonable time. The notice shall be personally served or sent by certified mail, return receipt requested. If the department of safety is unable to determine with reasonable certainty the identities or addresses of all possible claimants, notice by one (1) publication in one (1) newspaper of general circulation in the area where the property was confiscated shall be adequate notice to all possible claimants. Notice by publication may contain multiple listings of property.

(5) Any claimant to a property that has come into the custody of the commissioner of safety or the commissioner's designee under this section shall have a right to a hearing before the commissioner of safety or the commissioner's designee under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and § 67-1-105(a), upon written request or petition, within ten (10) days after receiving notice by personal service, certified mail or publication; provided, that after the hearing is conducted, a decision shall be rendered within forty-five (45) days unless good cause is shown why a longer time may be required. Claimants shall be advised of this right in the notice. The commissioner of safety may waive reimbursement for any or all towing, preservation, or storage charges as the equities of the case may require. If a claimant, in a written request or petition, expresses a desire that the hearing before the commissioner of safety or the commissioner's designee be held in the county where the property in question was seized, that request shall be honored. Failure of the claimant to request a hearing for return of the property within the time provided shall constitute a waiver of all rights, title or interest the claimant may have in the property.

(6) Within a reasonable time after the expiration of the ten-day period, the commissioner of safety or the commissioner's designee, upon a hearing when the matter is contested, shall determine the rights, title or interests of all claimants to the property. If a claimant establishes by a preponderance of the evidence the original identification numbers or marks of the property and the claimant's right, title, or interest of the property bearing that number or mark, the commissioner of safety, upon reimbursement for all towing, preservation and storage charges, shall release the property to the claimant, and the department of safety shall issue the claimant a permit to restore the original identification numbers or marks as provided under § 55-5-112(b). If no claimant can establish in this manner the claimant's ownership of the property, the property shall be forfeited to the state.

(7) Property forfeited under this section shall be sold by the department of general services as provided by law, or held and titled to the department of safety for its use. The commissioner of safety may contract for the towing, storage, and/or disposal through public auction of all property forfeited to the state. The proceeds of the sales shall be retained by the department of safety for use in vehicle investigations. However, in cases where the property was seized or taken into custody by a state, county or municipal law enforcement agency, the property shall be sold and the proceeds divided equally between the department of safety and the cooperating agency. Future forfeitures or proceeds shall not be anticipated in the adoption and approval of the budget for the department of safety, except expenditures from these proceeds shall be subject to the approval of the commissioner of finance and administration and the comptroller of the treasury.

(8) Nothing in this section shall be construed to allow the seizure or impoundment by the department of safety or any other agency or individuals of any nonfactory-made trailers, logging trailers, or homemade trailers.

55-5-111 Vehicle lacking VIN

Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in that person's possession any motor vehicle, engine or transmission removed from a motor vehicle, from which the manufacturer's serial, engine or transmission number or other distinguishing number or identification mark or number placed thereon under assignment from the division has been removed, defaced, covered, altered or destroyed commits a Class A misdemeanor.

55-5-112 Altering or changing VIN

(a) No person shall with fraudulent intent deface, destroy or alter the manufacturer's serial, engine or transmission number or other distinguishing number or identification mark of a motor vehicle or its component parts, nor shall any person place or stamp any serial, engine, transmission or other number or mark upon a motor vehicle or its component parts, except one assigned by the department. A violation of this subsection (a) is a Class E felony.

(b) This section shall not prohibit the restoration of a vehicle identification number upon a motor vehicle or motor vehicle component part by the commissioner of safety or the commissioner's designee, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon motor vehicles or motor vehicle component parts thereof.

55-5-113 Fraudulent statements in application

Any person who fraudulently uses a false or fictitious name in any application for the registration of a vehicle or certificate of title, or knowingly conceals a material fact, or otherwise commits a fraud in the application, commits a Class C misdemeanor.

55-5-114 Operation without plates–Failure to license mobile home/trailer

(a) Employees of the department of safety shall be charged with the duty of policing and enforcing the motor vehicle laws administered by the commissioner of safety, and they shall have authority to make arrests for violations of the provisions, execute search warrants and do all the acts incident thereto in the same manner as other peace officers. The authority to weigh and inspect vehicles shall apply throughout the state, and the officer shall have authority to view the cargo and any bills or invoices or like evidence relating to the gross weight of the vehicle. It is lawful for the employees of the department of safety charged with the enforcement of this section to go armed while on active duty.

(b) Any person, firm or corporation owning or operating any motor vehicle over the roads of this state in excess of the maximum limits provided in this title or with a greater gross weight than that authorized by the registration thereof commits a Class C misdemeanor.

(c)(1) When any vehicle is found to be operated at a weight exceeding the maximum allowable under chapter 7 of this title, the operator may be required to reduce the weight to the maximum therefor specified in order to continue in operation.

(2) Any vehicle transporting perishable commodities or livestock may be removed to the nearest place suitable for preserving the character of the cargo removed from that vehicle.

(3) When any vehicle is seized, held, unloaded or partially unloaded under this subsection (c), the material shall be cared for by the owner or operator of the vehicle without any liability on the part of the department of safety's agent or officer or of the state or any municipality because of damages or loss.

(d) No vehicle required to be registered under chapters 1-6 of this title shall be operated upon any highway unless there is attached thereto and displayed thereon, when and as required by chapters 1-6 of this title, a valid and outstanding registration plate or plates issued therefor to the owner thereof for the current registration year, or a registration plate or plates issued to the owner thereof with the proper tabs, sticker, or other device attached or affixed thereto indicating a valid renewal of the registration plate or plates. A violation of this subsection (d) is a Class C misdemeanor.

(e) Any operator of a vehicle who fails or refuses to display the certificate of registration therefor and in the case of a freight vehicle refuses to submit the vehicle and load for a weighing when directed by an officer of the law or duly constituted agent of the commissioner of safety commits a Class C misdemeanor.

(f) If any owner or operator fails to license a mobile home or house trailer within a period of fifteen (15) days after first occupancy requiring registration, or if any owner or operator fails to license a mobile home or house trailer prior to moving it on the streets or highways of the state, the person shall, in addition to other fees and taxes due, dating from the time of first use during a given registration year, be assessed a penalty of twenty percent (20%) of the amount of the registration fee and remit it as a part of the tax.

(g) Any violation punishable under this section shall subject the offender to liability also for the payment of any applicable specific fee enumerated in §8-21-901 and directed to be paid therein or by §40-25-104. Where imposed because of an arrest made or citation issued by an employee of the department of safety, the fee shall be paid over to the commissioner of safety and deposited by the commissioner of safety to the credit of the state treasurer and become a part of the general fund of the state.

55-5-115 Misuse of registration

(a) No person shall lend to another any certificate of title, certificate of registration, registration plate, special plate, or permit issued to such person, if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any certificate of registration, registration plate, or permit not issued for that vehicle or not otherwise lawfully used thereon under chapters 1-6 of this title.

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

55-5-116 Altering or forging title or plates

It is a Class E felony for any person to:

(1) Alter with fraudulent intent any certificate of title, certificate of registration, registration plate, or permit issued by the department or any county clerk of this state by virtue of chapters 1-6 of this title;

(2) Alter or falsify with fraudulent intent or forge any assignment upon a certificate of title; or

(3) Hold or use the document or plate, knowing the document or plate to have been altered, forged or falsified.

55-5-119 Registration to be returned when suspended, cancelled or revoked

(a) Whenever the department as authorized hereunder cancels, suspends, or revokes the registration of a vehicle, or a certificate of title, a certificate of registration or registration plate or plates, or any nonresident or other permit or the license of any dealer or wrecker, the owner or person in possession of the same shall immediately return the evidence of registration, title or license so cancelled, suspended, or revoked to the department.

(b) In cases where the registration plate or plates are revoked by the commissioner of safety under the Financial Responsibility Law of 1977, compiled in chapter 12 of this title, the plate or plates shall be retained by the commissioner of safety, who shall notify the commissioner of revenue that the plate or plates are in the commissioner of safety's possession.

(c) The action of the department in suspending, revoking or canceling any registration, certificate of registration, registration plate or plates, permit or special plate shall be reviewed in the manner provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, and in §67-1-105; pro-

vided, that the party aggrieved by the action makes a written request for a formal hearing under the Uniform Administrative Procedures Act within ten (10) days of the action complained of.

55-5-120 Theft (auto)–Misdemeanor penalties–Chapters 55-1 through 55-6

(a) It is a Class C misdemeanor for any person to violate any of the provisions of chapters 1-6 of this title unless such violation is by chapters 1-6 of this title or other law of this state declared to be a felony.

(b) Unless another penalty is in chapters 1-6 of this title or by the laws of this state provided, a violation of any of the provisions of chapters 1-6 of this title is a Class C misdemeanor.

55-5-121 Theft (auto)–Felony penalties–Chapters 55-1 through 55-6

Any person who is convicted of a violation of any of the provisions of chapters 1-6 of this title declared to constitute a felony shall be punished for a Class E felony.

55-5-126 Use of stolen plates

(a) It is a Class C misdemeanor for any person to display upon a vehicle, for the purpose of indicating its registration, any license plate known by the user to have been stolen, or reported as lost or stolen in an application made to the department for a replacement plate, or issued as the replacement for a plate falsely reported to have been lost or stolen.

(b) When any person is apprehended while operating an unregistered vehicle on which there is displayed a plate known to the owner or user as having been stolen, reported as lost or stolen, or issued as the replacement for a plate falsely reported to have been stolen, the registration fee for the vehicle shall be in a sum treble the amount of the annual registration fee provided in chapter 4 of this title.

55-5-202 Chop shop–Definitions

As used in this part:

(1) "Chop shop" means any building, lot, or other premises where one (1) or more persons knew, or should have known, that they were engaged in altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle component part that was obtained by theft, or any other unlawful means to either:

(A) Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate or remove the identity, including the vehicle identification number of the motor vehicle or motor vehicle component part, or to prevent the identification of the motor vehicle or motor vehicle component part; or

(B) Sell or dispose of the motor vehicle or motor vehicle component part;

(2) "Motor vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a highway, that is self-propelled or which may be connected to and towed by a self-propelled device, and shall also include any and all devices which are self-propelled but are not designed for use upon a highway, including, but not limited to, farm machinery, construction equipment, and water craft;

(3) "Motor vehicle component part" includes any and all parts installed upon the "motor vehicle," including, but not limited to, engines, transmissions, vehicle bodies, chassis, doors, deck lids, front end clips (fenders and grill), seats, differentials, tires, wheels, steering wheels, air bags, automobile radios, automobile tape players, and bumpers;

(4) "Person" includes a natural person, company, corporation, unincorporated association, partnership, professional corporation, and any other legal entity;

(5) "Tool, implement, instrumentality" means any tool or device, either electrical, mechanical or electronic that can be and is being used to:

(A) Alter, destroy, disassemble, dismantle, or reassemble any stolen motor vehicle or motor vehicle component part, including, but not limited to, hand tools, power tools, wrenches, air guns, and tool boxes;

(B) Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the vehicle identification number on any motor vehicle or motor vehicle component part, to include, but not be limited to, grinders, die stamps, rivet guns, rivets, drills, torches, and welders; or

(C) Sell, dispose, or transport a stolen motor vehicle or stolen motor vehicle component part, including, but not limited to, passenger vehicles, towing vehicles (wreckers or rollbacks), shipping containers, cellular telephones and pagers;

(6) “Unidentifiable” means that the uniqueness of a motor vehicle or motor vehicle component part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle theft examination techniques, or by expert employees of not-for-profit motor vehicle theft prevention agencies, specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle theft examination techniques; and

(7) “Vehicle identification number” means:

(A) A number or numbers, a letter or set of letters, a character or set of characters, a derivative or derivatives, or a combination thereof, used by the manufacturer for the purpose of uniquely identifying a motor vehicle or motor vehicle component part; or

(B) Any number, set of numbers, a letter or set of letters, a character or set of characters, a derivative or derivatives, or a combination thereof assigned by the department of revenue in the normal course of its duties in salvage conversion or restoration.

55-5-203 Chop shop

(a) It is an offense to:

(1) Knowingly own, operate or conduct a chop shop;

(2) Transport any motor vehicle or motor vehicle component part to or from a location, knowing the location to be a chop shop;

(3) Purchase or receive any motor vehicle or motor vehicle component part from a location knowing the location to be a chop shop; or

(4) Sell or transfer any motor vehicle or motor vehicle component part to a location knowing the location to be a chop shop.

(b) A violation of subdivision (a)(1) or (a)(2) is a Class D felony. In addition to the authorized term of imprisonment for a Class D felony, the violation shall also be punished by a minimum mandatory fine of three thousand five hundred dollars ($3,500).

(c) A violation of subdivision (a)(3) shall be punished as theft pursuant to §39-14-103 and graded pursuant to §39-14-105 depending upon the value of the motor vehicle or motor vehicle component part purchased or received.

(d) The penalty for a violation of subdivision (a)(4) shall be graded pursuant to §39-14-105 depending upon the value of the motor vehicle or motor vehicle component part sold or transferred.

(e)(1) In addition to any other punishment, a person convicted of a violation of this section shall be ordered to make restitution to the lawful owner or owners of the stolen motor vehicle or motor vehicle component part, or to the owner’s insurer, and to any other person for financial loss sustained as a result of a violation of this section.

(2) “Financial loss” includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments.

(3) “Lawful owner” includes an innocent bona fide purchaser of a motor vehicle or motor vehicle component part who does not know the motor vehicle or motor vehicle component part to be stolen.

(f) The court shall determine the extent and method of restitution.

Chapter 7
Size, Weight and Load

55-7-119 Ladder falling from truck bed or trailer into roadway causing accident

Added 2023

(a) This section is known and may be cited as the “Sergeant Chris Jenkins Law.”

(b) A person who operates a motor vehicle upon a public roadway while transporting a ladder on the motor vehicle or in an open bed or trailer commits an offense if the ladder falls onto the roadway and causes or contributes to a motor vehicle accident.

(c) This section does not alter or amend any requirements in § 65-15-111 pertaining to additional requirements for commercial motor vehicles.

(d) A violation of this section is a Class C misdemeanor, except, that if death or bodily injury results from the motor vehicle accident, then a violation of this section is a Class A misdemeanor.

55-8-101 General definitions

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

As used in this chapter and chapter 10, parts 1-5, of this title, unless the context otherwise requires:

(1) "All-terrain vehicle" means either:

(A) A motorized nonhighway tire vehicle with no less than four (4) nonhighway tires, but no more than six (6) nonhighway tires, that is limited in total dry weight to less than two thousand five hundred pounds (2,500 lbs.), and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control; or

(B) A motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, snow, or other natural terrain and not intended for use on public roads traveling on two (2) wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control;

(2) "Arterial street" means any United States or state numbered route, controlled access highway, or other major radial or circumferential street or highway designed by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways;

(3)(A) "Authorized emergency vehicle" means vehicles of the fire department, fire patrol, police vehicles or bicycles and emergency vehicles that are designated or authorized by the commissioner or the chief of police of an incorporated city, and vehicles operated by commissioned members of the Tennessee bureau of investigation when on official business;

(B) "Authorized emergency vehicle in certain counties" means vehicles owned by regular or volunteer firefighters in any county with a population of not less than thirty-two thousand seven hundred fifty (32,750) nor more than thirty-two thousand eight hundred (32,800), according to the 1980 federal census or any subsequent federal census, when the vehicles are used in responding to a fire alarm or other emergency call;

(C)(i) "Authorized emergency vehicle" automatically includes every ambulance and emergency medical vehicle operated by any emergency medical service licensed by the department of health pursuant to title 68, chapter 140, part 3; and, notwithstanding any law to the contrary, regulation of these ambulances and emergency medical vehicles shall be exclusively performed by the department of health, except as provided in § 68-140-326, and no special authorization, approval or filing shall be required pursuant to this chapter by the commissioner of safety;

(ii) "Authorized emergency vehicle" automatically includes every rescue vehicle or emergency response vehicle owned and operated by a state-chartered rescue squad, emergency lifesaving crew or active member unit of the Tennessee Association of Rescue Squads and no special authorization, approval or filing shall be required for the vehicle pursuant to this chapter by the commissioner of safety;

(4) "Autocycle" has the same meaning as defined in § 55-1-103;

(5) "Automated driving system" or "ADS" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed in high or full automation mode, without any supervision by a human operator, with specific driving mode performance by the automated driving system of all aspects of the dynamic driving task that can be managed by a human driver, including the ability to automatically bring the motor vehicle into a minimal risk condition in the event of a critical vehicle or system failure or other emergency event;

(6) "Automated-driving-system-operated vehicle" or "ADS-operated vehicle" means a vehicle equipped with an automated driving system;

(7) "Bicycle" means every device propelled by human power upon which any person may ride, having two (2) tandem wheels, either of which is more than twenty inches (20") in diameter;

(8) "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

(9) “Business district” means the territory contiguous to and including a highway when within any six hundred feet (600’) along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, or office buildings, railroad stations and public buildings that occupy at least three hundred feet (300’) of frontage on one (1) side or three hundred feet (300’) collectively on both sides of the highway;

(10) “Certified police cyclist” means any full time, sworn law enforcement officer who is certified by the International Police Mountain Bike Association or has otherwise been certified by the Tennessee peace officer standards and training commission as having received and successfully completed appropriate bicycle training in the performance of law enforcement functions;

(11) “Chauffeur” means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;

(12) “Class I off-highway vehicle” means a motorized vehicle with not less than four (4) nonhighway tires, nor more than six (6) nonhighway tires, whose top speed is greater than thirty-five miles per hour (35 mph), that is limited in total dry weight up to three thousand five hundred pounds (3,500 lbs.), that is eighty inches (80″) or less in width measured from the outside of the tire rim to the outside of the tire rim, and that has a nonstraddle seating capable of holding at least two (2) but no more than four (4) passengers and a steering wheel. “Class I off-highway vehicle” includes mini-trucks;

(13) “Class II off-highway vehicle” means any off-highway vehicle that is designed to be primarily used for recreational purposes, that has a nonstraddle seating capable of holding at least two (2) but no more than four (4) passengers and a steering wheel, and that is commonly referred to as a sand buggy, dune buggy, rock crawler, or sand rail. “Class II off-highway vehicle” does not include a snowmobile or other vehicle designed to travel exclusively over snow or ice;

(14) “Commissioner” means the commissioner of safety;

(15) “Controlled-access highway” means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

(16) “Crosswalk” means:

(A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

(B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(17) “Dealer” means every person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered and who has an established place of business for that purpose in this state;

(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;

(20) “Dynamic driving task” means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic. “Dynamic driving task” does not include strategic functions, such as route selection and scheduling;

(21)(A) “Electric scooter”:

(i) Means a device weighing less than one hundred pounds (100 lbs.) that:

(a) Has handlebars and an electric motor;

(b) Is solely powered by the electric motor or human power, or both; and

(c) Has a maximum speed of no more than twenty miles per hour (20 mph) on a paved level surface when powered solely by the electric motor; and

(ii) Does not include an electric bicycle, electric personal assistive mobility device, motorcycle, or motor-driven cycle; and

(B) An electric scooter is a motor-driven vehicle, for purposes of § 55-10-401;

(22) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation;

(23) "Established place of business" means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where the books and records are kept and a large share of the business is transacted;

(24) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in those proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb;

(25) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(26) "Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit (70° F.), or less, as determined by a tagliabue or equivalent closed-cup test device;

(27) "Foreign vehicle" means every vehicle of a type required to be registered brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state;

(28) "Golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and equipped with safety belts installed for use in the left front and right front seats and that is not capable of exceeding speeds of twenty miles per hour (20 mph);

(29) "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon;

(30) "Highway" means the entire width between the boundary lines of every way when any part thereto is open to the use of the public for purposes of vehicular travel;

(31) "Implement of husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of the owner's agricultural operations;

(32) "Intersection" means:

(A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different highways joining at any other angle may come in conflict; or

(B) Where a highway includes two (2) roadways thirty feet (30') or more apart, then every crossing of each roadway of that divided highway by an intersecting highway shall be regarded as a separate intersection. In the event the intersecting highway also includes two (2) roadways thirty feet (30') or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection;

(33) "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

(34) "License to operate a vehicle" means any operator's or chauffeur's license, or any other license or permit to operate a motor vehicle issued under the laws of this state including:

(A) Any temporary license or instruction permit;

(B) The privilege of any person to drive a motor vehicle whether or not that person holds a valid license; and

(C) Any nonresident's operating privilege as defined in this section;

(35) "Local authorities" means every county, municipal and other local board or body having authority to enact ordinances or make regulations relating to traffic under the constitution and laws of this state;

(36) “Low speed vehicle” means any four-wheeled electric vehicle, excluding golf carts, whose top speed is greater than twenty miles per hour (20 mph) but not greater than twenty-five miles per hour (25 mph), including neighborhood vehicles. Low speed vehicles must comply with the safety standards in 49 CFR 571.500;

(37) “Manufacturer” means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state;

(38) “Medium speed vehicle” means any four-wheeled electric or gasoline-powered vehicle, excluding golf carts, whose top speed is greater than thirty miles per hour (30 mph), but whose maximum speed allowed is thirty-five miles per hour (35 mph) only on streets with a forty mile per hour (40 mph) or less posted speed limit pursuant to § 55-8-191(b)(1), and otherwise meets or exceeds the federal safety standards set forth in 49 CFR 571.500, except as otherwise provided in § 55-4-136;

(39) “Metal tire” means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

(40) “Minimal risk condition” means a low-risk operating mode in which an ADS-operated vehicle when the ADS is engaged achieves a reasonably safe state upon experiencing a failure of the vehicle’s ADS that renders the vehicle unable to perform the entire dynamic driving task;

(41) “Motor vehicle”:

(A) Means every vehicle that is self-propelled;

(B) Includes low-speed vehicles and medium-speed vehicles; and

(C) Does not include:

(i) Electric scooters;

(ii) Electric bicycles, as defined in §55-8-301;

(iii) Motorized bicycles;

(iv) Personal delivery devices;

(v) Motorized wheelchairs; or

(vi) Any vehicle, including a low-speed vehicle or a medium-speed vehicle, that is propelled by electric power obtained from overhead trolley wires but not operated upon rails;

(42) “Motorcycle” has the same meaning in § 55-1-103;

[Note: The following version of subsection (43) is effective UNTIL 7/1/2024.]

(43) “Motor-driven cycle” means every motorcycle, including every motor scooter, with a motor that produces no more than five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred twenty-five cubic centimeters (125cc). “Motor-driven cycle” does not include an electric scooter or personal delivery device;

[Note: The following version of subsection (43) is NOT effective UNTIL 7/1/2024.]

(43) “***Motorscooter***” means ***any two- or three-wheel automatic transmission vehicle*** with a motor that produces no more than ***thirty (30***) brake horsepower, a motor with a cylinder capacity not exceeding ***three*** hundred cubic centimeters (***300cc) or an electric motor not to exceed five thousand watts (5,000W), a wheelbase not to exceed sixty-four inches (64"), and a maximum dry weight of four hundred fifty pounds (450 lbs.). “Motorscooter***” does not include an electric scooter or personal delivery device;

(44) “Motorized bicycle” means a vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters (50cc) which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty miles per hour (30 mph) on level ground. The operator of a motorized bicycle must be in possession of a valid operator’s or chauffeur’s license, and shall be subject to all applicable and practical rules of the road. A motorized bicycle may not be operated on a highway of the interstate and defense highway system, any similar limited access multilane divided highway, or upon sidewalks;

(45) “Off-highway vehicle” or “off-highway motor vehicle” means any vehicle designed primarily to be operated off public highways, including any Class I off-highway vehicle, Class II off-highway vehicle, all-terrain vehicle, any motorcycle commonly referred to as a dirt bike, or any snowmobile or other vehicle designed to travel exclusively over snow or ice;

(46) “Official traffic-control devices” means all signs, signals, markings and devices not inconsistent with this chapter and chapter 10, parts 1-5 of this title placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic;

(47) “Operator” means:

(A) For purposes of a conventionally operated vehicle, every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle; and

(B) For purposes of an ADS-operated vehicle and when the context requires, the ADS when the ADS is engaged;

(48) “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter and chapter 10, parts 1-5 of this title;

(49) “Park,” when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading;

(50) “Pedestrian” means any person afoot or using a motorized or non-motorized wheelchair;

(51) “Pedestrian area” includes a sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone;

(52) “Person” means a natural person, firm, copartnership, association, corporation, or an engaged ADS;

(53) “Personal delivery device” means a device that:

(A) Is solely powered by an electric motor;

(B) Is operated primarily on sidewalks and crosswalks;

(C) Is intended primarily for the transport of property on public rights-of-way; and

(D) Is capable of navigating with or without the active control or monitoring of a natural person;

(54) “Personal delivery device operator” means an entity that exercises physical control or monitoring over the navigation system and operation of a personal delivery device;

(55) “Platoon” means a group of individual motor vehicles that are traveling in a unified manner at electronically coordinated speeds;

(56) “Pneumatic tire” means every tire in which compressed air is designed to support the load;

(57) “Pole trailer” means every vehicle without motive power designed to be driven by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections;

(58) “Police officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(59) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;

(60) “Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(61) “Railroad sign or signal” means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(62) “Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(63) “Recovered materials” and “recyclable materials” have the same meanings as defined in § 68-211-802;

(64) “Recycling vehicle” means any vehicle that is designed and used exclusively for the collection or transportation of recovered materials or recyclable materials;

(65) “Residential district” means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet (300’) or more is in the main improved with residences;
(66) “Right-of-way” means the privilege of the immediate use of the roadway;
(67) “Road tractor” means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;
(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;
(69) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;
(70) “School bus” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;
(71) “Semitrailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;
(72) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians;
(73) “Solid tire” means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;
(74) “Solid waste vehicle” means any vehicle engaged in the collecting and transporting of municipal solid waste as defined by § 68-211-802, or recyclable materials as defined by § 68-211-802;
(75) “Special mobile equipment” means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus and concrete mixers. The foregoing enumeration shall be deemed partial and shall not operate to exclude other vehicles that are within the general terms of this subdivision (75);
(76) “Specially constructed vehicle” means every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;
(77) “Stop,” when required, means complete cessation from movement;
(78) “Stop line” means a white line placed generally in conformance with the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the department of transportation, denoting the point where an intersection begins;
(79) “Stopping” or “standing,” when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;
(80) “Street” means the entire width between boundary lines of every way when any part thereof is open to the use of the public for purposes of vehicular travel;
(81) “Streetcar” means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality;
(82) “Through highway” means every highway or portion of the highway at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter. The department of transportation shall be authorized to designate through highways;
(83) “Trackless trolley coach” means every motor vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails;

(84) “Tractor” means any self-propelled vehicle designed or used as a traveling power plant or for drawing other vehicles, but having no provision for carrying loads independently;
(85) “Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel;
(86) “Traffic-control signal” means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;
(87) “Trailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;
(88) “Truck” means every motor vehicle designed, used or maintained primarily for the transportation of property;
(89) “Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;
(90) “Urban district” means the territory contiguous to and including any street that is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred feet (100’) for a distance of one-quarter (¼) mile or more; and
(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.

55-8-103 Chapters 55-8 and 55-10–Penalties

It is unlawful and, unless otherwise declared in this chapter and chapter 10, parts 1-5 of this title with respect to particular offenses, it is a Class C misdemeanor, for any person to do any act forbidden or fail to perform any act required in this chapter and chapter 10 of this title.

55-8-104 Obedience to police officers

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.
(b) A violation of this section is a Class C misdemeanor.

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.

55-8-107 Persons working on highways

Unless specifically made applicable, the provisions of this chapter and chapter 10, parts 1-5 of this title, except those contained in §55-10-205, shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway or the adjacent right-of-way, but shall apply to these persons and vehicles when traveling to or from such work. This section shall not relieve the driver of a motor vehicle or equipment covered by this section from the duty to drive with due regard for the safety of all persons, all as provided by law.

55-8-108 Authorized emergency vehicles

(a) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.
(b)(1) A driver of an authorized emergency vehicle operating the vehicle in accordance with subsection (a) may:
(A) Park or stand, notwithstanding other provisions of this chapter that regulate parking or standing;
(B) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
(C) Exceed the speed limits so long as life or property is not thereby endangered; and
(D) Disregard regulations governing direction of movement or turning in specified directions.

(2) Subdivision (b)(1) shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall subdivision (b)(1) protect the driver from the consequences of the driver's own reckless disregard for the safety of others.

(c)(1) The exemptions granted under subsection (b) to a driver of an authorized emergency vehicle shall only apply when the vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that while parked or standing, an authorized emergency vehicle shall only be required to make use of visual signals meeting the requirements of the applicable laws of this state.

(2) Nothing in this section shall be construed to prohibit the driver of an authorized emergency vehicle, while parked or standing, from making use of both audible and visual signals meeting the requirements of the applicable laws of this state, in the discretion of the driver.

(d) An authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(e) Notwithstanding the requirement of this section that drivers of authorized emergency vehicles exercise due regard for the safety of all persons, no municipality or county nor the state or any of its political subdivisions, nor their officers or employees, shall be liable for any injury proximately or indirectly caused to an actual or suspected violator of a law or ordinance who is fleeing pursuit by law enforcement personnel. The fact that law enforcement personnel pursue an actual or suspected violator of a law or ordinance who flees from pursuit shall not render the law enforcement personnel, or the employers of the law enforcement personnel, liable for injuries to a third party proximately caused by the fleeing party unless the conduct of the law enforcement personnel was negligent and that negligence was a proximate cause of the injuries to the third party.

55-8-109 Obedience to traffic-control device

(a) The driver of any vehicle and the operator of any streetcar shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this chapter and chapter 10, parts 1-5 of this title, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b)(1) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(2) Whenever a particular section does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(c) For purposes of this section, "traffic or police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations or a person licensed under title 62, chapter 35, or authorized to carry a firearm pursuant to § 38–8–116(b), who is retired in good standing from being a commissioned, POST-certified law enforcement officer and who has notified the chief law enforcement officer in the jurisdiction where the retired officer will be directing or regulating traffic at least twenty-four (24) hours in advance, or as soon as possible in the event of an emergency, prior to performing traffic control functions in such jurisdiction.

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

55-8-110 Traffic-control signals

Amended 2023

(a) Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers or vehicles and pedestrians as follows:

(1) Green alone or "Go":

(A) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited; and

(B) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk;

(2) Yellow alone or "Caution," when shown following the green or "Go" signal:

(A) Vehicular traffic facing the signal is warned that the red or "Stop" signal will be exhibited immediately thereafter and that vehicular traffic shall not enter or cross the intersection when the red or "Stop" signal is exhibited; and

(B) Pedestrians facing the signal are advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles;

(3) Red alone or "Stop":

(A) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or if there is a clearly marked stop line preceding the crosswalk, then before such stop line, but if there is neither a crosswalk nor a stop line, then before entering the intersection, and the vehicular traffic shall remain standing until green or "Go" is shown alone. A right turn on a red signal shall be permitted at all intersections within the state; provided, that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal; provided further, that such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the responsible municipal or county governments at intersections which they decide require no right turns on red in the interest of traffic safety;

(B) No pedestrian facing such signal shall enter the roadway unless entry can be made safely and without interfering with any vehicular traffic; and

(C) A left turn on a red or stop signal shall be permitted at all intersections within the state where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except those clearly marked by a "No Turn on Red" sign, which may be erected by the responsible municipal or county governments at intersections that these governments decide require no left turns on red in the interest of traffic safety;

(4) Red with green arrow:

(A) Vehicular traffic facing this signal may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection; and

(B) No pedestrian facing the signal shall enter the roadway unless entry can be made safely and without interfering with any vehicular traffic;

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or before the stop line, but in the absence of any sign or stop line the stop shall be made at the signal;

(6) The operator of any streetcar shall obey the signals in subdivisions (a)(1)-(5) as applicable to vehicles;

(7) All electric highway, street and road vehicular traffic-control signals in Tennessee shall have a uniform arrangement of the colored lenses in the various signal faces of the signals, as follows: In each signal face, all red lenses in vertical signals shall be located above all yellow and green lenses, and in horizontal signals, to the left of all yellow and green lenses. Yellow lenses shall be located between any red lens or lenses and all other lenses; and

(8) Whenever in this state three-light traffic-control signals are used displaying successively green, yellow, and red lights for the direction of motorists and pedestrians, the ***duration of the yellow plus all red change interval must be determined using engineering practices as identified in the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the department of transportation in accordance with §54-5-***

108(b), and the minimum time exposure of the yellow light ***must*** be three (3) seconds. ***A*** state agency or political subdivision of the state that installs, owns, operates, or maintains any such traffic-control signal light shall set or cause to be set the timing-control device for the signal light in compliance with this subdivision (a)(8***) and the MUTCD, as adopted by the department of transportation in accordance with §54-5-108(b). A state agency or*** political subdivision of the state that installs, owns, operates, or maintains a traffic-control signal light in an intersection that employs a surveillance camera for the enforcement or monitoring of traffic violations shall ***not*** reduce the time exposure of the yellow light at the intersection with the intended purpose of increasing the number of traffic violations.

(b) Notwithstanding any law to the contrary, the driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to a violation of §55-8-109 that the driver of a motorcycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the size of the motorcycle when the signal did not utilize a vehicle detection device or that the device was not in fact inoperative due to the size of the motorcycle.

(c) The driver of any vehicle approaching an intersection that is controlled by a traffic-control signal that is inoperative because of mechanical failure or accident shall come to a full and complete stop at the intersection, and may proceed with due caution when it is safe to do so; provided, that if two (2) or more vehicles enter such an intersection from different directions at approximately the same time, after having come to full and complete stops, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. A traffic-control signal shall not be considered inoperative if the signal is operating in flashing mode. If a signal is operating in flashing mode, it shall require obedience by vehicular traffic pursuant to §55-8-112.

(d) Notwithstanding any law to the contrary, the rider of a bicycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the bicycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to a violation of §55-8-109 that the rider of a bicycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the size of the bicycle when the signal did not utilize a vehicle detection device or that the device was not in fact inoperative due to the size of the bicycle.

(e) It is not a violation of subdivision (a)(3), unless the front tires of a vehicle cross the stop line after the signal is red.

55-8-111 Pedestrian-control signals

Whenever special pedestrian-control signals exhibiting the words “Walk” or “Wait” or “Don’t Walk” are in place, these signals shall indicate as follows:

(1) Walk. Pedestrians facing the signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles; and

(2) Wait or Don’t Walk. No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

55-8-112 Flashing signals

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in §55-8-145.

55-8-113 Unauthorized signs, signals or markings

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device that purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or that attempts to direct the movement of traffic, or that hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

(b) No person shall sell or offer for sale any traffic control signal or device for use on any street, road, or highway in this state unless the device conforms to the requirements of this chapter.

(c) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing any commercial advertising.

(d) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(e) Every prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the sign, signal or marking or cause it to be removed without notice.

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

55-8-114 Interference with traffic-control or railroad signs or signals

(a) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia or other part of the device, sign or signal.

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

55-8-115 Driving on right side of roadway

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When the right half of a roadway is closed to traffic while under construction or repair;

(3) Upon a roadway divided into three (3) marked lanes for traffic under the applicable rules thereon; or

(4) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

55-8-116 Passing vehicles proceeding in opposite directions

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one half (1/2) of the main-traveled portion of the roadway as nearly as possible.

55-8-117 Overtaking vehicle on left

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.

55-8-118 When overtaking on right permitted

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; and

(3) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting that movement in safety. In no event shall the movement be made by driving off the pavement or main-traveled portion of the roadway.

(c) When overtaking or passing upon the right of another motor vehicle pursuant to this section or other law, the person shall not operate the motor vehicle within a bicycle lane as defined in §55-8-205.

(d)(1) Notwithstanding this section, the driver of a bus operated by or for a publicly owned transit agency may overtake and pass a vehicle upon the right when operating on the shoulder or right-of-way of any highway on the state system of highways, including interstate highways, when authorized by the department of transportation. Except for authorized emergency vehicles, or recovery vehicles, as defined in § 55-8-132(d), when responding to an emergency call received from a law enforcement agency, the operation of a vehicle on the shoulder or right-of-way of a state highway other than a bus authorized by the department is an offense punishable as a Class C misdemeanor.

(2) The department is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of subdivision (d)(1), including establishing procedures for authorizing the operation of a bus on the shoulder or right-of-way and regulations for ensuring the safety of passengers on a bus and in vehicles operating on the main traveled way of the adjacent highway or right-of-way, such as establishing a maximum speed limit of a bus, limiting the use of the shoulder or right-of-way during peak traffic periods, and installing signs indicating the shoulder or right-of-way is reserved for exclusive use by a bus.

(3) As used in this subsection (d), "bus" does not include a school bus.

(4) The department may take any action to obtain federal, state, or local assistance for any aspect of implementation of a program to allow a bus to utilize the shoulder or right-of-way of a state highway as provided in subdivision (d)(1); provided, that any funds used for the purposes of this subsection (d) shall be specifically appropriated by reference in the general appropriations act.

55-8-119 Limitations on overtaking on left

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless the left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.

55-8-120 Further limitations on driving to left of center of roadway

(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within three hundred feet (300') or such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within one hundred feet (100') of or traversing any intersection or railroad grade crossing; or

(3) When the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct or tunnel.

(b) The limitations of subsection (a) shall not apply upon a one-way roadway.

55-8-121 No-passing zones

The department of transportation is authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones. When these signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

55-8-122 One-way roads & rotary traffic islands

(a) The department of transportation may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of the island.

55-8-123 Driving on roadways laned for traffic

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(2) Upon a roadway that is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of this allocation;

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign; and

(4)(A) Where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five (5) or more vehicles are formed in line, shall turn or pull off the roadway wherever sufficient area exists to do so safely, in order to permit vehicles following it to proceed. As used in this subdivision (4), a slow-moving vehicle is one which is proceeding at a rate of speed that is ten miles per hour (10 mph) or more below the lawful maximum speed for that particular roadway at that time;

(B) Any person failing to conform with subdivision (4)(A) shall receive a warning citation on first offense and be liable for a fine of twenty dollars ($20.00) on second offense, and fifty dollars ($50.00) on third and subsequent offenses;

(C) Subdivision (4)(A) shall not apply to funeral processions, school buses, farm tractors, or implements of husbandry.

55-8-124 Following too closely

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor truck or motor vehicle towing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle towing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy that space without danger, except that this shall not prevent a motor truck or motor vehicle towing another vehicle from overtaking and passing any like vehicle or other vehicle.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy the space without danger. This subsection (c) does not apply to funeral processions.

(d) Except for a motor vehicle in a platoon, no motor truck of more than one and one-half ton rated capacity shall approach any other motor truck of like or greater capacity proceeding in the same direction on any

of the highways of this state without the corporate limits of any municipality at a distance nearer than three hundred feet (300'), except in overtaking and passing such other trucks, or unless one (1) or both of these trucks have come to a stop or except in rendering assistance to a disabled or partly disabled truck.

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

55-8-125 Driving on divided highways

Whenever any highway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any dividing space, barrier or section, except through an opening in the physical barrier or dividing section or space or at a cross-over or intersection established by public authority.

55-8-126 Restricted access

(a) No person shall drive a vehicle onto or from any controlled-access roadway except at entrances and exits that are established by public authority.

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

55-8-127 Restrictions on use of controlled-access roadway

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

(a) The department of transportation and local authorities may, with respect to any controlled-access roadway under their respective jurisdictions, prohibit the use of that roadway by pedestrians, bicycles or other nonmotorized traffic or by any person operating a motor-driven cycle.

(b) The department or the local authority adopting any such prohibitory regulation shall erect and maintain official signs on the controlled-access roadway on which the regulations are applicable, and when the signs are erected, a person who disobeys the restrictions stated on the signs commits a Class C misdemeanor.

55-8-128 Vehicle approaching or entering intersection

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway or drive.

(b) When two (2) vehicles enter an intersection from different highways or drives at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(c) The right-of-way rules declared in subsections (a) and (b) are modified at through highways and otherwise as hereinafter stated in this chapter and chapter 10, parts 1-5 of this title.

(d) As used in this section:

(1) "Drive" means any way that is open to the use of the public for purposes of vehicular travel and that leads into or from premises that are generally frequented by the public at large; and

(2) "Intersection" includes the area within which vehicles traveling upon a highway and a drive that join one another at any angle may come in conflict.

55-8-129 Vehicle turning left at intersection

(a) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but the driver, having so yielded and having given a signal when and as required by this chapter, may make the left turn, and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

(b) As used in this section, "drive" and "intersection" have the same meanings as defined in §55-8-128.

55-8-130 Vehicle entering through highway or stop intersection

(a) The driver of a vehicle shall stop as required by §55-8-149 at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway as to constitute an immediate hazard, but the driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on

the through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway.

(b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one (1) or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(c)(1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway, drive, or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway, drive, or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway, drive, or other roadway, or which are approaching so closely on the highway, drive, or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway, drive, or other public roadway, if one (1) or more lanes at the entrance are designated a yield lane by an appropriate marker, this subsection (c) shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

(d) As used in this section, “drive” and “intersection” have the same meanings as defined in §55-8-128.

55-8-131 Vehicle entering highway from private road or driveway

The driver of a vehicle about to enter or cross a highway from a drive, private road, or private driveway shall yield the right-of-way to all vehicles approaching on the highway. As used in this section, “drive” has the same meaning as defined in §55-8-128.

55-8-132 Operation near emergency vehicles

Amended 2023

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the applicable laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only:

(1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer; and

(2) Upon the approach of an authorized emergency vehicle, as stated above, the operator of every streetcar shall immediately stop the streetcar clear of any intersection and keep it in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) Upon approaching a stationary authorized emergency vehicle, when the vehicle is giving a signal by use of flashing lights, a person who drives an approaching vehicle shall:

(1) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(c***)(1***) Upon approaching a stationary recovery vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle, when the vehicle is giving a signal by use of authorized flashing lights, a person who drives an approaching vehicle shall:

(***A***) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary recovery vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(B) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(2) Upon approaching a stationary vehicle that is giving a signal by use of flashing hazard lights, a person who drives an approaching vehicle shall:

(A) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(B) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(d) For the purpose of this section unless the context otherwise requires:

(1) "Highway maintenance vehicle" means a vehicle used for the maintenance of highways and roadways in this state and is:

(A) Owned or operated by the department of transportation, a county, a municipality or other political subdivision of this state; or,

(B) Owned or operated by a contractor under contract with the department of transportation, a county, a municipality or other political subdivision of this state;

(2) "Recovery vehicle" means a truck that is specifically designed for towing a disabled vehicle or a combination of vehicles; and

(3) "Utility" means any person, municipality, county, metropolitan government, electric cooperative, telephone cooperative, board, commission, district or any entity created or authorized by public act, private act, or general law to provide electricity, natural gas, water, waste water services, telephone services, or any combination thereof, for sale to consumers in any particular service area.

(e)(1) The first violation of this section is a Class B misdemeanor punishable by a fine of not less than ***two*** hundred ***fifty*** dollars ($***250***) nor more than five hundred dollars ($500), or imprisonment not longer than thirty (30) days, or both.

(2) A second violation of this section is a Class B misdemeanor punishable by a fine of one thousand dollars ($1,000).

(3) A third or subsequent violation of this section is a Class A misdemeanor punishable by a fine of ***two*** thousand ***five hundred*** dollars ($***2,500***).

(f) This section shall not operate to relieve the driver of a stationary motor vehicle, authorized emergency vehicle, recovery vehicle, solid waste vehicle, or highway maintenance vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

(g)(1) A person violating this section may also be prosecuted and convicted for the offense of:

(A) The Class E felony of criminally negligent homicide under §39-13-212, if the conduct giving rise to the violation of this section is criminally negligent, as defined in §39-11-302(d), and results in the death of another;

(B) The Class D felony of reckless homicide under §39-13-215, if the conduct giving rise to the violation of this section is reckless, as defined in §39-11-302, and results in the killing of another; and

(C) The Class C felony of vehicular homicide under §39-13-213, if the conduct giving rise to the violation of this section is reckless, as defined in §39-11-302(c), proximately results in the killing of another and the conduct created a substantial risk of death to another.

(2) Nothing in subdivision (g)(1) shall be construed as precluding a person who violates this section from being prosecuted and convicted under any other applicable offense.

(h) Upon approaching a stationary motor vehicle that is located on the shoulder, emergency lane, or median and the vehicle is giving a signal by use of flashing lights, a person who drives an approaching vehicle shall:

(1) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the motor vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

55-8-133 Pedestrians subject to traffic regulations

(a) Pedestrians shall be subject to traffic-control signals at intersections as provided in §55-8-110, and at all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter and chapter 10, parts 1-5 of this title.

(b) Local authorities are empowered to require by ordinances that pedestrians strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

55-8-134 Pedestrian right-of-way in crosswalks

(a)(1) Unless in a marked school zone when a warning flasher or flashers are in operation, when traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) When in a marked school zone when a warning flasher or flashers are in operation, the driver of a vehicle shall stop to yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or at an intersection with no marked crosswalk. The driver shall remain stopped until the pedestrian has crossed the roadway on which the vehicle is stopped.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) Subsection (a) does not apply under the conditions stated in §55-8-135(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

55-8-135 Crossing at other than crosswalks

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

55-8-136 Drivers to exercise due care

(a) Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

(b) Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver of a vehicle shall exercise due care by operating the vehicle at a safe speed, by maintaining a safe lookout, by keeping the vehicle under proper control and by devoting full time and attention to operating the vehicle, under the existing circumstances as necessary in order to be able to see and to avoid endangering life, limb or property and to see and avoid colliding with any other vehicle or person, or any road sign, guard rail or any fixed object either legally using or legally parked or legally placed, upon any roadway, within or beside the roadway right-of-way including, but not limited to, any adjacent sidewalk, bicycle lane, shoulder or berm.

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

55-8-137 Pedestrian to use right half of crosswalks

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

55-8-138 Pedestrian on roadways

(a) Except as provided in this section, where sidewalks are provided, it is unlawful for any pedestrian to walk or use a wheelchair along and upon an adjacent roadway.

(b) Where sidewalks are not provided or are obstructed, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction.

(c) Where sidewalks are not provided, are obstructed or are not wheelchair accessible, any person using a wheelchair along and upon a highway shall, when practicable, use the wheelchair on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction; provided, that a person using a wheelchair along and upon a highway may use the wheelchair on the right side of the roadway or its shoulder if it is convenient or reasonably necessary for travel by the person.

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

55-8-139 Pedestrian soliciting rides or business

(a) No person shall stand in a roadway for the purpose of soliciting a ride or employment from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(c) No person shall loiter or conduct any commercial activity in, or in proximity to, the median of a state highway.

(d) Subsection (c) does not apply to:

(1) Employees of, or agents, contractors, or other persons under contract with, or acting on behalf of, the department of transportation; and

(2) Employees of, or agents, contractors, or other persons who are under contract with, or acting on behalf of, a county, municipality, or other political subdivision of this state or a utility, and who are permitted by the department of transportation to stand or conduct any activity in, or in proximity to, the median of a state highway.

(e) A violation of this section is a Class C misdemeanor; except, that a person who violates subsection (c) shall receive a warning citation for a first offense.

55-8-140 Turning at intersections

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right Turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

(2) Left Turns on Two-way Roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection;

(3) Left Turns on Other Than Two-way Roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the driver's vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in that direction upon the roadway being entered;

(4) Local Instructions. Local authorities in their respective jurisdictions may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by those markers, buttons or signs; and

(5) Two-way Left Turn Lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been established:

(A) A left turn shall not be made from any other lane unless a vehicle cannot safely enter the turn lane;

(B) A vehicle shall not be driven in the left turn lane except when preparing for or making a left turn from or into the roadway;

(C) A vehicle shall not use the left turn lane solely for the purpose of passing another vehicle;

(D) A vehicle shall not enter a left turn lane more than a safe distance from the point of the intended turn;

(E) When any vehicle enters the turn lane, no other vehicle proceeding in an opposite direction shall enter that turn lane if that entrance would prohibit the vehicle already in the lane from making the intended turn; and

(F) When vehicles enter the turn lane proceeding in opposite directions, the first vehicle to enter the lane shall have the right-of-way.

55-8-141 Turning on curve or crest of grade

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet (500').

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

55-8-142 Turning movements

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in §55-8-140, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway, unless and until this movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner provided in §§55-8-143 and 55-8-144 in the event any other traffic may be affected by this movement.

(b) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give this signal.

55-8-143 Signals for turns

(a) Every driver who intends to start, stop or turn, or partly turn from a direct line, shall first see that that movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in this section, plainly visible to the driver of the other vehicle of the intention to make such movement.

(b) The signal required in this section shall be given by means of the hand and arm, or by some mechanical or electrical device approved by the department of safety, in the manner specified in this section. Whenever the signal is given by means of the hand and arm, the driver shall indicate the intention to start, stop, or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(1) For left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder;

(2) For right turn, or pull to the right, the arm shall be extended upward; and

(3) For slowing down or to stop, the arm shall be extended downward.

(c) These signals shall be given continuously for a distance of at least fifty feet (50') before stopping, turning, partly turning, or materially altering the course of the vehicle.

(d) Drivers having once given a hand, electrical or mechanical device signal, must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change.

(e) Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of the signal.

(f) Drivers of vehicles, standing or stopped at the curb or edge before moving these vehicles, shall give signals of their intention to move into traffic, as provided in this section, before turning in the direction the vehicle shall proceed from the curb.

55-8-144 Signals by hand & arm or signal device

(a) Any stop or turn signal required by this chapter shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device approved by the department of safety as provided in §55-8-143, except as otherwise provided in subsection (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device approved by the department when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of the motor vehicle exceeds twenty-four inches (24”), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet (14’). The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

55-8-145 Obedience to signal indicating approach of train

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet (50’) but not less than fifteen feet (15’) from the nearest rail of the railroad, and shall not proceed until that driver can do so safely. These requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment, which shall mean any self-propelled machinery or vehicle traveling on a railroad track;

(2) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;

(3) A railroad train or other on-track equipment approaching within approximately one thousand five hundred feet (1,500’) of the highway crossing emits a signal audible from such distance and the railroad train or other on-track equipment, by reason of its speed or nearness to the crossing, is an immediate hazard; or

(4) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

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

55-8-146 All vehicles must stop at certain railroad crossings

(a) The department of transportation, and local authorities, with the approval of the department, are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those locations. When stop signs are erected, the driver of any vehicle shall stop within fifty feet (50’) but not less than fifteen feet (15’) from the nearest rail of the railroad and shall proceed only upon exercising due care.

(b) None of the provisions of §§55-8-145--55-8-147 shall be construed as abridging or in any way affecting the common law right of recovery of litigants in damage suits that may be pending or brought against any railroad company or other common carrier.

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

55-8-147 Certain vehicles must stop at all railroad crossings

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether or not the school bus is carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle within fifty feet (50’) but not less than fifteen feet (15’) from the nearest rail of the railroad, and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided in this section, and shall not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any crossing where a police officer or a traffic-control signal directs traffic to proceed.
(c) A violation of subsection (a) is a Class B misdemeanor.

55-8-148 Moving heavy equipment at railroad crossings

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half inch (1/2") per foot of the distance between any two (2) adjacent axles or in any event of less than nine inches (9"), measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(b) Before making any such crossing, the person operating or moving the vehicle or equipment described in subsection (a) shall first stop the same not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(c) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be made under the flagger's direction.

55-8-149 Stop signs

(a) Every stop sign shall bear the word "Stop" in letters not less than eight inches (8") in height and the sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.
(b) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as close as practicable to the nearest line of the roadway.
(c) Every driver of a vehicle and every operator of a streetcar approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver or operator has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal.
(d) A violation of this section is a Class C misdemeanor.

55-8-150 Emerging from alley, driveway or building

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

55-8-151 Passing school or church bus

Amended 2023

(a)(1) The driver of a vehicle upon a highway, upon meeting or overtaking from either direction any school bus that has stopped on the highway for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus, and the driver shall not proceed until the school bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. Subsection (a) shall also apply to a school bus with lights flashing and stop sign extended and marked in accordance with this subsection (a) that is stopped upon property owned, operated, or used by a school or educational institution, if the bus is stopped for the purpose of receiving or discharging any school children outside a protected loading zone.
(2) All motor vehicles used in transporting school children to and from school in this state are required to be distinctly marked "School Bus" on the front and rear thereof in letters of not less than six inches (6") in height, and so plainly written or printed and so arranged as to be legible to persons approaching the school bus, whether traveling in the same or opposite direction.

(3)(A) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(B) For the purpose of this subsection (a), "separate roadways" means roadways divided by an intervening space that is not suitable to vehicular traffic.

(4) Except as otherwise provided by subdivisions (a)(1)-(3), the school bus driver is required to stop the school bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated, until all school children who should be discharged from the bus have been so discharged and until all children whose destination causes them to cross the road or highway at that place have negotiated the crossing.

(5)(A) It is a Class C misdemeanor for ***a*** person to fail to comply with any provision of this subsection (a) other than the requirement that a motor vehicle stop upon approaching a school bus.

(B) It is a Class A misdemeanor punishable only by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) for ***a*** person to fail to comply with the provision of this subsection (a) requiring a motor vehicle to stop upon approaching a school bus***; except, that a second or subsequent violation of subdivision (a)(1) is a Class A misdemeanor punishable only by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).***

(C) A person who violates subdivision (a)(1) and strikes another person with a vehicle, commits a Class E felony; provided, that the person commits a Class C felony if the striking results in the death of the other person.

(6) Subdivisions (a)(1)-(5) shall not be applicable to the vehicles of street railway companies, as defined in §65-16-101 [repealed], while those vehicles are being used for the transportation of school children within a municipality or its environs in the area over which a municipality or a municipal regulatory agency has regulatory jurisdiction under §65-16-101 [repealed].

(b) Local education agencies (LEAs) are authorized to display a sticker on the rear of school buses directing drivers to remain at a distance of at least one hundred feet (100') while the bus is in motion, except when lawfully overtaking and passing the school bus. The department of safety shall develop uniform standards for the stickers.

(c)(1) ***A*** local education agency (LEA) may purchase, install, operate, and maintain cameras on the exterior of school buses, or may enter into a contract with a private vendor to purchase, install, operate, and maintain cameras on the exterior of school buses***, whether owned, contracted, or leased by the LEA, and provide other services related to violations of subdivision (a)(1),*** on behalf of the LEA, for the purpose of recording images of motor vehicles that are in violation of subdivision (a)(1) for failing to stop upon approaching a school bus.

(2) An LEA that installs cameras on the exterior of school buses in accordance with subdivision (c)(1) shall enter into a memorandum of understanding with local law enforcement ***that includes, but is not limited to,*** the ***review*** of evidence from a camera ***and overall enforcement.*** Only POST-certified or state-commissioned law enforcement officers***, including school resource officers, as defined in §49-6-4202,*** are authorized to review evidence from a camera to determine whether a violation of subdivision (a)(1) has occurred.

(3)(A) In lieu of prosecution for an offense under subdivision (a)(5)(B), where evidence of the offense is based solely from a camera that has been installed on the exterior of a school bus, a person may be issued a notice of violation or citation; however, this subdivision (c)(3)(A) does not preclude the state from prosecuting an offense under subdivision (a)(5)(B), where evidence of the offense is based solely from such camera if the state meets the burden of proof set out in §39-11-201.

(B) A notice of violation or citation issued for a violation of subdivision (a)(1) that is based solely upon evidence from a camera that has been installed on the exterior of a school bus is considered a nonmoving traffic violation.

(C) The registered owner of the motor vehicle is responsible for payment of ***a*** notice of violation or citation; provided, that the owner is not responsible for the violation if the owner submits documentation in accordance with §55-8-198(e).

(D) The fine for a first notice of violation or citation under this subdivision (c)(3) is two hundred fifty dollars ($250), and the fine for a second or subsequent notice of violation or citation is five hundred dollars ($500).

(4***)(A***) Notices of violations or citations must be sent in accordance with §55-8-198(b)(1) to the registered owner of the vehicle that was captured by the camera.

(B) Photographs or video produced by a camera that has been installed on the exterior of a school bus are prima facie evidence that the vehicle described in the citation was operated in violation of subdivision (a)(1). Photographs or video produced by a camera that has been installed on the exterior of a school bus, together with proof that the defendant was the registered owner of the vehicle at the time of the violation, create an inference that the owner of the vehicle was the driver of the vehicle at the time of the alleged violation. The inference may be rebutted if the owner of the vehicle submits documentation in accordance with §55-8-198(e).

(C) A citation based solely upon evidence obtained from a camera that has been installed on the exterior of a school bus is deemed invalid if the registration information of the motor vehicle for which the citation is issued is not consistent with the evidence recorded by the camera.

(5) For a violation of subdivision (a)(1), there is a presumption that the photographs or video produced by a camera that has been installed on the exterior of a school bus provide evidence that the school bus was stopped for the purpose of receiving or discharging school children.

(6) Photographs or video produced by a camera that has been installed on the exterior of a school bus depicting a violation of subdivision (a)(1) must be made available for inspection in any proceeding in which the citation or violation is being contested.

(7) The notice of violation or citation must ***include***:

(A) The date, location, and time of the alleged violation;

(B) The amount of the fine being assessed;

(C) The means by which the owner may elect to shift responsibility for the payment of the citation to the operator of the vehicle at the time of the alleged violation pursuant to ***§55-8-198(e); and***

(***D) Information detailing the process for contesting the citation, including the applicable court having jurisdiction.***

(8)(A) One hundred percent (100%) of the proceeds from any fine imposed ***under this section*** that is based solely upon evidence obtained from a ***camera installed on the exterior of a*** school bus ***must*** be allocated to the LEA without being designated for any particular purpose.

(B)(i) The LEA may use the proceeds for the purpose of defraying the costs of purchasing, installing, operating, or maintaining the camera, or reimbursing or compensating the vendor with which the LEA contracted regarding the purchase, installation, operation, or maintenance of the camera***, the provision of other services related to violations of subdivision (a)(1), or reimbursement to law enforcement for costs related to review and enforcement of violations of subsection (a)(1) allowable under the law***.

(ii) If the LEA uses the proceeds for the purpose of reimbursing or compensating a vendor with which the LEA contracted regarding the purchase, installation, operation, or maintenance of the camera, ***or the provision of other services,*** then the LEA shall create procedures for such reimbursement or compensation and shall maintain records of ***the*** reimbursement or compensation.

(***9***) No more than one (1) citation shall be issued for each distinct and separate traffic offense in violation of subdivision (a)(1) or a municipal ordinance or law that mirrors, substantially duplicates, or incorporates by cross-reference the language of subdivision (a)(1).

(***10***) Any LEA that contracts for transportation services with any persons or entities that own school buses, shall include in each contract a provision requiring the owner to allow the LEA, private vendor, or local law enforcement agency reasonable access to the bus for the purposes of installing, maintaining, or inspecting

cameras or obtaining, gathering, or transmitting recorded images from the camera to enforce subdivision (a)(1).

(***11***) Any photograph or video recorded by a camera in accordance with this subsection (c) is admissible as evidence in any proceeding alleging a violation of subsection (a) if the photograph or video meets the standards of admissibility set forth in the Tennessee Rules of Evidence.

(***12***) As used in this subsection (c):

(A) "Camera" means any device that is capable of:

(i) Producing a digital photograph, recorded video, or other recorded image, including an image of a motor vehicle passing or overtaking a school bus and the vehicle's license plate; and

(ii) Recording the time, date, and location of a vehicle at the time the image is recorded;

(B) "Local education agency" or "LEA" means the same as defined by §49-1-103; and

(C) "School bus" means every motor vehicle owned by a county, city, local board of education, LEA, or private contractor that is operated for the transportation of students to or from any public school or public school-related activities.

(d)(1)(A) The driver of a vehicle on a highway upon meeting or overtaking from either direction any church bus which has stopped on the highway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching the church bus, and the driver shall not proceed until the church bus resumes motion or is signaled by the church bus driver to proceed or the visual signals on the bus are no longer actuated.

(B) This subsection (d) shall not apply unless the church bus has the same type of safety equipment indicating the bus has stopped as is required for school buses.

(2) All motor vehicles used in transporting passengers to and from churches in this state are required to be distinctly marked "Church Bus" on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be legible to persons approaching the church bus, whether traveling in the same or the opposite direction.

(3)(A) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus which is on a different roadway or when upon a controlled access highway and the church bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(B) For the purpose of subdivision (d)(3)(A), "separate roadways" means roadways divided by an intervening space that is not suitable to vehicular traffic.

(4) Except as otherwise provided by this subsection (d), the church bus driver is required to stop the church bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the road or highway at that place have negotiated the crossing.

(5) Any person failing to comply with the requirements of this subsection (d), requiring motor vehicles to stop upon approaching church buses, or violating any of this subsection (d), commits a Class C misdemeanor.

(e)(1)(A) The driver of a vehicle on a highway upon meeting or overtaking from either direction any youth bus that has stopped on the highway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching the youth bus, and the driver shall not proceed until the youth bus resumes motion or is signaled by the youth bus driver to proceed or the visual signals on the bus are no longer actuated.

(B) Subdivision (e)(1)(A) shall not apply unless the youth bus has the same type of safety equipment indicating the bus has stopped as is required for school buses.

(2) All motor vehicles owned by corporations or organizations used in transporting child passengers to and from child care centers in this state or to and from the activities of religious, charitable, scientific, educational, youth service or athletic institutions or organizations are required to be distinctly marked "Youth Bus" on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written

or printed and so arranged as to be legible to persons approaching such youth bus, whether traveling in the same or the opposite direction.

(3)(A) The driver of a vehicle upon a highway with separate roadways needs not stop upon meeting or passing a youth bus that is on a different roadway or when upon a controlled access highway and the youth bus is stopped in a loading zone that is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(B) For the purpose of subdivision (e)(3)(A), "separate roadways" means roadways divided by an intervening space that is not suitable to vehicular traffic.

(4) Except as otherwise provided by this subsection (e), the youth bus driver is required to stop the youth bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the road or highway at that place have negotiated the crossing.

(5) Any person failing to comply with the requirements of this subsection (e), requiring motor vehicles to stop upon approaching youth buses, or violating any of this subsection (e), commits a Class C misdemeanor.

(6) For purposes of this subsection (e), a "youth bus" means a motor vehicle designed for carrying not less than fifteen (15) passengers and used for the transportation of persons.

55-8-152 Speed limits

Amended 2023

(a) Except as provided in subsection (c), it is unlawful for any person to operate or drive a motor vehicle upon any highway or public road of this state in excess of sixty-five miles per hour (65 mph).

(b) "Truck," as used in this section, means any motor vehicle of one and one-half (1 ½) ton rated capacity or more.

(c) On all controlled-access highways with four (4) or more lanes, which are designated as being on the state system of highways or the state system of interstate highways, it is unlawful for any person to operate or drive a motor vehicle or a truck at a rate of speed in excess of seventy miles per hour (70 mph). In the left-hand lane of all controlled-access highways with four (4) or more lanes, which are designated as being on the state system of highways or the state system of interstate highways, it is unlawful for any person to operate or drive a motor vehicle at a rate of speed less than fifty-five miles per hour (55 mph).

(d)(1)(A) Except as provided for certain counties in subdivision (d)(2), counties and municipalities are authorized to establish special speed limits upon any highway or public road of this state within their jurisdiction, except at school entrances and exits to and from controlled access highways on the system of state highways, which is adjacent to school grounds that are devoted primarily to normal school day activity. Such speed limit shall be enacted based on an engineering investigation, shall not be less than fifteen miles per hour (15 mph) and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation and only while children are actually present.

(B) In any county or municipality where the local legislative body does not establish special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen miles per hour (15 mph) when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

(C) The department of transportation has the authority to establish such special speed limits at school entrances and exits to and from controlled access highways on the system of state highways.

(D) A municipality may adopt an ordinance by majority vote of the municipal governing body to establish a special speed limit upon a public road, street, or highway within its jurisdiction that is adjacent to or within one-fourth (1/4) mile of a zone classified by the municipality for residential use. Notwithstanding another law to the contrary, a violation of the special speed limit established pursuant to this subdivision (d)(1)(D) is a Class C misdemeanor, punishable by fine only of two hundred dollars ($200).

(2) In counties of not less than forty-three thousand seven hundred (43,700) nor more than forty-three thousand eight hundred (43,800) and counties of not less than one hundred forty-three thousand (143,000) nor more than one hundred forty-five thousand (145,000) and counties of not less than eighty-five thousand seven hundred twenty-five (85,725) nor more than eighty-five thousand eight hundred twenty-five (85,825) and counties of not less than four hundred seventy-seven thousand eight hundred (477,800) nor more than four hundred seventy-seven thousand nine hundred (477,900), according to the 1980 federal census or any subsequent federal census, counties and municipalities are authorized to establish special speed limits upon any highway or public road of this state within their jurisdiction, except at school entrances and exits to and from controlled access highways on the system of state highways, which is adjacent to or within one-fourth (¼) mile of school grounds that are devoted to normal school day activities. Such speed limit shall be enacted based on an engineering investigation and shall not be less than fifteen miles per hour (15 mph) and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. In any county or municipality where the local legislative body does not establish special speed limits as provided for above, any person who drives at a speed exceeding fifteen miles per hour (15 mph) when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, is prima facie guilty of reckless driving. The department of transportation has the authority to establish such special speed limits at school entrances and exits to and from controlled access highways on the system of state highways.

(e)(1) The fees of sheriffs, deputy sheriffs and other police officers, other than salaried officers, for making arrests for violations of the speed restrictions of this chapter, shall be one dollar ($1.00).

(2) The reference to sheriffs, deputy sheriffs and other police officers in subdivision (e)(1) also includes constables in counties of this state having a population of:

not less than	**nor more than**
3,700	4,700
6,000	7,800
8,400	8,500
8,535	8,540
9,200	9,570
10,770	10,780
11,512	11,550
11,700	11,900
12,000	13,000
14,500	14,600
15,300	15,500
15,750	16,000
17,000	17,350
18,000	18,200
18,300	18,900
19,000	19,100
21,000	21,500
21,600	22,300
23,200	23,350
23,355	23,391
23,391	23,450
23,500	23,750
24,000	24,255
25,600	27,500
27,900	28,000
28,555	28,600
29,250	31,250
31,260	33,000
33,700	34,000
35,480	41,800

not less than	nor more than
41,900	50,000
57,550	59,400
59,500	60,050
60,600	62,000
64,000	65,000
101,000	118,400
118,700	200,000

according to the 1960 federal census or any subsequent federal census, and Fentress and Hamblen counties.

(f)(1)(A) Notwithstanding this section to the contrary, the department is authorized to lower the speed limits prescribed in this section, and on the state system of roads and highways, as it deems appropriate due to concerns regarding the roadway, traffic, or other conditions. This authorization to reduce the speed limits set by this section shall be in addition to the authority conveyed by §55-8-153.

(B) When the department determines that it is necessary to reduce the speed limits set in subsection (a), the commissioner shall so indicate the reduced speed limit via a letter of policy statement, and the commissioner shall cause signs indicating the new speed limit to be erected.

(C) Subject to §55-8-153(c), the municipalities of the state are authorized to set speed limits on the public roads and streets within their jurisdictions that are not a part of the interstate and national defense highway system nor any access controlled highway on the state road and highway system. In addition, the counties of this state are authorized to set speed limits on the public roads and highways within their jurisdiction that are not a part of the interstate or state highway system. The speed limits for both municipalities and counties shall not exceed fifty-five miles per hour (55 mph).

(2) Notwithstanding any law to the contrary, during the period in which this subsection (f) is in effect, any person who is arrested or receives a traffic citation for driving or operating a motor vehicle in excess of fifty-five miles per hour (55 mph) but less than seventy-five miles per hour (75 mph) on a highway of the interstate and defense highway system or a four-lane controlled-access highway which are federal or state highways, or in excess of fifty-five miles per hour (55 mph) or less than sixty-five miles per hour (65 mph) on a highway or road which has an existing speed limit of sixty-five miles per hour (65 mph) as of March 1, 1974, shall be charged with speeding and upon conviction shall not be fined more than the maximum fine nor less than the minimum fine for speeding as provided by law for that violation, nor shall any costs be imposed or assessed against the person. Costs shall be imposed in such cases should the person fail to appear or answer the traffic citation as required by law. The conviction shall not be reported to the department of safety under §§55-10-306 and 55-12-115. Such person shall not be required to attend driver education course as provided in §55-10-301. The conviction for speeding shall not result in suspension or revocation of operator's or chauffeur's license unless the excess speed constitutes reckless driving, as set out herein. This subsection (f) shall not apply to trucks as defined in subsection (b) when traveling in excess of sixty-five miles per hour (65 mph) on all highways of the interstate and defense highway system and four-laned controlled-access highways, which are federal or state routes of this state or when traveling in excess of fifty-five miles per hour (55 mph) on any other highways of this state. A violation of this subsection (f) is a Class C misdemeanor. However, notwithstanding any law to the contrary, a violation of the reduced speed limits set by the department of transportation, pursuant to §55-8-153, is a Class B misdemeanor, punishable by fine only, when employees of the department or construction workers are present. The amount of the fine imposed pursuant to §55-8-153 shall not be less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500). Notwithstanding any provision of this subsection (f) to the contrary, no provision of this subsection (f), nor of §55-8-153, shall be construed so as to prevent the entry of a suspended sentence upon the conviction of a defendant for the first violation of the enhanced penalties provided for when the violation occurs within a work zone and when employees of the department of transportation or construction workers are present and when the trier of fact determines that extraordinary circumstances lead to the violation.

(g)(1) Notwithstanding any law to the contrary, any county having a population of not less than sixty-seven thousand five hundred (67,500) nor more than sixty-seven thousand six hundred (67,600), according to the

1980 federal census or any subsequent federal census may assess any person who is arrested or receives a traffic citation for driving or operating a motor vehicle in excess of the posted speed limits an additional fine of five dollars ($5.00). This fine shall be in addition to any fine assessed under this or any other applicable section.

(2) Fines collected pursuant to subdivision (g)(1) shall be placed in a fund to be established by such county. The fund shall be for the sole purpose of erecting and maintaining highway signs.

(3) This subsection (g) shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer to the secretary of state.

(h) Notwithstanding any law or regulation to the contrary, only the department of transportation has the authority to set speed limits on access-controlled roadways designated as being on the state system of highways and on roadways designated as being on the state system of interstate highways.

55-8-153 Establishment of speed limits, work zones

(a) The department of transportation is empowered to lower the speed limits prescribed in §55-8-152 in business, urban or residential districts, or at any congested area, dangerous intersection or whenever and wherever the department shall determine, upon the basis of an engineering and traffic investigation, that the public safety requires a lower speed limit.

(b) Appropriate signs giving notice of the lower speed limit shall be erected by the department at such places or put on the highway where the prescribed speed limits are effective.

(c)(1)(A) The legislative authorities of municipalities shall possess the power to prescribe lower speed limits on highways designated as state highways in their respective jurisdictions when, on the basis of an engineering and traffic investigation, it is shown that the public safety requires a lower speed limit.

(B) Engineering and traffic investigations used to establish special speed zone locations and speed limits by municipalities on state highways shall be made in accordance with established traffic engineering practices and in a manner that conforms to the Tennessee manual on uniform traffic control devices (MUTCD). The investigations shall be documented and documentation shall be maintained by the jurisdiction performing or sponsoring the investigation.

(C) All signs, signals and other forms of public notification of the speed limits, road hazards and other traffic conditions shall comply with the MUTCD.

(2) The legislative bodies of municipalities shall also possess the power to prescribe lower speed limits within certain areas or zones, or on designated highways, avenues or streets that are not designated as state highways in their respective jurisdictions, and to erect appropriate signs and traffic signals.

(d) The legislative body of any county, except the legislative bodies of any counties having a commission form of government, has the power to prescribe such lower speed limits as it may deem appropriate on any road being maintained by the county and shall erect appropriate signs and traffic signals. In those counties having a commission form of government, the board of commissioners has the power prescribed in this section.

(e) A violation of the speed limits established by the department pursuant to subsection (a) is a Class B misdemeanor, punishable by fine only, when employees of the department or construction workers are present. The department, or its agents, are directed to indicate the presence of workers or department employees with signs with flashing amber lights; provided, that this penalty is applicable in highway construction zones only to those speeding violations that have been detected by radar, infrared or similar detection devices. The amount of the fine imposed pursuant to subsection (a) for violations that occur in work zones where the speed limits have been reduced by the department and when employees of the department or construction workers are present shall be not less than two hundred fifty dollars ($250).

55-8-154 Minimum speed–Turnouts

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the department of transportation or a local authority within its respective jurisdiction determines on the basis of an engineering and traffic investigation that slow speeds on any part of a highway

consistently impede the normal and reasonable movement of traffic, the department or local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(c) Wherever there exists, at or near the top of any hill or grade, a turnout, passing bay or parking area adjacent to and to the right of any traffic lane of any state or federal highway within the state, any person driving or operating a truck or other slow-moving vehicle upon such traffic lane shall drive the truck or other slow-moving vehicle into and stop the same upon the turnout, passing bay or parking area and permit faster-moving vehicles following the truck or other slow-moving vehicle whose progress is being retarded to pass; provided, that the turnout, passing bay or parking area is marked by a traffic sign.

(d) This section shall not apply to farm tractors or implements of husbandry.

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

55-8-155 Special speed limitation on motor-driven cycles

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

(a) No person shall operate any motor-driven cycle at any time at a speed greater than thirty-five miles per hour (35 mph) unless the motor-driven cycle is equipped with a head lamp or lamps that are adequate to reveal a person or vehicle at a distance of three hundred feet (300') ahead.

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

55-8-156 Special speed limitations

(a) No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour (10 mph).

(b) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when the structure is signposted as provided in this section.

(c) The department of transportation, upon request from any local authority, shall, or upon its own initiative may, conduct an investigation of any bridge, or other elevated structure constituting a part of the highway, and if it thereupon finds that the structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this chapter, the department shall determine and declare the maximum speed of vehicles that the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained at a distance of one hundred feet (100') before each end of the structure.

(d) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed by the department and the existence of the signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to the bridge or structure.

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

55-8-158 Stopping, standing or parking outside business or residential districts

(a) Upon any highway outside of a business or residential district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave the vehicle off such part of the highway, but in every event an unobstructed width of the highway opposite a standing vehicle of not less than eighteen feet (18') shall be left for the free passage of other vehicles, and a clear view of the stopped vehicle shall be available from a distance of two hundred feet (200') in each direction upon such highway.

(b)(1) This section shall not apply to the driver of any vehicle that is disabled while on the paved or main-traveled portion of a highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving that disabled vehicle in such position.

(2) This section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire and holding a certificate of convenience and necessity, or interstate permit issued by the department of safety or any local regulatory transit authority of the state authorizing the operation of that vehicle upon the roads, streets or highways in Tennessee, while taking passengers on that vehicle, or discharging passengers there-

from; provided, that in every event an unobstructed lane of travel of the highway opposite the standing vehicle shall be left for free passage of other vehicles and a clear view of that stopped vehicle shall be available from a distance of two hundred feet (200') in either direction upon the highway.

(3) This section does not apply to a solid waste vehicle while on the paved or improved main traveled portion of a road, street or highway in a manner and to an extent as is necessary for the sole purpose of collecting municipal solid waste, as defined by §68-211-802; provided, that such vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; and provided further, that the vehicle is stopped so that a clear view of the stopped vehicle is available from a distance of two hundred feet (200') in either direction upon the highway. In addition to flashing hazard lights, these vehicles shall be required to maintain special lights visible from both the front and the rear indicating that the truck is stopped. The department of safety is authorized to promulgate rules and regulations regarding special lighting required by this subdivision (b)(3). This subdivision (b)(3) does not preclude any claimant from pursuing a common law claim for recovery pursuant to common law negligence.

(4) Subsection (a) does not apply to a recycling vehicle while on the paved or improved main traveled portion of a road, street, or highway in a manner and to an extent as is necessary for the sole purpose of collecting or transporting recovered materials or recyclable materials; provided, that the vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; provided, further, that the vehicle is stopped or standing so that a clear view of the vehicle shall be available from a distance of two hundred feet (200′) in either direction upon the highway. This subdivision (b)(4) does not preclude any claimant from pursuing a common law claim for recovery pursuant to common law negligence.

(c) Notwithstanding subsection (a), no person shall stop, park or leave any motor vehicle, whether attended or unattended, upon the paved or unpaved portions of any entrance or exit ramp of any highway; provided, that a driver of a motor vehicle that has become disabled may leave the vehicle on an entrance or exit ramp until such time as the disabled motor vehicle can be repaired or towed, as long as the vehicle is not obstructing the passage of other motor vehicles. Furthermore, the department may take into consideration an emergency situation or compliance with federal laws.

55-8-159 Officers authorized to remove illegally stopped vehicles

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of §55-8-158, the officer is authorized to move the vehicle, or to require the driver or other person in charge of the vehicle to move it, to a position off the paved or main-traveled part of the highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel, or on any highway, where the vehicle constitutes an obstruction to traffic, the officer is authorized to provide for the removal of that vehicle to the nearest garage or other place of safety, at the expense of the owner.

55-8-160 Stopping, standing or parking prohibited in specific places

(a) No person shall stop, stand or park a vehicle outside of the limits of an incorporated municipality, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk; provided, that a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic, or such parking is not prohibited by ordinance;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within seven and one half feet (7 1/2') to fifteen feet (15') of a fire hydrant. An incorporated municipality shall determine and shall appropriately identify the distance from a fire hydrant to stop, stand or park a vehicle; provided, that this distance conforms to this subdivision (a)(4);

(5) On a crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless the department of transportation or local traffic authority indicates a different length by signs or markings;
(9) Within fifty feet (50') of the nearest rail of a railroad crossing;
(10) Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet (75') of that entrance when properly signposted;
(11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
(14) At any place where official signs prohibit stopping; and
(15) In a parking space clearly identified by an official sign as being reserved for persons with physical disabilities, unless, however, the person driving the vehicle has a physical disability or is parking the vehicle for the benefit of a person with a physical disability. A vehicle parking in such a space shall display a certificate or placard as set forth in chapter 21 of this title, or a disabled veteran's license plate issued under §55-4-256.

(b) Subsection (a) does not apply to a certified police cyclist engaged in the lawful performance of duty using a police bicycle as a barrier or traffic control device at the scene of an emergency or in response to other calls for police service.

(c) No person shall move a vehicle not lawfully under that person's control into any such prohibited area or away from a curb such distance as is unlawful.

(d)(1) This section shall not apply to the driver of any vehicle that is disabled while on the paved or improved or main traveled portion of a road, street or highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.

(2) This section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire who is authorized to operate such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on the vehicle, or discharging passengers from that vehicle; provided, that the vehicle is stopped so that a clear view of the vehicle shall be obtained from a distance of two hundred feet (200') in each direction, upon the roads, streets or highways.

(3) This section does not apply to a solid waste vehicle while on the paved or improved main traveled portion of a road, street or highway in a manner and to an extent as is necessary for the sole purpose of collecting municipal solid waste, as defined by §68-211-802; provided, that the vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; provided further, that the vehicle is stopped so that a clear view of the stopped vehicle shall be available from a distance of two hundred feet (200') in either direction upon the highway. This subdivision (d)(3) does not preclude any claimant from pursuing a common law claim for recovery pursuant to common law negligence.

(4) This section does not apply to a recycling vehicle while on the paved or improved main traveled portion of a road, street, or highway in a manner and to an extent as is necessary for the sole purpose of collecting or transporting recovered materials or recyclable materials; provided, that the vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; provided, further, that the vehicle is stopped or standing so that a clear view of the vehicle shall be available from a distance of two hundred feet (200′) in either direction upon the highway. This subdivision (d)(4) does not preclude any claimant from pursuing a common law claim for recovery pursuant to common law negligence.

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

55-8-161 Additional parking regulations

(a) Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within eighteen inches (18") of the right-hand curb.

(b)(1) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within eighteen inches (18") of the left-hand curb of a one-way roadway.

(2) Local authorities in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, upon determining that such parking would not interfere with the free movement of traffic nor cause an undue safety hazard, may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within eighteen inches (18") of the left-hand curb of a roadway.

(c) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal aid or state highway, unless the department of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) A county may, by resolution of the county legislative body, prohibit parking on any roadway under its jurisdiction other than a federal aid or state highway when such parking is dangerous to those using the highway or interferes with the free movement of traffic. The county, with respect to highways under its jurisdiction, shall place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, as designated by the county, stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic on those highways. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs. The primary responsibility for enforcing this subsection (d) shall be on the county prohibiting parking on any roadway under its jurisdiction. A violation of this section shall be punishable as provided by §55-8-103. Each day a motor vehicle is in violation of this subsection (d) shall be a separate event. In the interest of public safety a county may remove a motor vehicle that is abandoned or disabled.

(e) Except as provided in subsection (d), the department, with respect to highways under its jurisdiction outside of the limits of municipalities, shall place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, as designated by the department, stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic on those highways. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

55-8-162 Unattended motor vehicle

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

(b)(1) Notwithstanding any law to the contrary, no person shall leave unsecured and unattended any truck, tractor-trailer or tractor-semitrailer combination, with a rated capacity of more than one (1) ton, containing "medical waste," as defined in rules promulgated under §§68-211-101--68-211-122, or "hazardous waste," as defined in §68-212-104, in any residential area, or within one thousand feet (1,000') of any church, school or park.

(2)(A) Except as provided in subdivision (b)(2)(B), a violation of subdivision (b)(1) is a Class A misdemeanor punishable only by a fine of five thousand dollars ($5,000). The fine imposed by this subdivision (b)(2)(A) shall be upon the owner of the truck, tractor-trailer or tractor-semitrailer combination. Each day of continued violation constitutes a separate violation.

(B) In addition to any fine imposed upon the owner pursuant to subdivision (b)(2)(A), the driver's license to drive shall be suspended for six (6) months.

(C) Suspension of the driver's commercial driver license pursuant to subdivision (b)(2)(B) shall not alter the driver's eligibility to maintain a Class D driver license.

(3) Nothing in this chapter shall alter the liability imposed by any other provision of law for unlawful disposal of medical waste.

(4) This section shall only apply to persons operating any truck, tractor-trailer or tractor-semitrailer combination and transporting materials found to be hazardous under the Hazardous Materials Transportation Act, which requires the motor vehicle to be placarded.

(c)(1) Subsection (b) shall not apply to any utility.

(2) As used in subdivision (c)(1), "utility" means any person, municipality, county, metropolitan government, electric cooperative, telephone cooperative, board, commission, district or any entity created or authorized by public act, private act, or general law to provide electricity, natural gas, water, waste water services, telephone services, or any combination thereof, for sale to consumers in any particular service area.

(d) Subsection (a) shall not apply with respect to an ADS-operated vehicle.

55-8-163 Limitations on backing

The driver of a vehicle shall not back the vehicle unless that movement can be made with reasonable safety and without interfering with other traffic.

55-8-164 Riding on motorcycles

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person, nor shall any other person ride on a motorcycle, unless the motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, headlamp illuminated, facing forward, with one (1) leg on each side of the motorcycle.

(c) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents the person from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(e)(1) An operator commits an offense who, on the streets of any municipality, roads of any county, or the highways of this state, carries a child as a passenger on a motorcycle whose feet are not on footpegs; provided, that this subsection (e) shall not apply to persons riding in a motorcycle sidecar.

(2)(A) A violation of this subsection (e) is a Class C misdemeanor.

(B) A person charged with a violation of this subsection (e) may, in lieu of appearance in court, submit a fine of fifty dollars ($50.00) to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(C) No litigation tax levied pursuant to title 67, chapter 4, part 6 shall be imposed or assessed against anyone convicted of a violation of this subsection (e), nor shall any clerk's fee or court costs, including, but not limited to, any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this subsection (e).

(D)(i) The revenue generated by ten dollars ($10.00) of the fifty-dollar ($50.00) fine for a person's first conviction under this subsection (e), shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty dollars ($40.00) of the fifty-dollar ($50.00) fine for a person's first conviction under this subsection (e) shall be deposited to the child safety fund as provided in §55-9-602(f).

(ii) The revenue generated from a person's second or subsequent conviction under this subsection (e) shall be deposited to the child safety fund as provided in §55-9-602(f).

55-8-165 Obstruction to driver's view of driving mechanism

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle or streetcar shall ride in a position that interferes with the driver's or operator's view ahead or to the sides, or that interferes with the driver's or operator's control over the driving mechanism of the vehicle or streetcar.

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

55-8-166 Driving on mountain highways

The driver of a motor vehicle traveling on mountain highways shall hold that motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching any curve where the view is obstructed within a distance of two hundred feet (200') along the highway, shall give audible warning with the horn of the motor vehicle.

55-8-167 Coasting

(a) The driver of any motor vehicle, when traveling upon a down grade, shall not coast with the gears of the vehicle in neutral.

(b) The driver of a commercial motor vehicle, when traveling upon a down grade, shall not coast with the clutch disengaged.

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

55-8-168 Following fire apparatus

(a) The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet (500') or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

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

55-8-169 Crossing fire hose

(a) No streetcar or vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

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

55-8-170 Glass, nails & other substances on highway

(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon the highway.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

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

55-8-171 Bicycles & play vehicles

(a) It is a Class C misdemeanor for any person to do any act forbidden or fail to perform any act required in §§55-8-171--55-8-177.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit that child or ward to violate any of the provisions of this chapter and chapter 10, parts 1-5 of this title.

(c) The regulations applicable to bicycles and electric bicycles shall apply whenever a bicycle or electric bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(d) This section and §§55-8-172 -- 55-8-177 are applicable to electric bicycles as defined in §55-8-301.

55-8-172 Bicycle–Traffic laws apply to

(a) Every person riding a bicycle or electric bicycle, as defined in §55-8-301, upon a roadway is granted all of the rights and is 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 as to those provisions of this chapter and chapter 10, parts 1-5 of this title that by their nature can have no application.

(b) Every person riding a bicycle or electric bicycle, as defined in §55-8-301, is subject to the special regulations in §§55-8-171 -- 55-8-177 applicable to bicycles or electric bicycles.

(c) Every person riding an electric bicycle, as defined in §55-8-301, is subject to the special regulations in part 3 of this chapter applicable to electric bicycles.

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

55-8-173 Bicycle–Riding on, use of play vehicles

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto, except for a certified police cyclist who is performing duties that require riding in a side dismounting position.

(b) No bicycle shall be used to carry more persons at one (1) time than the number for which it is designed or equipped.

(c) No person shall play on a highway other than upon the sidewalk thereof, within a city or town, or in any part of a highway outside the limits of a city or town, or use thereon roller skates, coasters or any similar vehicle or toy or article on wheels or a runner, except in those areas as may be specially designated for that purpose by local authorities.

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

55-8-174 Clinging to vehicles

(a) No person riding upon any bicycle, roller skates, sled or toy vehicle shall attach the bicycle, roller skates, sled or toy vehicle, or that person's own body, to any streetcar or vehicle upon a roadway.

(b) This section shall not be construed to prohibit the attachment of a bicycle trailer or bicycle semitrailer to a bicycle if the trailer or semitrailer is designed specifically for that purpose.

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

55-8-175 Bicycle–Riding on roads & bicycle paths

(a)(1) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway, except under any of the following situations:

(A) When overtaking and passing another vehicle proceeding in the same direction;

(B) When preparing for a left turn at an intersection or into a private road or driveway; or

(C) When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, "substandard width lane" means a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(2) This subsection (a) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control.

(b)(1) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(2) Subdivision (b)(1) does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control or in pursuit of an actual or suspected violator of the law.

(c)(1) This subsection (c) shall be known and may be cited as the "Jeff Roth and Brian Brown Bicycle Protection Act of 2007."

(2) The operator of a motor vehicle, when overtaking and passing a bicycle proceeding in the same direction on the roadway, shall leave a safe distance between the motor vehicle and the bicycle of not less than three feet (3') and shall maintain the clearance until safely past the overtaken bicycle.

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

55-8-176 Bicycle–Carrying articles on

(a) No person operating a bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one (1) hand upon the handlebars.

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

55-8-177 Bicycle–Lamps & brakes

(a) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front, which shall emit a white light visible from a distance of at least five hundred feet (500') to the front, and either a red reflector or

a lamp emitting a red light, which shall be visible from a distance of at least five hundred feet (500') to the rear, when directly in front of lawful upper beams of head lamps on a motor vehicle.

(b) Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five feet (25') from a speed of ten miles per hour (10 mph) on dry, level, clean pavement.

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

55-8-178 Regulations for nonmotor vehicles & animals

(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.

55-8-180 Blind pedestrian right of way

(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.

55-8-181 Motorcycle–Rights & duties

Every person operating a motorcycle or autocycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter and chapter 9 of this title, except as to special

regulations in this chapter and except as to those provisions of this chapter and chapter 9 of this title that by their nature can have no application.

55-8-182 Motorcycle–Operation on laned roadways

(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in a manner that deprives any motorcycle of the full use of a lane. This subsection (a) shall not apply to motorcycles operated two (2) abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two (2) abreast in a single lane.

(e) Motorcycles that are autocycles shall not be operated more than two (2) abreast in a single lane.

(f) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

55-8-183 Funeral processions

(a) Funeral processions properly identified by a flashing amber light on the lead vehicle, or identified as a police escort, where the vehicle has visual signals and is equipped with or displays an amber light accompanied by a blue light visible from the front of the vehicle, or led by a properly identified escort, shall have the right-of-way on any street, highway, or road through which they may pass, subject to the following provisions:

(1) The operator of the leading vehicle in a funeral procession shall comply with stop signs and traffic-control signals, but when the leading vehicle has progressed across an intersection in accordance with that signal or after stopping as required by the stop sign, all vehicles of the procession may proceed without stopping regardless of the sign or signal when each of these vehicles has its headlights lighted;

(2) Vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as close as is practical and safe;

(3) Operators of vehicles in a funeral procession shall yield the right-of-way to an authorized emergency vehicle giving audible signal by siren and shall yield the right-of-way when directed to do so by a traffic officer;

(4) On public highways and interstates, vehicles in a funeral procession shall proceed at a minimum speed of forty-five miles per hour (45 mph); and otherwise, on streets and roads at a speed not to exceed five miles per hour (5 mph) below the posted speed;

(5) Vehicles following a funeral procession on a two-lane highway may not attempt to pass the procession; and

(6) No operator of a vehicle shall drive between vehicles in a properly identified funeral procession except when directed to do so by a traffic officer.

(b) Motorcycle escorts of properly identified funeral processions may:

(1) Notwithstanding §55-8-182(c) or any other law to the contrary, operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles;

(2) Notwithstanding §55-9-201 or any other law to the contrary, install a bell, siren, or exhaust whistle of a type approved by the sheriff of the county in which the motorcycle is to be operated; provided, that the system is deactivated at all times the motorcycle is not escorting a properly identified funeral procession; and

(3) Notwithstanding §55-9-402 or any other law to the contrary, install a green strobe flashing light system of a type approved by the sheriff of the county in which the motorcycle is to be operated; provided, that the system is deactivated at all times the motorcycle is not escorting a properly identified funeral procession.

(c)(1) Unless complying with the specific order of a law enforcement officer, no operator of a motor vehicle shall knowingly:

(A) Fail to yield the right-of-way to a properly identified funeral procession progressing across an intersection in accordance with subdivision (a)(1);

(B) While following a properly identified funeral procession along a two-lane street, road or highway, pass or attempt to pass a properly identified funeral procession; or

(C) Drive or attempt to drive between the vehicles within a properly identified funeral procession.

(2) Each violation of subdivision (c)(1) is punishable by a civil penalty not to exceed fifty dollars ($50.00).

(3) For purposes of this subsection (c), to be a "properly identified" funeral procession, the procession must be indicated by a flashing amber light and a auditory signaling device mounted on the lead vehicle or by other properly identified escort, and a flag or other appropriate marking device on each vehicle in the procession indicating that the vehicle is part of the funeral procession.

(4) Any county or municipality may adopt the provisions of this subsection (c) for properly identified funeral processions within its jurisdiction by a two-thirds (2/3) vote of the legislative body of that county or municipality. If a county or municipality adopts this subsection (c), the presiding officer of that legislative body shall proclaim and certify its adoption to the secretary of state.

55-8-184 Unlawful possession of traffic control sign

(a) The department of transportation or any agency of local government responsible for erection or maintenance of any traffic-control sign, signal, marker or device is authorized to indicate the ownership of the sign, signal, marker and device in letters on the back of those items in letters not less than one-fourth inch (¼") nor more than three-fourths inch (¾") in height by use of a metal stamp, etching, or other permanent marking.

(b) Unlawful possession of any such sign, signal, marker or device is a Class C misdemeanor.

55-8-185 Use of OHV on highways

Amended 2023

(a) No off-highway motor vehicle as defined in §55-3-101(c)(2) shall be operated or driven upon a highway unless the vehicle is registered as a medium speed vehicle pursuant to §§55-8-101 and 55-4-136; is registered as a Class I or Class II off-highway vehicle pursuant to chapter 4, part 7 of this title, and operated on county roads pursuant to §55-8-203; is operated or driven pursuant to subsection (c) or (e); or is operated or driven for the purpose of crossing a highway as follows:

(1) On a two-lane highway, only to cross the highway at an angle of approximately ninety degrees (90°) to the direction of the roadway and at a place where a quick and safe crossing may be made;

(2) With respect to the crossing of a highway having more than two (2) lanes, or a highway having limited access, off-highway motor vehicles may cross these highways, but only at a place designated by the department of transportation or local government authorities with respect to highways under their respective jurisdictions as a place where such motor vehicles, or specified types of such motor vehicles, may cross the highways, and these vehicles shall cross these highways only at those designated places and only in a quick and safe manner; and

(3) The department and local government authorities with respect to highways under their respective jurisdictions may designate, by the erection of appropriate signs of a type approved by the department, places where these motor vehicles, or specified types of these motor vehicles, may cross any highway having more than two (2) lanes or having limited access.

(b) Off-highway motor-driven cycles defined in §55-3-101(c)(2) may be moved, by nonmechanical means only, adjacent to a roadway, in a manner so as to not interfere with traffic upon the highway, only for the purpose of gaining access to, or returning from, areas designed for the operation of off-highway vehicles, when no other route is available. The department or local government authority may designate access routes leading to off-highway parks as suitable for the operation of off-highway vehicles, if such access routes are available to the general public only for pedestrian and off-highway motor vehicle travel.

(c)(1) Notwithstanding any law to the contrary, three- or four-wheel all-terrain vehicles or three- or four-wheel off-highway vehicles may be operated on:

(A) Oneida & Western (O&W) Railroad Road from its intersection with Verdun Road southwestward to its terminus, within the jurisdiction of Scott County;

(B) State Route 63 between U.S. Highway 27 and Annadell Road within the jurisdiction of the Town of Huntsville in Scott County on any two (2) weekends per year during the hours of daylight, which includes the thirty (30) minutes before dawn and the thirty (30) minutes after dusk; except, that during one (1) day on each weekend, the off-highway vehicles may be operated during the hours of daylight or nighttime until

twelve o'clock (12:00) midnight. The operation pursuant to this subdivision (c)(1)(B) shall be approved by a two-thirds (2/3) vote of the local legislative body of the municipality and monitored by a local law enforcement agency. Any local legislative body that has approved the operation of the vehicles pursuant to this subdivision (c)(1)(B) as it existed prior to April 28, 2017, shall not be required to resubmit and reapprove the operation pursuant to this subdivision (c)(1)(B) on or after April 28, 2017;

(C) State Route 62 from its intersection with Wind Rock Road westward to its intersection with Winter Gap Road, then southeastward on Winter Gap Road to its intersection with State Route 61 (Railroad Avenue), then eastward on State Route 61 (Railroad Avenue) to its intersection with State Route 62, within the jurisdiction of Oliver Springs in Anderson County on any two (2) weekends per year during the hours of daylight, which includes the thirty (30) minutes before dawn and the thirty (30) minutes after dusk; provided, that the operation is approved by a two-thirds (2/3) vote of the local legislative body of the municipality and monitored by a local law enforcement agency;

(D) State Route 330 from its intersection with State Route 62 westward to its intersection with State Route 61, then southwestward on West Spring Street to its intersection with Winter Gap Road, within the jurisdiction of Oliver Springs in Anderson County on any two (2) weekends per year during the hours of daylight, which includes the thirty (30) minutes before dawn and the thirty (30) minutes after dusk; provided, that the operation is approved by a two-thirds (2/3) vote of the local legislative body of the municipality and monitored by a local law enforcement agency;

(E) State Route 63 from its intersection with Ershell Collins Road West to its intersection with Titus Hollow Road in Campbell County;

(F) State Route 63 from its intersection with Old Stinking Creek Road West to its intersection with Old Highway 63 in Campbell County;

(G) State Route 116 from its intersection with U.S. Highway 25W (State Route 9) West to its intersection with Better Chance Road in Campbell County;

(H) U.S. Highway 25W (State Route 9) from its intersection with State Route 116 to its intersection with Dogwood Road in Campbell County;

(I) U.S. Highway 25W (State Route 9) from its intersection with North Tennessee Avenue to its intersection with Ivy Dale Road in Campbell County;

(J) U.S. Highway 25W (State Route 9) from its intersection with McClouds Trail to 4267 U.S. Highway 25W South, which segment is approximately two and one-half (2.5) miles long, in Campbell County;

(K) U.S. Highway 25W (State Route 9) from its intersection with Elk Tower on Austin Powder Road to the Peabody Convenience Center in Campbell County;

(L) U.S. Highway 25W (State Route 9) from its intersection with Highcliff Road to its intersection with the Kentucky state line at State Street in Campbell County;

(M) State Route 297 from its intersection with U.S. Highway 25W to its intersection with London Avenue in Campbell County;

(N) State Route 297 from its intersection with Woolridge Pike to its intersection with Whistle Creek Road in Campbell County;

(O) U.S. Highway 25W from TN Exit 160 to Crouches Creek Hollow Road in Campbell County;

(P) State Route 116 from its intersection with Rattlesnake Ridge Road, which is approximately one and two-tenths (1.2) miles north of State Route 62, then northward on State Route 116 for approximately three and four-tenths (3.4) miles to its intersection with the walking trails of Frozen Head State Park and Trail 27 of Wind Rock Park, within Morgan County between the hours of eight o'clock a.m. (8:00 a.m.) and eight o'clock p.m. (8:00 p.m.);

(Q) State Route 53 beginning from the Granville Marina and Resort and ending at the Sutton Homestead in the Town of Granville;

(R) State Route 167 from mile marker 10 to mile marker 13, within the jurisdiction of Johnson County;

(S) State Route 133 from its intersection with U.S. Highway 421 to the Tennessee-Virginia state line, within the jurisdiction of Johnson County;

(T) U.S. Highway 421 from the Mountain City limits to its intersection with Corner Road, within the jurisdiction of Johnson County;
(U) State Route 13 from the Wayne County - Perry County boundary to its intersection with Turnbo Lane, within the jurisdiction of Perry County;
(V) State Route 329 from its intersection with U.S. Highway 27 to 849 Deer Lodge Highway, within the jurisdiction of the City of Sunbright in Morgan County;
(W) U.S. Highway 27 from its junction with Mill Road northward to its junction with State Route 62, within the jurisdiction of Morgan County;
(X) State Route 167 from its intersection with Rainbow Road to its intersection with Dotson Lane, within the jurisdiction of Mountain City in Johnson County, which segment is approximately one-half (.5) mile;
(Y) Old Burrville Road, which is approximately one-half (.5) mile in length, within the jurisdiction of the City of Sunbright in Morgan County;
(Z) Dyna Tex Road, which is approximately one (1) mile in length, within the jurisdiction of the City of Sunbright in Morgan County;
(AA) Mill Creek Road, the portion of which is within the jurisdiction of the City of Sunbright in Morgan County;
(BB) State Route 173 (Simerly Creek Road) from its intersection with State Route 107 to its intersection with Old Iron Mountain Road within the jurisdiction of Unicoi County;
(CC) State Route 107 from its intersection with State Route 173 (Simerly Creek Road) eastward to its intersection with Lower Stone Mountain Road, which is near Deer Haven Road, within the jurisdiction of Unicoi County;
(DD) State Route 107 from its intersection with Cross Road to its intersection with Red Fork Road within the jurisdiction of Unicoi County;
(EE) State Route 330 from its intersection with Hoskins Gap Road in Anderson County westward to its intersection with Railroad Avenue and then north and westward to its intersection with Winter Gap Road in the jurisdiction of Oliver Springs in Roane County;
(FF) Windrock Road between Main Street and Hoskins Valley Road in Anderson County;
(GG) Hoskins Valley Road between Windrock Road and Hoskins Gap Road in Anderson County;
(HH) Hoskins Gap Road between Hoskins Valley Road and Frost Bottom Road in Anderson County;
(II) State Route 154 from its intersection with Black House Mountain Road southward to its intersection with Laurel Creek Campground Road, then continuing on Laurel Creek Campground Road and ending at the campground, within the jurisdiction of Fentress County; and
(JJ) State Route 297 beginning at its intersection with State Route 154 and ending at Station 11 of the Fentress County fire department, which segment is approximately eight-tenths (0.8) of a mile in length, within the jurisdiction of Fentress County.

(2) Drivers operating vehicles pursuant to subdivisions (c)(1) and (3)-(5) shall obey the rules of the road, operate with due care, and the operator and each passenger shall wear a helmet in accordance with § 55-9-302. While on the authorized portion of the highways designated in subdivisions (c)(1) and (3)-(5), the vehicles shall display tail lamps and headlights. Headlights on the vehicles shall, under normal atmospheric conditions and on a level road, produce a driving light sufficient to render clearly discernible a person two hundred feet (200′) ahead.

(3) Notwithstanding any law to the contrary, any off-highway motor vehicle as defined in §55-3-101(c)(2) may be operated within the jurisdiction of Johnson County on the segment of State Route 167 from the entrance of the Roan Creek Campground to Doe Mountain, which segment is approximately one-half mile (0.5 mi.).

(4) Notwithstanding any law to the contrary, any all-terrain vehicles may be operated on the following portions of highways within the jurisdiction of Anderson County:
(A) State Route 116 from its intersection with Beech Grove Lane to its intersection with U.S. Highway 25W;

(B) State Route 116 (U.S. Highway 25W) from its intersection with Colonial Lane southward to its intersection with Jacksboro Avenue;

(C) Mountainside Lane from 120 Mountainside Lane to its intersection with Colonial Lane, and then southeastward on Colonial Lane to its intersection with State Route 116 (U.S. Highway 25W);

(D) Boling Road from 167 Boling Road to its intersection with Railroad Avenue, then southward on Railroad Avenue to its intersection with Norris Freeway (U.S. Highway 441), and then eastward on Norris Freeway (U.S. Highway 441) to its intersection with State Route 116 (U.S. Highway 25W);

(E) State Route 116 (U.S. Highway 25W) from its intersection with Fork Mountain Road to its intersection with Windrock Trail, which is designated by the wildlife resources agency as G-71;

(F) State Route 116 (U.S. Highway 25W) from its intersection with Colonial Lane to its intersection with Better Chance Road;

(G) U.S. Highway 441 (Norris Freeway) from its intersection with State Route 116 (U.S. Highway 25W) to 709 Norris Freeway;

(H) State Route 116 from its intersection with State Route 330 to its intersection with Windrock Park Trail 74; and

(I) State Route 116 from its intersection with State Route 330 to its intersection with Windrock Park Trail 75.

(5) Notwithstanding any law to the contrary, any Class I or Class II off-highway vehicle as defined in § 55-8-101 that is registered pursuant to chapter 4, part 7 of this title, may be operated on the following state routes that are within the jurisdiction of Hickman County, if the requirements in § 55-8-203(c) and (d) are satisfied:

(A) State Route 48 North from its intersection with State Route 100 to its intersection with Piney River Road, which is approximately eight and seven-tenths miles (8.7 miles), within the jurisdiction of Hickman County;

(B) State Route 100 from its intersection with North Tidwell Road to its intersection with Wrigley Road, which is approximately four and one-tenth miles (4.1 miles), within the jurisdiction of Hickman County; and

(C) State Route 230 West from its intersection with Dodd Hollow Road to its intersection with East Sugar Creek Road, which is approximately one and nine-tenths (1.9 miles), within the jurisdiction of Hickman County.

(d) A violation of this section is a Class C misdemeanor punishable by a fine only of not more than fifty dollars ($50.00).

(e) In addition to subsections (a)-(d), notwithstanding any law to the contrary, an all-terrain vehicle as defined in §55-8-101 may be operated or driven upon any unpaved streets, roads, or highways, as designated specifically for such purpose upon two-thirds (2/3) vote by the local governing body, and included within the boundaries of an adventure tourism district established pursuant to title 11, chapter 11, part 2, if such all-terrain vehicle complies with the following:

(1) The governing body of a municipality or metropolitan government may regulate in any manner, by lawfully enacted ordinance, the operation of any all-terrain vehicle crossing of a street, road or highway solely under the municipality's jurisdiction; provided, that such municipality provides written notification to the department of safety prior to the effective date of the ordinance and posts appropriate signage designating such all-terrain vehicle crossing on such street, road or highway;

(2) The governing body of any county may by lawfully enacted resolution regulate the operation of all-terrain vehicles on any street, road or highway solely under the county's jurisdiction; provided, that such county provides written notification to the department of safety prior to such resolution becoming effective and posts appropriate signage designating such street, road or highway for all-terrain vehicle use;

(3) An all-terrain vehicle is specifically restricted to only between one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset, and the headlight and taillight shall be illuminated during such operation;

(4) The operator and all passengers of an all-terrain vehicle shall wear a helmet while driving or operating such vehicle on a street, road or highway;

(5) Any additional safety requirements imposed by the local governing body for all-terrain vehicle operation on streets, roads or highways in such municipality, metropolitan government or county; and
(6) No all-terrain vehicles shall be operated on any state highway or any highway that is a part of the interstate and defense highway system.
(f) Operation of the following all-terrain vehicles shall be exempt from subsection (e):
(1) All-terrain vehicles operated for agricultural purposes; and
(2) Publicly-owned and operated all-terrain vehicles that are used for management, law enforcement, emergency services and other such purposes.

55-8-186 Responsibility for illegal parking

(a) The responsibility for illegally parking on any road, highway, or street in this state in any restricted zone or space to include, but not limited to:
(1) An unauthorized parking space designated for persons with disabilities as provided for in §§55-21-106 and 55-21-108;
(2) Specifically prohibited places, as provided for in §55-8-160;
(3) No parking zones;
(4) Overtime zones or metered parking spaces; or
(5) Fire lanes;
shall not apply to the registered owner of a rented or leased vehicle parked in violation of law when that owner can furnish sworn evidence that the vehicle was, at the time of the parking violation, leased or rented to another person.
(b) In such instances, the owner of the vehicle shall, within thirty (30) days after notification of the parking violation, furnish to the appropriate court or law enforcement agency, the name, address, and driver license number of the person or company who leased or rented the vehicle. If the owner fails to provide the information within the thirty-day period, then the owner shall become personally liable for the violation.

55-8-187 Obscene or offensive bumper stickers, window signs

To avoid distracting other drivers and thereby reduce the likelihood of accidents arising from lack of attention or concentration, the display of obscene and patently offensive movies, bumper stickers, window signs or other markings on or in a motor vehicle that are visible to other drivers is prohibited and display of such materials shall subject the owner of the vehicle on which they are displayed, upon conviction, to a fine of fifty dollars ($50.00). “Obscene” or “patently offensive” has the meaning specified in §39-17-901.
Note: Pursuant to 39-17-901:
(10) “Obscene” means:
(A) The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
(B) The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and
(C) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value;
(11) “Patently offensive” means that which goes substantially beyond customary limits of candor in describing or representing such matters;

55-8-188 High occupancy vehicle lanes

Amended 2023

(a) As used in this section:
(1) “Emergency ***vehicle***” means ***a*** vehicle of a governmental department or public service corporation when responding to an emergency***, a*** vehicle of a police or fire department***, or an*** ambulance;
(2) “High occupancy vehicle” means a public transportation vehicle; privately owned bus; motorcycle; private passenger motor vehicle***,*** including vans and pick-up trucks***,*** carrying ***no fewer*** than two (2) passengers***;*** or as ***otherwise*** determined by the commissioner of transportation; ***and***
(3) “HOV lane” means ***a*** lane or set of lanes on a highway facility of any class, so designated by signing, pavement delineation or markings, ***or*** other means of positive guidance, that is reserved for the exclusive

use of high occupancy vehicles during specified hours of specified days of the week, in order to provide preferential service over traditional, mixed vehicles on that remaining part of the same highway facility**.**

(b) Drivers shall obey the directions of every official traffic control device ***that*** is erected or placed to restrict usage of a lane designated for high occupancy vehicles.

(c) Operation of a vehicle other than a high occupancy vehicle in an HOV lane is an offense. Drivers of emergency vehicles ***are*** exempt from this ***subsection*** (c).

(d) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine, not to exceed fifty dollars ($50.00), and court costs, not to exceed ten dollars ($10.00), including, but not limited to, any statutory fees of officers. ***State*** or local litigation taxes ***are not*** applicable to a case prosecuted under this section.

55-8-189 Transporting child in truck bed

(a) A person commits an offense who, on the streets of any municipality, roads of any county, or the highways of this state, transports a child under six (6) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(b)(1) A person commits an offense who, on any interstate defense highway or state highway, transports a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(2) A city or county may prohibit, by ordinance or resolution, a person from transporting a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style on city or county roads or highways.

(c) This section does not apply to a person transporting a child in the bed of such vehicle when that vehicle is being used as part of an organized parade, procession, or other ceremonial event, and when that vehicle is not exceeding the speed of twenty miles per hour (20 mph).

(d) This section does not apply when the child being transported is involved in agricultural activities.

(e) A violation of subsection (a) or subdivision (b)(1) is a Class C misdemeanor.

55-8-190 Street sweeper operation

(a) For the purpose of this section, "street sweeper" means a vacuum or broom-type vehicle used for routine mechanized street, road, interstate highway, and/or bridge sweeping to clean and remove sand, dirt, soil, paper, glass, cans, and other debris.

(b) If operated in compliance with the national highway traffic safety administration standards, including the National Highway Safety Manual, a street sweeper may make intermittent stops as necessary to collect tree limbs, debris, and other objects the street sweeper cannot automatically collect and travel at a speed below the lawful minimum speed:

(1) On any particular roadway in all non-residential areas at any time except six thirty a.m. (6:30 a.m.) to eight thirty a.m. (8:30 a.m.) and three thirty p.m. (3:30 p.m.) to six o'clock p.m. (6:00 p.m.) on weekdays;

(2) On any particular roadway in all residential areas at any time; or

(3) Notwithstanding subdivisions (b)(1) and (2), at any time on any roadway after an emergency or an event that makes street sweeping necessary or desirable.

(c) Absent non-compliance with this section, operator negligence or an intentional tort by an operator, operation of a street sweeper in compliance with this section shall not be a violation of law, and shall not subject the street sweeper to liability for claims for personal injury, property damage or death.

55-8-191 Low-speed or medium-speed vehicle operation

(a)(1) A low speed vehicle as defined in §55-8-101 may be operated only on streets where the posted speed limit is thirty-five miles per hour (35 mph) or less. This subdivision (a)(1) does not prohibit a low speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than thirty-five miles per hour (35 mph).

(2) A county or municipality may prohibit the operation of low speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(3) The department of transportation may prohibit the operation of low speed vehicles on any road under its jurisdiction if it determines that the prohibition is necessary in the interest of safety.

(b)(1) A medium speed vehicle as defined in §55-8-101 may be operated at a rate not to exceed thirty-five miles per hour (35 mph) only on streets where the posted speed limit is forty miles per hour (40 mph) or less. This subsection (b) does not prohibit a medium speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than forty miles per hour (40 mph).

(2) A county or municipality may prohibit the operation of medium speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(3) The department of transportation may prohibit the operation of medium speed vehicles on any road under its jurisdiction if it determines that the prohibition is necessary in the interest of safety.

(c) Any person operating a low speed vehicle or medium speed vehicle must have in possession a valid Class D driver license.

55-8-192 Use of cell phone by school bus driver

Amended 2023

(a) No driver shall operate a school bus as defined by §55-8-101 anywhere in this state while using a portable electronic device:

(1) While the vehicle is in motion and while the vehicle is transporting one (1) or more children; or

(2) When the vehicle is stopped for the purposes of loading or unloading one (1) or more children from the vehicle.

(b) As used in this section, "portable electronic device" means any:

(1) Mobile, cellular, analog, wireless, or digital telephone;

(2) Personal digital assistant;

(3) Hand-held device with mobile data access;

(4) Laptop computer;

(5) Pager;

(6) Broadband personal communication device;

(7) Two-way messaging device;

(8) Electronic game;

(9) Camera;

(10) Portable computing device;

(11) Global positioning system, if the driver is using at least one (1) hand to hold the device or to enter data into the device while the school bus is in motion; or

(12) Electronic device used to input, write, send, receive, read, or view text or media for present or future communication.

(c) This section shall not apply to:

(1) Two-way radio communications, or any device used in a similar manner as two-way radio communications, made to and from a central dispatch, school transportation department, or its equivalent;

(2) The use of a device capable of voice communication to report an emergency to the 911 system, a law enforcement agency, fire department, or emergency medical provider***; or***

(3) The use of a portable electronic device for navigation of the school bus and for accurately accounting for students at bus pick-up and drop-off locations through use of the device's global positioning system if:

(A) Neither of the driver's hands are used to hold the device or to enter data into the device while the school bus is in motion;

(B) The device is mounted on the school bus's windshield, dashboard, or center console area in a manner that does not hinder the driver's view of the road; and

(C) The driver views only data related to the navigation of the school bus and student information related to bus pick-up and drop-off locations.

(d) A violation of this section is a Class A misdemeanor, punishable by a minimum period of confinement of not less than thirty (30) days; a minimum fine of not less than one thousand dollars ($1,000); and the court shall order that a person convicted of violating this section is permanently prohibited from operating a school bus as defined by §55-8-101 in this state.

55-8-193 Excessive noise from motor vehicles

(a) No person operating or occupying a motor vehicle on any public street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty feet (50') or more from the vehicle. For the purpose of this section, "plainly audible" means any sound that clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty feet (50') or more; however, words or phrases need not be discernible and the sound shall include bass reverberation.

(b) This section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by a municipal or county government or any utility company, for sound emitted unavoidably during a job-related operation, school or community sponsored activities, auctioneers or auctioning activities, boats or other watercraft operated on waters or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of a municipal or county government.

(c) A violation of this section is a Class C misdemeanor punishable by a fine only of up to fifty dollars ($50.00).

55-8-195 Designated lanes for truck tractors & semi trailers

(a) The department of transportation is authorized to promulgate rules and regulations directing truck tractors and semitrailers, as defined in §55-8-101, to specific lanes, as indicated by appropriate highway signage on interstate and multilane divided highways that are three (3) or more lanes in each direction. Rules and regulations promulgated pursuant to this section shall not apply when truck tractors and semi trailers are passing other motor vehicles.

(b) A violation of the rules and regulations promulgated pursuant to this section is a Class C misdemeanor, punishable by a fine of not more than fifty dollars ($50.00).

55-8-197 Failure to yield right of way

(a) Any person who violates subdivisions (a)(1)-(6) and the violation results in an accident resulting in serious bodily injury to or death of any person shall be guilty of a misdemeanor:

(1) Section 55-8-115 by failing to drive on the right half of the roadway as provided in the section, except for those motor vehicles in compliance with §55-7-115 or §55-7-202;

(2) Section 55-8-118 or §55-8-119 by unlawfully overtaking and passing another vehicle as provided in those sections;

(3) Section 55-8-128, §55-8-129, §55-8-130 or §55-8-131 by failing to yield the right of way as provided in those sections;

(4) Section 55-8-134, by failing to yield the right-of-way to pedestrians in crosswalks as provided in the section;

(5) Section 55-8-136, by failing to exercise due care as provided in the section; or

(6) Section 55-8-175(c), by failing to overtake and pass a bicycle safely as provided in §55-8-175(c).

(b) For the purposes of this section, unless the context otherwise requires, "serious bodily injury" means:

(1) Substantial risk of death;

(2) Serious disfigurement; or

(3) Protracted loss or impairment of the function of any bodily member, organ or mental faculty.

(c)(1) A violation of subsection (a) is a Class B misdemeanor if the accident results in serious bodily injury of another.

(2) A violation of subsection (a) is a Class A misdemeanor if the accident results in the death of another.

(d) The court shall send the department a record of any of the convictions of any of the sections indicated in subsection (a). The court shall indicate on the record or abstract whether the violation resulted in serious bodily injury of another or death of another.

(e) Upon conviction, the court may revoke the license or permit to drive and any nonresident operating privilege of a person convicted under this section for a period of up to six (6) months, if the accident results in serious bodily injury of another, and up to one (1) year if the accident results in death of another.

55-8-199 Text messaging while operating a motor vehicle

Amended 2023

(a) As used in this section:

(1) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) "Utility services" means electric, natural gas, water, wastewater, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b)(1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person's body, a:

(i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device's global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars ($50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars ($100); or if the violation occurs in a work zone when employees of the department of transportation or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars ($200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars ($10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

[Note: The following subparagraph (c)(4) is NOT effective UNTIL 1/1/2024.]

(4) A second or subsequent violation of this section by a person who is younger than eighteen (18) years of age results in seven (7) points being charged to the person's driving record.

(d) This section does not apply to the following persons:

(1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;

(2) Campus police officers and public safety officers, as defined by § 49-7-118, when in the actual discharge of their official duties;

(3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;

(5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;

(6) Employees or contractors of utility services providers acting within the scope of their employment; and

(7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training.

55-8-201 Platoons

(a) A person may operate a platoon on the streets and highways of this state after the person provides notification to the department of transportation and the department of safety. The notification provided pursuant to this subsection (a) must include a plan for general platoon operations.

(b) If the notification and the plan submitted pursuant to subsection (a) are not rejected by either the department of transportation or the department of safety within thirty (30) days after receipt of the notification and the plan, the person may operate a platoon on the streets and highways of this state.

(c) For purposes of a platoon operating pursuant to this section:

(1) Vehicles in the platoon are not a caravan or motorcade;
(2) The lead vehicle in the platoon is not drawing any subsequent vehicle in the platoon; and
(3) If the platoon includes a commercial motor vehicle, an appropriately endorsed driver who holds a valid commercial driver license must be present behind the wheel of each commercial motor vehicle in the platoon.

55-8-203 Off-highway vehicles–County road use

(a) Any Class I or Class II off-highway vehicle as defined in §55-8-101 registered pursuant to chapter 4, part 7 of this title, may be operated on county roads, if the requirements in this section are met. As used in this section, "county road" means a road that has been classified as a county road pursuant to §54-10-103 or a road for which a county has otherwise assumed control, and does not include a state highway or an interstate or national defense highway. Nothing in this section authorizes the operation on county roads of any all-terrain vehicle or off-highway vehicles other than Class I or Class II off-highway vehicles.

(b) Any Class I or Class II off-highway vehicle operated on county roads pursuant to subsection (a) may, for the purpose of crossing from one (1) road, field, or area of operation to another, be operated upon a state highway or other noncounty road, except upon the interstate and national defense highway system, if:
(1) The crossing is made at an angle of approximately ninety degrees (90º) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
(2) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
(3) The operator yields the operator's right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and
(4) Both the headlights and taillights are illuminated when the crossing is made.

(c) A Class I or Class II off-highway vehicle authorized by subsection (a) may be operated if, while on the county roads:
(1) The vehicle is equipped with:
(A) Brakes;
(B) At least two (2) taillights, stoplights, and headlights;
(C) Two (2) turn signal lamps or other devices meeting the requirements of §55-8-144;
(D) A horn meeting the requirements of §55-9-201;
(E) A roll bar;
(F) Seat belts for each seat;
(G) A manufacturer-installed or equivalent spark arrester;
(H) A manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; and
(I) A windshield, with or without wipers; except, that if the vehicle is not equipped with a windshield, then the operator and each passenger shall wear glasses containing impact resistant lenses, safety goggles, or a transparent face shield; and
(2) The operator shall be at least sixteen (16) years of age and possess a valid driver license from this state or an equivalent license from another state, and otherwise comply with this chapter.

(d) A Class I and Class II off-highway vehicle and any person operating such vehicle is subject to all of the requirements or laws applicable to motor vehicles, including the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title, relating to financial responsibility; chapter 50 of this title, relating to driver licenses; and chapters 3 and 4 of this title, relating to titling and registration, except as otherwise provided in chapter 4, part 7 of this title, or this section.

(e) Every person operating a Class I or Class II off-highway vehicle upon a county road pursuant to this section shall obey all of the duties applicable to the driver of a motor vehicle under part 1 of this chapter, and chapter 10, parts 1-5 of this title, except as to those provisions that by their nature can have no application.

(f) A person who violates subsections (a)-(e) commits a Class C misdemeanor.

(g) Operation of the following off-highway vehicles shall be exempt from the registration requirements of chapter 4, part 7 of this title, and equipment and safety requirements of this section:

(1) An off-highway vehicle operated on any private or public recreational trail or area;
(2) An off-highway vehicle operated on an affiliated trail or area operated by a person or entity which has in place a safety program;
(3) Off-highway vehicles operated for agricultural purposes;
(4) Publicly-owned and operated off-highway vehicles that are used for wildlife management, law enforcement, emergency services, and other such purposes; and
(5) Off-highway motor vehicles operated pursuant to §55-8-185, except those registered as a Class I or Class II off-highway vehicle pursuant to chapter 4, part 7 of this title, and operated on county roads pursuant to this section.

(h) Nothing in this section requires any person to obtain a license pursuant to chapter 17 of this title in order to transfer, sell, or lease any Class I or Class II off-highway vehicle.

55-8-204 Slow poke law

(a) On interstate and multilane divided highways that are two (2) or more lanes in each direction, a person shall not operate a vehicle in the passing lane, except when overtaking or passing a vehicle that is in a nonpassing lane.

(b) This section shall not apply:
(1) When the volume of traffic does not permit the vehicle to safely merge into a nonpassing lane;
(2) When inclement weather or an official traffic control device makes it necessary to drive in the passing lane;
(3) When obstructions or hazards exist in a nonpassing lane;
(4) When avoiding traffic moving onto the highway from an acceleration or merging lane;
(5) When highway design makes it necessary to drive in the passing lane to exit or turn left;
(6) To authorized emergency vehicles engaged in official duties; or
(7) To vehicles engaged in highway maintenance and construction operations.

(c) The department of transportation is authorized to use the department's existing permanent electronic overhead informational displays located on the interstate system to provide periodic messages to the motoring public as to this section, including the restriction on the left lane being used as a passing lane only. The department may develop guidelines for the content, length, and frequency of any message to be placed on the displays.

(d) A violation of this section is a Class C misdemeanor punishable by a fine only of fifty dollars ($50.00).

(e) As used in this section:
(1) "Nonpassing lane" means any lane that is to the right of the passing lane; and
(2) "Passing lane" means:
(A) The furthermost left lane; or
(B) The lane immediately to the right of the furthermost left lane, during the specified hours of specified days of the week when the furthermost left lane is reserved for the exclusive use of high occupancy vehicles pursuant to §55-8-188.

55-8-205 Vehicles in bicycle lane

(a) As used in this section, "bicycle lane" means any portion of the roadway set aside for the exclusive use of bicycles.

(b) It is an offense for a person to operate a motor vehicle within a bicycle lane, except under the following situations:
(1) When parking, stopping, or leaving standing the motor vehicle pursuant to §55-8-158, §55-8-160, or other law, upon the right side of the roadway or the roadway's shoulder or berm; provided, that a carrier of passengers for hire or other motor vehicle used to provide public transportation may only be parked, stopped, or left standing within a bicycle lane temporarily when loading or unloading passengers and when the area adjacent to the right-hand edge or curb of the roadway that is otherwise designated or primarily used to load or unload passengers is obstructed;
(2) When turning into an intersecting or adjoining highway, drive, road, or driveway; or

(3) When yielding the right-of-way to, or temporarily parking or stopping upon the approach of, an authorized emergency vehicle or police vehicle pursuant to §55-8-132 or other law.

(c) Any person failing to conform with subsection (b) shall receive a warning citation on first offense and be liable for a fine of twenty dollars ($20.00) on second offense, and fifty dollars ($50.00) on third and subsequent offenses.

(d) Nothing in this section preempts or otherwise affects an ordinance or resolution governing the parking, stopping, or standing of motor vehicles in bicycle lanes that is more restrictive than subdivision (b)(1), whether enacted or modified prior to, or on or after, July 1, 2016, by a municipality or county, including a county with a metropolitan form of government.

55-8-208 Electric scooters—Applicability of 55-8-302

Section 55-8-302 applies to an electric scooter and any person operating an electric scooter, including an exclusion from chapters 3 and 4 of this title, relating to titling and registration. Nothing in this section or § 55-8-302 preempts a county, municipality, or metropolitan form of government, by ordinance of its legislative body, from regulating, controlling, or banning the use and operation of electric scooters within the geographic boundaries of the county, municipality, or metropolitan government. The ordinances must be reasonably related to promotion and protection of the health, safety, and welfare of riders, operators, pedestrians, and motorists.

55-8-209 Personal delivery devices

(a) A personal delivery device must:

(1) Yield or not obstruct the right-of-way to all other traffic, including pedestrians;

(2) Not unreasonably interfere with other traffic, including pedestrians;

(3) If the personal delivery device is being operated between sunset and sunrise, be equipped with lighting on both the front and rear of the personal delivery device visible in clear weather from a distance of at least five hundred feet (500') to the front and rear of the personal delivery device; and

(4) Not transport hazardous materials regulated under the Hazardous Materials Transportation Act (49 U.S.C. §5103) that are required to be placarded under 49 CFR Part 172, Subpart F.

(b) A personal delivery device may be operated in a pedestrian area at speeds up to ten (10) miles per hour.

(c) A personal delivery device must:

(1) Be equipped with a marker that clearly states the name and contact information of the owner and a unique identification number; and

(2) Be equipped with a braking system that enables the device to come to a controlled stop.

(d) A personal delivery device and any entity that operates a personal delivery device is not subject to any requirements or laws applicable to motor vehicles, including the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title; the Uniform Classified and Commercial Driver License Act of 1988, compiled in chapter 50 of this title; and chapters 3 and 4 of this title, relating to titling and registration.

(e) Personal delivery devices may be prohibited by local resolutions or ordinances if the local government determines that the prohibition is necessary, in the interest of public safety. This section does not affect the authority of a local authority's law enforcement officers to enforce the laws of this state relating to the operation of a personal delivery device.

(f) An entity that operates a personal delivery device must maintain an insurance policy that includes general liability coverage of not less than one hundred thousand dollars ($100,000) for damages arising from the combined operations of personal delivery devices under a personal delivery device operator's control.

55-8-212 Camping unlawfully on or under highway

(a) It is unlawful for a person to engage in camping:

(1) On the shoulder, berm, or right-of-way of a state or interstate highway; or

(2) Under a bridge or overpass, or within an underpass, of a state or interstate highway.

(b) Notwithstanding §39-14-414, a violation of this section is a Class C misdemeanor, punishable only by a fine of fifty dollars ($50.00) and community service work not less than twenty (20) hours nor more than forty (40) hours; except, that a person who violates this section must receive a warning citation for a first

offense. In lieu of a fine and community service, the court may require a person convicted under this section to remove litter from the state or local highway system, public playgrounds, public parks, or other appropriate public locations for not less than twenty (20) hours nor more than forty (40) hours.

(c) For purposes of this section, "camping" means:

(1) Erecting, placing, maintaining, or using temporary structures, such as tents, tarps, and other temporary shelters, for living accommodation activities, such as sleeping or making preparations to sleep;

(2) Carrying on cooking activities, whether by fire or use of artificial means, such as a propane stove or other heat-producing portable cooking equipment; or

(3) Sleeping outside of a motor vehicle or making preparations to sleep outside of a motor vehicle, including laying down a sleeping bag, blanket, or other material used for bedding.

55-8-301 Electric bicycle–Definitions

As used in this part:

(1) "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour (20 mph);

(2) "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour (20 mph);

(3) "Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour (28 mph); and

(4) "Electric bicycle" means a device upon which any person may ride that is equipped with two (2) or three (3) wheels, any of which is twenty inches (20") or more in diameter, fully operable pedals for human propulsion, and an electric motor of less than seven hundred fifty (750) watts, and meets the requirements of one (1) of the three (3) classes of electric bicycles defined in subdivision (1), (2), or (3).

55-8-302 Electric bicycle–Applicability

An electric bicycle and any person operating an electric bicycle is not subject to any requirements or laws applicable to motor vehicles, including the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title; the Uniform Classified and Commercial Driver License Act of 1988, compiled in chapter 50 of this title; and chapters 3 and 4 of this title, relating to titling and registration. Except as otherwise specified by this part, the requirements and laws applicable to bicycles in this title shall apply to electric bicycles.

55-8-304 Unlawful modification of electric bicycle

It is an offense for a person to knowingly modify an electric bicycle so as to change the speed capability of the electric bicycle and not appropriately replace, or cause to be replaced, the label indicating the classification required in §55-8-303. A violation of this section is a Class C misdemeanor.

55-8-305 Electric bicycle–Equipment requirements

(a) No electric bicycle shall be operated upon any street or highway unless the electric bicycle:

(1) Complies with applicable equipment and manufacturing requirements for electric bicycles established by state and federal law, including federal standards adopted by the United States consumer product safety commission and compiled in 16 CFR part 1512; and

(2) Is equipped in such a manner that the electric motor is disengaged or ceases to function when the brakes are applied, or that the electric motor is engaged through a switch or mechanism that, when released or activated, will cause the electric motor to disengage or cease to function.

(b) No class 3 electric bicycle shall be operated upon any street or highway unless it is equipped with a speedometer that displays the speed the electric bicycle is traveling in miles per hour.

(c) A person who knowingly operates an electric bicycle in violation of subsection (a) or (b) commits a Class C misdemeanor.

55-8-306 Electric bicycle–Operation

(a)(1) A class 1 electric bicycle or a class 2 electric bicycle may be operated on any part of a street or highway where bicycles are authorized to travel, including a bicycle lane or other portion of a roadway designated for exclusive use by bicyclists, the shoulder or berm, and any path or trail intended for use by bicyclists.

(2) A local government or state agency having jurisdiction over any part of any path or trail where bicycles are authorized to travel may regulate or prohibit, by resolution or ordinance if a local government or by rule or policy if a state agency, the operation of a class 1 electric bicycle or class 2 electric bicycle on that path or trail, if the local government or state agency determines that the regulation or prohibition is necessary, in the interest of public safety.

(3) No class 3 electric bicycle shall be operated on any part of a path or trail where bicycles are authorized to travel, unless the path or trail is within or adjacent to the street or highway, or the local governing body or state agency having jurisdiction over the path or trail permits, by resolution or ordinance if a local government or by rule or policy if a state agency, the operation of a class 3 electric bicycle on that path or trail.

(4) No electric bicycle shall be operated on any sidewalk unless the use of bicycles on sidewalks is authorized by resolution or ordinance if a local government or by rule or policy if a state agency, of the local government or state agency having jurisdiction over that sidewalk, and the electric motor is disabled.

(5) Any local resolution or ordinance or state agency rule or policy adopted in accordance with this subsection (a) shall use the definitions in this part for electric bicycle, class 1 electric bicycle, class 2 electric bicycle, or class 3 electric bicycle. References to motor vehicles in any local resolution or ordinance shall not be applicable to an electric bicycle.

(6) A person who knowingly operates an electric bicycle in violation of subdivision (a)(3) or (a)(4) commits a Class C misdemeanor.

(b) On any roadway, highway, or street, electric bicycles shall be restricted, limited, or excluded by local resolutions and ordinances to the same extent as bicycles are restricted, limited, or excluded.

55-8-307 Electric bicycle–Age and helmet requirement

(a) It is a delinquent act for a person under fourteen (14) years of age to operate a class 3 electric bicycle upon any street or highway; provided, that the person may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.

(b) The operator and all passengers of a class 3 electric bicycle, regardless of age, shall wear a properly fitted and fastened bicycle helmet meeting federal standards established by the United States consumer product safety commission or the American Society for Testing and Materials. A label on the helmet shall be affixed signifying the helmet complies with this subsection (b).

(c)(1) A violation of subsection (a) shall be punishable only by a fine not to exceed fifty dollars ($50.00).

(2) A person who violates subsection (b) commits a Class C misdemeanor.

Chapter 9
Equipment–Lighting Regulations

55-9-101 Lighting–Definitions

Amended 2023

[Note: The 2023 amendment to this section will change all instances of “motor-driven cycle” ***to*** “motorscooter.” ***This change is NOT effective UNTIL 7/1/2024.]***

As used in this chapter:

(1) “Autocycle,” “motor vehicle,” “motorcycle,” “motor-driven cycle,” and “motorized bicycle” have the meanings ascribed to them in §55-8-101; and

(2) “Automated driving system,” “ADS,” and “ADS-operated vehicle” have the meanings ascribed to them in §55-30-102.

55-9-102 Emergency equipment requirements

Every motor vehicle, according to its type or character of operation as listed in subdivisions (1) and (2), shall carry at all times the following emergency parts and accessories, which shall be in proper and effective working order and available for immediate use:

(1) On every bus, truck, or truck tractor, except pickup trucks having not more than two (2) rear wheels and equipped with emergency flashing lights at front and rear:

(A) At least one (1) fire extinguisher, of a type inspected and labeled by Underwriters' Laboratories, Inc., under classification B, and utilizing an extinguishing agent that does not need protection from freezing (minimum size, two-pound dry chemical type);

(B) One (1) red lantern, when projecting loads are carried; and

(C) One (1) red cloth flag, not less than twelve inches (12") square, when projecting loads are carried;

(2) On every bus, truck, and truck tractor, except pickup trucks having not more than two (2) rear wheels and equipped with emergency flashing lights at front and rear, operating outside the corporate limits of municipalities, excepting buses subject to the general supervision and regulation, jurisdiction and control of the governing body of a municipality under §§65-4-101, 65-4-104 and 65-16-101[1], and operating within the territorial limits of the regulatory jurisdiction of the governing body:

(A) All items listed under subdivision (1);

(B) One (1) set of tire chains, for all vehicles likely to encounter conditions requiring them;

(C)(i) At least three (3) flares or three (3) red emergency reflectors, or three (3) red electric lanterns, unless the motor vehicle is operated solely on streets or highways that are artificially lighted at night;

(ii) Each flare (liquid burning pot torch) or red emergency reflector or red electric lantern shall be capable of being seen and distinguished at a distance of five hundred feet (500') under normal atmospheric conditions;

(iii) Each flare (pot torch) shall be capable of burning for not less than twelve (12) hours in five miles per hour (5 mph) wind velocity, capable of burning in any air velocities from zero to forty miles per hour (0-40 mph), substantially constructed so as to withstand reasonable shock without leaking, and shall be carried in a metal rack or box. Each red electric lantern shall be capable of operating continuously for not less than twelve (12) hours and shall be substantially constructed so as to withstand reasonable shock without breakage;

(iv) Each red emergency reflector shall conform in all respects to the requirements of the following specifications, and must be approved for use in Tennessee by the department of safety:

(a) Each red emergency reflector shall be comprised of a multiplicity of red reflecting elements on each side, not less than two (2), front and back, every one of which red reflecting elements shall conform as a minimum requirement to the specifications for Class A Reflex Reflectors contained in the SAE Handbook, 1944 edition (published by the Society of Automotive Engineers, 29 West 39th Street, New York, New York). The aggregate candlepower output of the reflecting elements of the device when tested in the perpendicular position at one-third degree (1/3 º) as specified by SAE photometric procedure shall be not less than twelve (12);

(b) If the reflecting surfaces or reflector elements would be adversely affected by dust, soot, or other foreign matter, they shall be adequately sealed within the body of the units in which they are incorporated. Each reflector device shall be of such weight and dimensions as to remain stable and stationary when in a forty mile per hour (40 mph) wind on any road surface on which it is likely to be used, and shall be so constructed as to withstand reasonable shock without breakage. Each reflector device shall be so constructed that the reflecting elements shall be in a plane perpendicular to the plane of the roadway when placed thereon; and

(c) Reasonable protection shall be afforded each reflector device, and the reflecting elements incorporated therein, by enclosure in a box or rack from which the three (3) devices readily may be extracted for use. In the event the reflector devices are collapsible, locking means shall be provided to maintain the reflecting elements in effective position, and the locking means shall be readily capable of adjustment without the use of tools or special equipment;

(v) Each unit of a set of three (3) red emergency reflectors shall be marked plainly with the certification of the manufacturer that it fulfills the requirements of these specifications; and

(vi) Each red emergency reflector when used shall be so placed on the highway as to reflect to oncoming vehicles the maximum amount of reflected light;

(D) At least three (3) red burning fusees (if carrier elects to carry and use flares as warning signals), unless the motor vehicle is operated solely on streets or highways that are artificially lighted at night. Each fusee shall be made in accordance with the specifications of the Bureau of Explosives, 30 Vesey Street, New York, New York, and so marked, and shall be capable of burning at least fifteen (15) minutes; and

(E) At least two (2) red flags of cloth, synthetic or man-made material, not less than twelve inches (12") square, with standards; and

(3) On motor vehicles used for the driver education and training course for Class D vehicles as provided by §55-50-322(f), there may be equipped amber light-emitting diode (LED) lights on the front and rear of the motor vehicles only if the amber light-emitting diode lights are not placed in the driver's line of sight.

[1]**Note:** §65-16-101 has been repealed.

55-9-103 Display of warning devices–Disabled vehicles

Whenever any bus, truck, or truck tractor, except pickup trucks having not more than two (2) rear wheels and equipped with emergency flashing lights at front and rear, is disabled upon the traveled portion of the highway or the shoulder next thereto, except within a business or residential district of a municipality, the following requirements shall be complied with during the period of the disablement:

(1) During the time when lights are required, that is, between one half (1/2) hour after sunset and one half (1/2) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible a person two hundred feet (200') ahead, a lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle. As soon thereafter as possible, and in any case within the burning period of the fusee, three (3) lighted flares or pot torches shall be placed on the roadway as follows:

(A) One (1) in the center of the line of traffic occupied by the disabled motor vehicle not less than forty (40) paces or approximately one hundred feet (100') distant therefrom in the direction of traffic approaching in that line;

(B) One (1) not less than forty (40) paces, or approximately one hundred feet (100') from the vehicle in the opposite direction;

(C) One (1) at the traffic side of the vehicle approximately ten feet (10') rearward or forward thereof;

(D) If the motor vehicle is disabled within three hundred feet (300') of a curve, crest of a hill or other obstruction to view, the flare in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than forty (40) paces, approximately one hundred feet (100') nor more than one hundred twenty (120) paces, approximately three hundred feet (300'), from the disabled vehicle;

(E) Care should be taken in placing any flare, fusee, or any signal produced by a flame to prevent igniting any gasoline or other inflammable liquid or gas; and

(F) As to every motor vehicle used for the transportation of inflammable liquids or inflammable compressed gas in cargo tanks, whether loaded or empty, the use of flares, pot torches, fusees or any signal produced by a flame is prohibited, and lighted red electric lanterns or red emergency reflectors shall be used in lieu thereof. Every motor vehicle, whether required to carry red electric lanterns or red emergency reflectors or not, may carry the red electric lanterns or red emergency reflectors in lieu of flares, pot torches and fusees. The placement of the red electric lanterns or red emergency reflectors in the event of disablement shall be the same as the requirements for the placing of pot torches, fusees or flares; and

(2) During the time that lights are not required, red flags shall be placed in the manner prescribed for the lighted electric lanterns or flares, except that no flag shall be required to be placed at the side of the vehicle; however, if the disablement continues into the period when lights are required, lighted flares or lighted red electric lanterns or red emergency reflectors shall then be placed as prescribed.

55-9-105 Television in motor vehicles

(a) A person shall not operate a motor vehicle with a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications, if the receiver, monitor or screen is intended to display images visible to the driver in a normal position when the vehicle is in motion.

(b) A person shall not install in a motor vehicle a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business

applications, if the receiver, monitor or screen is intended to display images visible to the driver in a normal position when the vehicle is in motion.

(c) The prohibitions contained in this section shall not apply to:

(1) The following equipment when installed in a motor vehicle:

(A) A vehicle information display;

(B) A navigation or global positioning display;

(C) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor vehicle; or

(D) A television receiver, video monitor, television or video screen or any other similar means of visually displaying a television broadcast or video signal, if the equipment is designed to prevent the driver from viewing the entertainment or business application when the motor vehicle is being driven;

(2) Television receivers or monitors used in government-owned vehicles by law enforcement officers in the course of their official duties;

(3) A wireless telephone or communication device when used for placing or receiving a telephone call or to access a navigation or global positioning display;

(4) Electronic monitors or displays used to monitor livestock being transported;

(5)(A) Computer or other electronic displays or monitors used in utility vehicles by employees of the utility in the course of their official duties; provided, however, that use shall be permitted only while the vehicle is stopped, standing or parked;

(B) As used in subdivision (c)(5)(A), "utility" means any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, waste water services, telephone service or any combination thereof, for sale to consumers in any particular service area; and

(C) As used in subdivision (c)(5)(B), "cooperative" means any cooperative providing utility services, including, but not limited to, electric or telephone services, or both; or

(6)(A) When a motor vehicle's autonomous technology is engaged, an operator may use an integrated electronic display for communication, information, and other uses enabled by the display; provided, that the display is integrated with the vehicle such that it operates and functions in coordination with such autonomous technology and disables automatically any moving images visible to the motor vehicle operator when the autonomous technology is disengaged;

(B) As used in subdivision (c)(6)(A), "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the motor vehicle without the active physical control or monitoring by a human operator.

(d) This section does not apply to local, state or federal law enforcement officers who are engaged in the performance of their official duties.

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

55-9-106 Studded tires

(a) No person shall use a tire on a vehicle moved on a highway that has on its periphery any block, stud, flange, cleat, or spike or any other protuberances of a material other than rubber that projects beyond the tread of the traction surface of the tire, except as otherwise provided in this section.

(b) A person may operate on a highway a vehicle equipped with a tire that has imbedded in it wire or other material for improving traction on snow and ice during the period of October 1 through April 15 of each year. Such a tire shall be so constructed that the percentage of wire or other material in contact with the roadway does not exceed, after the first one thousand (1,000) miles of use or operation, five percent (5%) of the total tire area in contact with the roadway. During the first one thousand (1,000) miles of use or operation of any such tire, the wire or other material in contact with the roadway shall not exceed twenty percent (20%) of the total tire area in contact with the roadway. The studded tires allowed by this subsection (b) shall not be used at any time on a vehicle with a maximum gross weight of more than nine thousand pounds (9,000 lbs.), unless this a vehicle is a school bus or an emergency vehicle.

(c) It is permissible to use tire chains of reasonable proportions on any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to skid.
(d) It is permissible to use farm machinery with tires having protuberances that will not injure a highway.

55-9-107 Windows with tinting

(a)(1) It is unlawful for any person to operate, upon a public highway, street or road, any motor vehicle in which any window that has a visible light transmittance equal to, but not less than, that specified in the Federal Motor Vehicle Safety Standard No. 205, codified in 49 CFR 571.205, has been altered, treated or replaced by the affixing, application or installation of any material that:
(A) Has a visible light transmittance of less than thirty-five percent (35%); or
(B) With the exception of the manufacturer's standard installed shade band, reduces the visible light transmittance in the windshield below seventy percent (70%).
(2) Any person who installs window tinting materials in this state for profit, barter, or wages or commissions is defined as a "professional installer" for the purposes of this section; and it is unlawful for a professional installer to apply tinting materials to any motor vehicle so as to cause that motor vehicle to be in violation of this section.
(3) All professional installers of window tinting materials shall supply and shall affix to the lower right corner of the driver's window an adhesive label, the size and style of which shall be determined by the commissioner of safety, that includes:
(A) The installer's business name; and
(B) The legend "Complies with Tennessee Code Annotated, §55-9-107."
(4) All professional installers of window tinting materials shall supply each customer with a signed receipt for each motor vehicle to which tinting materials have been applied that includes:
(A) Date of installation;
(B) Make, model, paint color and license plate number and state;
(C) The legend "Complies with Tennessee Code Annotated, §55-9-107, at date of installation"; and
(D) The legend "This receipt shall be kept with motor vehicle registration documents."
(5) The owner of any vehicle in question has the burden of proof that the motor vehicle is in compliance with this section.
(6)(A) The restrictions of this subsection (a) do not apply to any of the following motor vehicles:
(i) Any motor vehicle model permitted by federal regulations to be equipped with certain windows tinted so as not to conform to the specifications of subdivision (a)(1)(A) with respect to those certain windows;
(ii) Any motor vehicle bearing commercial license plates or government service license plates that are used for law enforcement purposes, for those windows rearward of the front doors;
(iii) Any motor vehicle that is registered in another state and meets the requirements of the state of registration; and
(iv) Any motor vehicle owned or leased by private investigators or investigations companies licensed pursuant to title 62, chapter 26.
(B) This subdivision (a)(6) shall not be construed in any way to exempt the front door windows of any motor vehicle of any kind from the specifications of subdivision (a)(1)(A).
(b)(1) Notwithstanding subdivision (a)(1) to the contrary, any person with a medical condition that is adversely affected by ultraviolet light may submit a statement to the commissioner from that person's physician certifying that the person has a medical condition that requires reduction of light transmission in the windows of the person's vehicle in excess of the standards established in subsection (a). The commissioner shall submit the certified statement to the department's medical review board for evaluation. If the review board finds the exemption warranted, it shall recommend that the commissioner authorize the exemption, and the degree of tinting exemption that is appropriate. The commissioner shall then supply a certificate or decal, indicating the degree of exemption, to the applicant who shall display it in the motor vehicle.
(2) Any applicant aggrieved by a decision of the medical review board or the commissioner may appeal in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The appeal

may be made to the chancery court of the county where the aggrieved applicant resides at the option of the applicant.

(c) It is probable cause for a full-time, salaried police officer of this state to detain a motor vehicle being operated on the public roads, streets or highways of this state when the officer has a reasonable belief that the motor vehicle is in violation of subdivision (a)(1), for the purpose of conducting a field comparison test.

(d) It is a Class C misdemeanor for the operator of a motor vehicle to refuse to submit to the field comparison test when directed to do so by a full-time, salaried police officer, or for any person to otherwise violate any provisions of this section.

(e) The commissioner of safety shall establish a standardized method and procedure by which law enforcement officers can readily, and with reasonable accuracy, conduct a field comparison test to determine if a motor vehicle's windows are in compliance with this section.

55-9-108 Airbags

(a) For purposes of this section:

(1) "Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system;

(2) "Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component, including, but not limited to, an airbag, that displays a mark identical to, or substantially similar to, the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier, respectively;

(3) "Nonfunctional airbag" means a replacement airbag that meets any of the following criteria:

(A) The airbag was previously deployed or damaged;

(B) The airbag has an electric fault that is detected by the vehicle's airbag diagnostic systems when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) The airbag includes a part or object, including a supplemental restraint system component, that is installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(D) The airbag is subject to the prohibitions of 49 U.S.C. §30120(j); and

(4) "Supplemental restraint system" ("SRS"):

(A) Means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems, as defined in 49 CFR 571.208; and

(B) Includes one (1) or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer, including both of the following:

(i) The airbag operates in the event of a crash; and

(ii) The airbag is designed in accordance with federal motor vehicle safety standards of the specific make, model, and year of the motor vehicle in which it is or will be installed.

(b) A person shall not knowingly manufacture, import, install, reinstall, distribute, sell, or offer for sale any device intended to replace a supplemental restraint system component in any motor vehicle if the device is a counterfeit supplemental restraint system component, nonfunctional airbag, or device that does not meet federal motor vehicle safety standards as provided in 49 CFR 571.208.

(c) A person shall not knowingly sell, install, or reinstall in a vehicle, any device that causes the vehicle's diagnostic systems to fail to warn when the vehicle is equipped with a counterfeit supplemental restraint system component or nonfunctional airbag, or when no airbag is installed.

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

55-9-201 Horn–Bells, sirens or exhaust whistles

(a) Every motor vehicle, when operated upon any road, street or highway of the state, shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet (200'), and it is unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark

plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police, fire department and fire patrol vehicle, and every ambulance and emergency repair vehicle of public service companies used for emergency calls, shall be equipped with a bell, siren, or exhaust whistle of a type approved by the department, or local police authorities in incorporated cities or towns. Members of volunteer fire departments residing outside of incorporated communities may equip vehicles, to be used in fire patrol work, with warning devices of the type approved by the department or by the sheriff of the county in which the vehicles are to be operated.

(c)(1) Members of regular or volunteer fire departments may equip their privately owned vehicles to be used in responding to a fire alarm or other emergency with warning devices approved by the local fire chief, upon written certification to the local sheriff or police chief that the person is a member of the department. In the event the warning devices are abused or used for other than their intended purpose by a member of the fire department, the local fire chief shall revoke the member's privilege of using the warning devices and shall notify, in writing, the local sheriff or police chief of the revocation.

(2) Subdivision (c)(1) shall not apply to counties with populations of:

not less than	nor more than
83,300	83,400
85,725	85,825
143,900	144,000
250,000	300,000
400,000	--

according to the 1980 federal census or any subsequent federal census.

(d)(1) The prohibition in subsection (a) does not apply to any privately-owned motor vehicle that is primarily operated for business purposes by any salesperson, service representative, employee, lessee, or duly authorized agent of an emergency equipment company; provided, that the vehicle is marked with the lettering required by subdivision (d)(3).

(2) Any person operating a motor vehicle pursuant to this subsection (d) shall carry a copy of the company's business license or the person's or owner of the company's professional or occupational license, certification or registration issued by this state and appropriate identification issued by the owner of the company.

(3) Lettering shall be displayed on the left and right sides of the vehicle identifying the name of the company for which the vehicle is operated and on the front and rear of the vehicle designating it a "Demonstration Vehicle." The lettering shall be painted or affixed on, or attached to, the vehicle in a permanent manner, and shall be at least three inches (3'') in size.

(4) Nothing in this subsection (d) imposes any duty or obligation on a manufacturer of motor vehicles used by or sold to emergency equipment companies to equip the audible warning devices allowed in this subsection (d) at the time of manufacture or sale.

(5) Nothing in this subsection (d) shall be construed to permit the operator of an emergency equipment company vehicle from operating any audible warning device authorized by this subsection (d) while the vehicle is on a public road, whether in motion or stationary.

(6) As used in this section, "emergency equipment company" or "company" means any entity licensed as required by this state to sell or repair bells, sirens, or exhaust, compression or spark plug whistles, or other audible warning devices or equipment designed for use on motor vehicles that are operated for authorized law enforcement, emergency response, or other public safety activities.

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

55-9-202 Mufflers–Muffler cutouts

Amended 2023

(a) ***It is unlawful for a*** person ***to*** drive a motor vehicle on ***a*** road, street***,*** or highway ***if*** the motor vehicle is ***not*** equipped with a muffler in good working order and in constant operation***. A motor vehicle's muffler is deemed to be not in good working order or in constant operation if the motor vehicle produces*** excessive or unusual noise ***or*** annoying smoke.

(b) It is unlawful to use a "muffler cutout" on any motor vehicle upon any road, street or highway.

(c) This section does not apply to farm tractors or implements of husbandry, as those terms are defined in §55-8-101.

(d) For purposes of this section, "excessive or unusual noise" includes motor noise emitted by a motor vehicle, other than a motorcycle, that is noticeably louder than similar vehicles in the environment and a sound pressure level in excess of ninety-five decibels (95 dB).

(e) It is a defense to prosecution regarding excessive or unusual noise if the person provides satisfactory evidence that the vehicle's muffler does not emit noise in excess of ninety-five decibels (95 dB) as measured in accordance with applicable standards and specifications outlined by the Society of Automotive Engineers.

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

55-9-203 Windshield wipers

(a) Every motor vehicle having a windshield shall be equipped with two (2) windshield wipers for cleaning rain, snow or other moisture from the windshield in order to provide clear vision for the driver, unless one (1) windshield wiper cleans to within one inch (1") of each side of windshield.

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

55-9-204 Brakes required

(a) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(b) Every motorcycle, and bicycle with motor attached, when operated upon a highway shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(c)(1) Every trailer or semitrailer of a gross weight of three thousand pounds (3,000 lbs.) or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and the brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle, the brakes shall be automatically applied.

(2) Subdivision (c)(1) does not apply to any trailer or semitrailer operating solely intrastate with a gross vehicle weight rating (GVWR) of seven thousand five hundred pounds (7,500 lbs.) or less and equipped with a hydraulic breakaway mechanism that is separate from the hitch itself and utilizes surge brakes. "Surge brakes" is defined as a system complying with SAE Standards J-135, J-661, J-667, and J-684 whereby the brakes of a trailer are actuated as a result of the forward pressure of the trailer against the tow vehicle during deceleration.

(d) Every new motor vehicle, trailer, or semitrailer sold after May 21, 1937, in this state and operated upon the highways shall be equipped with service brakes upon all wheels of the vehicle, except trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels, unless these vehicles are equipped with at least two (2) steerable axles, the wheels of one (1) such axle need not be equipped with brakes, except any motorcycle, and except that any semitrailer of less than one thousand five hundred pounds (1,500 lbs.) gross weight need not be equipped with brakes.

(e) The requirements of subdivision (c)(1) and subsection (d) shall not apply to trailers that are not required to be registered and licensed and that are used by or on behalf of farmers:

(1) Transporting farm products or livestock from farm to market;

(2) Transporting products, equipment, materials or supplies used in agricultural pursuits from market to farm or in their transfer from farm to farm or from one (1) part of a farm to another part of the same farm; or

(3) Delivering the trailer to any farm.

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

55-9-205 Performance of brakes

(a) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop the vehicle or vehicles when traveling twenty miles per hour (20 mph) within a distance of thirty feet (30') when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent (1%).

(b) Under the conditions in subsection (a), the hand brake shall be adequate to stop the vehicle or vehicles within a distance of fifty-five feet (55') and the hand brake shall be adequate to hold the vehicle or vehicles stationary on any grade upon which operated.

(c) Under the conditions in subsection (a), the service brakes upon a motor vehicle equipped with two (2) wheel brakes only, and when permitted, shall be adequate to stop the vehicle within a distance of forty feet (40') and the hand brake adequate to stop the vehicle within a distance of fifty-five feet (55').

(d) All braking distances specified in this section shall apply to all vehicles mentioned, whether the vehicles are not loaded or are loaded to the maximum capacity permitted under this chapter.

(e) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

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

55-9-206 Truck–Rearview mirror

Any motor truck using the streets, roads, highways, and other public thoroughfares, which, by reason of its construction, either when loaded or unloaded, prevents the driver's view of the rear, shall be equipped with a mirror arranged in a manner and maintained so that the driver or operator may view the roadway to the rear and note the approach of vehicles from the rear of the motor truck.

55-9-207 Truck without rearview mirror–Penalties

Any person driving a motor truck without a rearview mirror, and the owner of the motor truck, operated upon any public thoroughfare, in violation of §55-9-206, commits a Class C misdemeanor.

55-9-212 Mudguards on trucks

(a) No person shall operate upon a public highway or street any motor vehicle, including a separate truck tractor (normally used in a tractor-trailer combination), or combination of vehicles having a carrying capacity in excess of three thousand pounds (3,000 lbs.), if the motor vehicle or combination of vehicles is not equipped with rear fenders, mudflaps or mudguards of such size as to substantially prevent the projection of rocks, dirt, water or other substances to the rear. The fenders, flaps or guards shall be of a type approved by the commissioner of safety.

(b) This section shall have no application to farm vehicles, or vehicles used by farmers to haul produce from farm to market, nor shall it apply to vehicles used exclusively for hauling logs.

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

55-9-215 Bumpers–Lift kits

(a) No person shall operate a motor vehicle on any road, street or highway unless the vehicle is equipped with a bumper or other energy absorption system with an analogous function.

(b)(1) No person shall operate a passenger vehicle, except a four-wheel drive recreational vehicle, of a type required to be registered under the laws of this state upon a public highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are more than twenty-two inches (22") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision or cause the wheels to come in contact with the body under normal operation, and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle.

(2) No person shall operate a four-wheel drive recreational vehicle of a type required to be registered under the laws of this state upon a public highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are not within the range of fourteen to thirty-one inches (14”-31”) above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision or cause the wheels to come in contact with the body under normal operation, and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle. In the case of a four-wheel drive vehicle where the thirty-one inch limitation is exceeded, the vehicle will comply with this section if the vehicle is equipped with a drop bumper. The drop bumper must be bolted and welded to the frame of the vehicle and be made of a strength equal to a stock bumper.

(3) No person shall modify or cause to be modified by the use of lift blocks the front end suspension of a motor vehicle.

(4)(A) Maximum frame heights for motor vehicles shall be as follows:

(i) Passenger cars	22 inches
(ii) Trucks and recreational vehicles:	
(a) 4,500 lbs. and under	24 inches
(b) 4,501-7,500 lbs.	26 inches
(c) 7,501-10,000 lbs.	28 inches

(B) Frame height measurements shall be taken from the bottom of the frame by measuring the vertical distance between the ground and the lowest point of the frame directly below the point in line with the center of the steering wheel.

(5) No person shall operate a motor vehicle having a distance greater than four inches (4”) between the body floor and the top of the frame.

(6) No person shall modify or cause to be modified the original manufacturer installed steering mechanism, including welding, nor the front spindle where the brake pads mount, on a passenger vehicle or a truck or recreational vehicle with a weight up to ten thousand pounds (10,000 lbs.).

(c) This section does not apply to freight motor vehicles and/or other vehicles that have designs which would intrinsically preclude conformity with this provision. This section also shall not apply to any vehicle that has an unaltered and undamaged stock bumper or energy absorption system as supplied by the manufacturer of the vehicle.

(d) Any law enforcement officer charged with the enforcement of traffic laws and regulations may stop and inspect motor vehicles that appear to be operated in violation of this section. If, upon inspection, the vehicle is found to be in violation of this section, the operator shall be issued a citation stating the particulars of the violation and, in general, the repairs necessary to bring the vehicle into compliance with this section. The citation shall also state a time and place for appearance in a court of competent traffic jurisdiction, not less than fourteen (14) days from the date of the issuance of the citation.

(e) If the vehicle is found not to be in compliance with this section, the operator shall be fined not less than two hundred fifty dollars ($250). Upon conviction of a second or subsequent offense involving the same vehicle for substantially the same defect, the registration of the vehicle and the driver licenses of the operator and the owner of the vehicle, if those persons are different, shall be suspended for one (1) year. The vehicle may, however, be operated for the purpose of traveling to and from an establishment or location where repairs are to be performed.

(f) Nothing in this section shall be construed to establish standards higher than those formulated by the United States department of transportation for bumpers on passenger motor vehicles sold within the United States.

55-9-216 Steering wheels

(a) It is unlawful for anyone to install or maintain a steering wheel of less than twelve inches (12") in diameter in any motor vehicle operated upon any highway, street or public road of this state; provided, however, that this subsection (a) does not apply to any motor vehicle specially equipped for persons with disabilities or originally equipped with such a steering wheel by the original manufacturer of same.

(b) Any person who violates this section shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each violation.

55-9-302 Motorcycle & motor-driven cycle–Helmets

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

(a) The driver of a motorcycle, motorized bicycle, as defined in chapter 8 of this title, or motor-driven cycle, and any passenger on any of these, shall be required to wear either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if the driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(1) Except as provided in subdivisions (a)(2)-(4), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(2) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(3) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(4) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that the helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CPSC), the Southern Impact Research Center (SIRC), or the Snell Foundation.

(b) This section does not apply to persons riding:

(1) Within an enclosed cab;

(2) Autocycles, as defined in §55-1-103, that are fully enclosed;

(3) Golf carts;

(4) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years of age or older; or

(5) In a funeral procession, memorial ride under a police escort, or body escort detail; provided, that:

(A) The driver travels at a speed not to exceed thirty (30) miles per hour;

(B) The driver or passenger is twenty-one (21) years of age or older; and

(C) The funeral procession, memorial ride, or body escort detail does not exceed a distance of fifty (50) miles.

55-9-303 Motorcycle & motor-driven cycle–Seat for passenger

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

No person shall ride as a passenger upon a motorcycle or motor-driven cycle unless a proper seat for a passenger is installed thereon.

55-9-304 Motorcycle & motor-driven cycle–Windshield/eye protection

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

Every motorcycle or motor-driven cycle operated upon any highway or public road of this state shall be equipped with a windshield, or, in the alternative, the operator and any passenger on that motorcycle or

motor-driven cycle shall be required to wear safety goggles, face shields, or glasses containing impact resistant lenses.

55-9-305 Motorcycle & motor-driven cycle–Rearview mirror, footrests & handlebars

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

All motorcycles and motor-driven cycles operated upon any highway or public road of this state shall be equipped with a rearview mirror and securely attached footrests for the operators and passengers on all motorcycles and motor-driven cycles.

55-9-306 55-9-301 through 55-9-308–Penalties

A violation of this part is a Class C misdemeanor.

55-9-307 Permitting violation by minor

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

Any parent or guardian who knowingly permits a minor to operate a motorcycle or motor-driven cycle in violation of this part commits a Class C misdemeanor.

55-9-308 Part inapplicable to autocycles

Except as provided in § 55-9-302, this part does not apply to autocycles.

55-9-401 Lights–Non-motor vehicles

(a) Every vehicle other than a motor vehicle, when traveling upon a state highway, state aid road or other road, highway or street under the control of the state, the federal government or any political division thereof, dedicated, appropriated or open to public use or travel, shall be equipped with a light attached to and on the upper left side of the vehicle, capable of displaying a light visible five hundred feet (500') to the front and five hundred feet (500') to the rear of the vehicle under ordinary atmospheric conditions, and the light shall be displayed during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of the vehicle.

(b) Cotton wagons used exclusively to transport cotton shall not be required to display the light described in subsection (a), but shall display:

(1) A red tail lamp on the lower left corner of the rear of the wagon; and

(2) A triangle-shaped slow-moving vehicle identification emblem meeting Standard S276.8 of the American Society of Agricultural Engineers. The emblem shall be placed on the lower left corner of the rear of the wagon. The user of a cotton wagon shall be responsible for the proper function of the symbol or light, except for any malfunction resulting from the act or omission of another person.

(c) No person shall operate on a highway a horse-drawn vehicle that is used on the highway primarily as a means of transportation during the period of time from one-half (1/2) hour before sunset until one-half (1/2) hour after sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of the vehicle, unless the vehicle:

(1)(A) Is equipped with two (2) reflective type lanterns, one (1) to be placed on the left side of the vehicle and one (1) to be placed on the right side of the vehicle with the lantern on the right side to be placed at least twelve inches (12") higher than the lantern on the left, and also has a minimum of one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the vehicle, thirty-six inches (36") of reflector tape placed on each side of the vehicle, and twenty-four inches (24") of reflector tape placed at the highest point of the left front of the vehicle; and

(B) Is equipped with one (1) red, battery-operated light-emitting diode (LED) flashing light located at the top left-hand corner on the rear of the vehicle. The light must be at least three inches (3") by three inches (3"); or

(2)(A) Has a minimum of one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the vehicle, thirty-six inches (36”) of reflector tape placed on each side of the vehicle, and twenty-four inches (24”) of reflector tape placed at the highest point of the left front of the vehicle;

(B) Has six inches (6”) of reflector piping tape placed on two (2) locations on the rear, left wheel of the vehicle; and

(C) Is equipped with two (2) reflective type lanterns, one (1) to be placed on the left side of the vehicle and one (1) to be placed on the right side of the vehicle with the lantern on the right side to be placed at least twelve inches (12”) higher than the lantern on the left. Each lantern must be equipped with a red reflective type lens that is at least three inches (3”) by three inches (3”).

(d) During the period of time from one-half (1/2) hour before sunset until one-half (1/2) hour after sunrise, any implement of husbandry as defined in § 55-1-108 having a width of more than ninety-six inches (96”), which is towed behind a farm tractor or other motor vehicle, and the lighting of the farm tractor or other motor vehicle is concealed by the implement of husbandry, shall be equipped with two (2) red or amber flashing lamps, one on each side, attached at the rear, or accompanied by a rear escort utilizing its emergency flashers.

(e) A violation of this section is a Class C misdemeanor, punishable only by a fine not to exceed fifty dollars ($50.00); except, the fine imposed for a violation of subsection (c) is ten dollars ($10.00).

55-9-402 Lights–Motor vehicles

Amended 2023

[Note: The 2023 amendment to this section will change all instances of “motor-driven cycle” ***to*** “motorscooter.” ***This change is NOT effective UNTIL 7/1/2024.]***

(a)(1) Every motor vehicle other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two (2) and not more than four (4) headlights, with at least one (1) on each side of the front of the motor vehicle. No nonemergency vehicle shall operate or install emergency flashing light systems, such as strobe, wig-wag, or other flashing lights within the headlight assembly or grill area of the vehicle; provided, however, that a school bus may operate a flashing, wig-wag lighting system within the headlight assembly of the vehicle when the vehicle’s visual stop signs are actuated for receiving or discharging school children.

(2) Auxiliary road lighting lamps may be used, but not more than two (2) of the lamps shall be lighted at any one (1) time in addition to the two (2) required headlights.

(3) No spotlight or auxiliary lamp shall be so aimed upon approaching another vehicle that any part of the high intensity portion of the beam therefrom is directed beyond the left side of the motor vehicle upon which the spotlight or auxiliary lamp is mounted, nor more than one hundred feet (100’) ahead of the motor vehicle.

(b)(1) Every motor vehicle shall be equipped with two (2) red tail lamps and two (2) red stoplights on the rear of the vehicle, and one (1) tail lamp and one (1) stoplight shall be on each side, except that passenger cars manufactured or assembled prior to January 1, 1939, trucks manufactured or assembled prior to January 1, 1968, and motorcycles and motor-driven cycles shall have at least one (1) red tail lamp and one (1) red stoplight. No nonemergency vehicle shall operate or install emergency flashing light systems such as strobe, wig-wag, or other flashing lights in tail light lamp, stoplight area, or factory installed emergency flasher and backup light area; provided, however, that the foregoing prohibition shall not apply to the utilization of a continuously flashing light system. For the purposes of this part, “continuously flashing light system” means a brake light system in which the brake lamp pulses rapidly for no more than five (5) seconds when the brake is applied, and then converts to a continuous light as a normal brake lamp until the time that the brake is released.

(2) The stoplight shall be so arranged as to be actuated by the application of the service or foot brake and shall be capable of being seen and distinguished from a distance of one hundred feet (100’) to the rear of a motor vehicle in normal daylight, but shall not project a glaring or dazzling light.

(3) The stoplight may be incorporated with the tail lamp.

(4) Motor vehicle tail light lamps may operate as following:

(A) A white backup light operates when the motor vehicle is in reverse;
(B) When the driver is in a panic stop condition going forward, the backup lamp pulses or flashes red; and
(C) Upon normal stops of the motor vehicle, there is no action by the backup light.

(c) Each lamp and stoplight required in this section shall be in good condition and operational.

(d)(1) No vehicle operated in this state shall be equipped with any flashing lights in any color or combination of colors that display to the front of the vehicle, other than factory installed emergency flashers, except as provided in this section and for the following vehicles:

(A) Motorcycle escorts of properly identified funeral processions authorized by §55-8-183 to display green strobe flashing lights;

(B) Vehicles owned by or leased to licensed public or private security services but not personally owned vehicles of security guards may display flashing lights in any color other than red, white, or blue, or in any combination of colors other than red, white, or blue; provided, that the flashing lights authorized by this subdivision (d)(1)(B) for security services vehicles shall not be operated or illuminated while the vehicle is on a public road, in motion or stationary, and shall only be illuminated when patrolling a shopping center or mall parking lot or other private premises or if stopped in a hazardous location for the purposes of warning;

(C) A highway maintenance or utility vehicle or recovery vehicle may display flashing white or amber lights or any combination of flashing white and amber lights pursuant to subsection (e);

(D) A motor vehicle operated for purposes of an emergency equipment company pursuant to subsection (g) may display flashing red, white, blue, or amber lights or any combination of flashing red, white, blue, and amber lights; provided, that emergency equipment company vehicles shall not display or illuminate the lights authorized by this section while the vehicle is on a public road, whether in motion or stationary;

(E) A passenger motor vehicle operated by an organ procurement organization or a person under an agreement with an organ procurement organization may display flashing white or amber lights or flashing white and amber lights in combination when transporting an organ for human transplantation;

(F) A school bus, a passenger motor vehicle operated by a rural mail carrier of the United States postal service while performing the duties of a rural mail carrier, or an emergency vehicle used in firefighting, including ambulances, emergency vehicles used in firefighting that are owned or operated by the division of forestry, firefighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer firefighters certified in §55-9-201(c), or other emergency vehicles used in firefighting owned, operated, or subsidized by the governing body of any county or municipality, may display flashing red or white lights or flashing red and white lights in combination; and

(G) Authorized law enforcement vehicles and other vehicles authorized by §55-9-414 to display flashing red, white, and blue lights in combination.

(2) Any emergency rescue vehicle owned, titled and operated by a state chartered rescue squad, a member of the Tennessee Association of Rescue Squads, privately owned vehicles of regular or volunteer firefighters certified in §55-9-201(c), and marked with lettering at least three inches (3") in size and displayed on the left and right sides of the vehicle designating it an "Emergency Rescue Vehicle," any authorized civil defense emergency vehicle displaying the appropriate civil defense agency markings of at least three inches (3"), any ambulance or vehicle equipped to provide emergency medical services properly licensed as required in the state and displaying the proper markings, and any motor vehicle operated for purposes of an emergency equipment company pursuant to subsection (g); provided, that lights authorized by this subdivision (d)(2) for such emergency equipment company vehicle shall not be operated or illuminated while the vehicle is on a public road, whether in motion or stationary, shall also be authorized to be lighted in one (1) or more of the following manners:

(A) A red or red/white visibar type with public address system;
(B) A red or red/white oscillating type light; and
(C) Blinking red or red/white lights, front and rear.

(3) No vehicle operated in this state shall be equipped with any steady-burning lights that display to the front of the vehicle in any color other than white or amber or in any combination of colors other than white and amber, except for the following vehicles:

(A) A vehicle equipped with headlamps, daytime running lamps, or other similar devices in any color or combination of colors between white and amber authorized by the Federal Motor Vehicle Safety Standard No. 108, as adopted by the national highway traffic safety administration and compiled in 49 CFR 571.108;

(B) A motor vehicle operated for purposes of an emergency equipment company may display steady-burning red, white, blue, or amber lights, or any combination of steady-burning red, white, blue, and amber lights pursuant to subsection (g); provided, that emergency equipment company vehicles shall not display or illuminate the lights authorized by this section while the vehicle is on a public road, whether in motion or stationary;

(C) A school bus, a passenger motor vehicle operated by a rural mail carrier of the United States postal service while performing the duties of a rural mail carrier, or an emergency vehicle used in firefighting, including ambulances, emergency vehicles used in firefighting that are owned or operated by the division of forestry, firefighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer firefighters certified in §55-9-201(c), or other emergency vehicles used in firefighting owned, operated, or subsidized by the governing body of any county or municipality, may display steady-burning red lights;

(D) Authorized law enforcement vehicles and other vehicles listed in §55-9-414 may display steady-burning red, white, and blue lights in combination; and

(E) A personal vehicle operated by a transportation network company driver may display one (1) or more removable, illuminated, interior trade dress devices in any color other than red or blue, or in any combination of colors other than red or blue, that is issued by a transportation network company and that assists passengers in identifying and communicating with transportation network company drivers. The illuminated display on such a device shall not exceed five (5) candlepower.

(e)(1)(A) Notwithstanding any law to the contrary, nothing in this section shall prohibit a highway maintenance or utility vehicle, or any other type vehicle or equipment participating, in any fashion, with highway or utility construction, maintenance, or inspection, from operating a white, amber, or white and amber light system on any location on the vehicle or equipment while the vehicle or equipment is parked upon, entering or leaving any highway or utility construction, maintenance, repair or inspection site.

(B) Notwithstanding any law to the contrary, a recovery vehicle designed for towing a disabled vehicle, as defined in §55-8-132, while in the performance of duties involved with towing an abandoned, immobile, disabled or unattended motor vehicle is authorized to display an amber light that is a strobe, flashing, oscillating or revolving system or any combination of white and amber lights. Such authorized light or lights may be displayed on any location on the vehicle or equipment, other than within the headlight assembly or grill area of the vehicle, in the tail light lamp or stoplight area, or factory installed emergency flasher and backup light area.

(C) Notwithstanding any law to the contrary, an implement of husbandry, as defined in §55-1-108, and a vehicle used to escort an implement of husbandry is authorized to display a white, amber, or white and amber light system on any location on the implement of husbandry or escort vehicle while the implement or vehicle is on a public road, whether in motion or stationary.

(2) As used in this subsection (e), "utility" means any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act, or general law to provide electricity, natural gas, water, waste water services, telephone service, or any combination thereof, for sale to consumers in any particular service area.

(3) As used in subdivision (e)(2), "cooperative" means any cooperative providing utility services including, but not limited to, electric or telephone services, or both.

(4) Nothing in this subsection (e) imposes any duty or obligation to install or utilize the lighting systems allowed in this section.

(f) Notwithstanding any law to the contrary, nothing in this section shall prohibit a motor vehicle used for the driver education and training course for Class D vehicles as provided by §55-50-322(f) from operating an amber light-emitting diode (LED) light system on the front and rear of such vehicle other than in the taillight lamp, stoplight area, or factory-installed emergency flasher and backup light area. The amber light-emitting diode light system shall not be placed in the driver's line of sight. Nothing in this subsection (f) imposes any duty or obligation to install or utilize the lighting system allowed in this subsection (f).

(g)(1) The prohibitions in subdivisions (a)(1) and (b)(1), and subsection (d) do not apply to any privately-owned motor vehicle that is primarily operated for business purposes by any salesperson, service representative, employee, lessee, or duly authorized agent of an emergency equipment company; provided, that the vehicle is marked with the lettering required by subdivision (g)(3).

(2) Any person operating a motor vehicle pursuant to this subsection (g) shall carry a copy of the company's business license or the person's or owner of the company's professional or occupational license, certification or registration issued by this state and appropriate identification issued by the owner of the company.

(3) Lettering shall be displayed on the left and right sides of the vehicle identifying the name of the company for which the vehicle is operated and on the front and rear of the vehicle designating it a "Demonstration Vehicle". The lettering shall be painted or affixed on, or attached to, the vehicle in a permanent manner, and shall be at least three inches (3'') in size.

(4) Nothing in this subsection (g) imposes any duty or obligation on a manufacturer of motor vehicles used by or sold to emergency equipment companies to install, maintain or exhibit the lighting system allowed in this subsection (g) at the time of manufacture or sale.

(5) Nothing in this subsection (g) shall be construed to permit the operator of an emergency equipment company vehicle from operating any lighting equipment authorized by this subsection (g) while the vehicle is on a public road, whether in motion or stationary.

(6) As used in this section, "emergency equipment company" or "company" means any entity licensed as required by this state to sell or repair lighting equipment designed for use on motor vehicles that are operated for authorized law enforcement, emergency response, or other public safety activities.

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

55-9-403 Motorcycle–Headlamps

(a) Every motorcycle shall be equipped with at least one (1) and not more than two (2) headlamps.

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

55-9-404 Lamp at end of train of vehicles

(a) Every motor vehicle and every trailer or semitrailer that is being drawn at the end of a train of vehicles shall carry at the rear a lamp of a type that exhibits a yellow or red light plainly visible under normal atmospheric conditions from a distance of five hundred feet (500') to the rear of the vehicle, and the light shall be so constructed and placed that the number plate carried on the rear of the vehicle shall under like conditions be so illuminated by a white light as to be read from a distance of fifty feet (50') to the rear of the vehicle.

(b) This section shall not apply to a single motor vehicle as is required in §55-9-402, but shall only apply to the last motor vehicle being drawn at the end of a train or group of motor vehicles.

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

55-9-405 Lighting and reflectors–Lamp or flag on projecting load

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(a) Every motor vehicle other than any passenger car, any road roller, road machinery or farm tractor having a width of eighty inches (80") or more shall be equipped with at least the following lighting devices and reflectors:

(1) On the front, at least two (2) headlamps, an equal number at each side; two (2) turn signals, one (1) at each side; two (2) clearance lamps, one (1) at each side; three (3) identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than forty-two inches (42") wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirements for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield;

(2) On the rear, two (2) tail lamps, one (1) at each side; two (2) stop lamps, one (1) at each side; two (2) turn signals, one (1) at each side; two (2) clearance lamps, one (1) at each side; two (2) reflectors, one (1) at each side; and three (3) identification lamps, mounted on the vertical center line of the vehicle; provided that the identification lamps need not be lighted if obscured by a vehicle towed by the truck; and

(3) On each side, one (1) side-marker lamp at or near the front, one (1) side-marker lamp at or near the rear; one (1) reflector at or near the front, and one (1) reflector at or near the rear.

(b) Every truck tractor shall be equipped as follows:

(1) On the front, at least two (2) headlamps, an equal number at each side; two (2) turn signals, one (1) at each side; two (2) clearance lamps, one (1) at each side; and three (3) identification lamps, mounted on the vertical centerline of the vehicle, or the vertical centerline of the cab where different from the centerline of the vehicle, except that where the cab is not more than forty-two inches (42”) wide at the front roofline, a single lamp at the center of the cab shall be deemed to comply with the requirement for identification lamps. No part of the identification lamps or their mountings may extend below the top of the vehicle windshield; and

(2) On the rear, one (1) tail lamp; one (1) stop lamp; two (2) reflectors, one (1) at each side; and, unless the turn signals on the front are so constructed (double faced) and located as to be visible to passing drivers, two (2) turn signals on the rear of the cab, one (1) at each side.

(c) Every semitrailer or full trailer eighty inches (80”) or more in overall width, except converter dollies, shall be equipped as follows:

(1) On the front, two (2) clearance lamps, one (1) at each side;

(2) On the rear, two (2) tail lamps, one (1) at each side; two (2) stop lamps, one (1) at each side; two (2) turn signals, one (1) at each side; two (2) clearance lamps, one (1) at each side; two (2) reflectors, one (1) at each side; and three (3) identification lamps, mounted on the vertical centerline of the vehicle; provided that the identification lamps need not be lighted if obscured by another vehicle in the same combination;

(3) On each side, one (1) side-marker lamp at or near the front; one (1) side-marker lamp at or near the rear; one (1) reflector at or near the front; one (1) reflector at or near the rear; and, in case of semitrailers and full trailers thirty feet (30’) or more in length, at least one (1) additional side-marker lamp at optional height and at least one (1) additional reflector, the additional side-marker lamp or lamps and reflector or reflectors to be at or near the center or at approximately uniform spacing in the length of the vehicle; and

(4) For the purposes of these regulations, “converter dolly” is a motor vehicle with a fifth wheel lower half or equivalent mechanism, the attachment of which vehicle converts a semitrailer to a full trailer. Each dolly, when towed singly by another vehicle, and not as part of a full trailer, shall be equipped with one (1) stop lamp, one (1) tail lamp, and two (2) reflectors on the rear. No lighting devices or reflectors are required on the front or sides of any dolly.

(d)(1) Except as provided in subdivision (d)(2), from one half (1/2) hour before sunset to one half (1/2) hour after sunrise and at all other times when lights are required to be displayed, there shall be attached to the rearmost extremity of any load that projects four feet (4’) or more beyond the rear of the body of the motor vehicle, or at any tailboard or tailgate so projecting, or to the rearmost extremity of any load, carried on a pole trailer, at least one (1) red lamp, securely fastened thereto, which shall be visible from a distance of five hundred feet (500’) to the sides and rear under normal atmospheric conditions. At all other times one (1) red flag, at least eighteen inches (18”) square, made of cloth, synthetic or man-made material, shall be so displayed.

(2) This subsection (d) shall apply only to:

(A) Any noncommercial motor vehicle transporting property intrastate; and

(B) Any commercial motor vehicle having a gross vehicle weight rating (GVWR) or a gross combination weight rating (GCWR) of twenty six thousand pounds (26,000 lbs.) or less when such motor vehicle is transporting property intrastate.

(3) Title 65, chapter 15, and all applicable federal rules shall apply to all commercial vehicles having a GVWR or a GCWR of more than twenty six thousand pounds (26,000 lbs.).

(e)(1) Except as provided in ***subdivisions*** (e)(2***) and (3***), a motor vehicle or trailer transporting intrastate a load of logs, long pulpwood, poles, or posts that projects four feet (4***'***) or more beyond the rear of the body or bed of the vehicle, when the vehicle is operated on a highway or parked on the shoulder or immediately adjacent to the traveled portions of the highway, must have either of the following securely affixed as close as practical to the end of the projecting load:

(A)(i) One (1) amber strobe-type lamp, complying with SAE J595, equipped with a multidirectional type lens so mounted as to be visible from the rear and both sides of the projecting load. If the mounting of one (1) amber strobe lamp cannot be accomplished so that it is visible from the rear and both sides of the projecting load, then multiple amber strobe lights, complying with SAE J595, must be utilized so as to meet the visibility requirements of this subdivision (e)(1)(A)(i). The amber strobe lamp must flash at a rate of at least sixty (60) flashes per minute and be plainly visible from a distance of at least five hundred feet (500′) to the rear and sides at a radius of one hundred eighty degrees (180°) of the projecting load; or

(ii) One (1) amber light-emitting diode (LED) light, complying with SAE J595, equipped with a multidirectional type lens, mounted so as to be visible from the rear and from both sides of the projecting load; provided, that if the mounting of one (1) amber LED light cannot be accomplished so that it is visible from the rear and from both sides of the projecting load, then multiple amber LED lights, complying with SAE J595, must be utilized so as to meet the visibility requirements of this subdivision (e)(1)(A)(ii). The amber LED light must flash at a rate of at least sixty (60) flashes per minute and be plainly visible from a distance of at least five hundred feet (500′) from the rear and sides at a radius of one hundred eighty degrees (180°) of the projecting load. The LED light must be constructed of durable, weather-resistant material and may be powered by the vehicle's electrical system or by an independent battery system, or both. If the LED light is powered by an independent battery system, then the driver of the vehicle must have in the driver's immediate possession charged, spare batteries for use in case of battery failure. Any solid state LED lighting that consists of multiple LED lights must not have less than eighty-five percent (85%) of the LED lights in operable condition; or

(B) Two (2) red flags or two (2) fluorescent orange flags, or a combination of such flags, that are each at least eighteen inches (18″) square, made of cloth, synthetic, or man-made material, must be so displayed.

(2) From one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise and at all other times when lights are required to be displayed, a motor vehicle or trailer transporting intrastate a load of logs, long pulpwood, poles, or posts that projects four feet (4′) or more beyond the rear of the body or bed of the vehicle, when the vehicle is operated on a highway or parked on the shoulder or immediately adjacent to the traveled portions of the highway, must have the following securely affixed as close as practical to the end of the projecting load:

(A)(i) One (1) amber strobe-type lamp, or, if applicable, multiple amber strobe lights, meeting the requirements of subdivision (e)(1)(A)(i); or

(ii) One (1) amber light-emitting diode (LED) light, or, if applicable, multiple amber LED lights, meeting the requirements of subdivision (e)(1)(A)(ii); and

(B) At least one (1) red flag or at least one (1) fluorescent orange flag, or both, that is at least eighteen inches (18″) square, made of cloth, synthetic, or manmade material, must also be so displayed.

(3) Notwithstanding subdivisions (e)(1) and (e)(2) to the contrary, a motor vehicle or trailer transporting a load of logs or pulpwood that protrudes at least four feet (4') beyond the end of the body or bed of the motor vehicle or trailer must have the following securely affixed to the end of the projecting load while the vehicle or trailer is loaded with the protruding logs or pulpwood:

(A) One (1) amber strobe-type lamp or amber blinking light, or one (1) amber LED strobe light or amber LED blinking light, which must be operating while affixed to the load; and

(B) At least two (2) red flags or at least two (2) fluorescent orange flags, which must be in good condition and visible while affixed to the load.

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

55-9-406 Headlights–Operation during inclement weather

(a) The headlights of every motor vehicle shall be so constructed, equipped, arranged, focused, aimed, and adjusted, that they will at all times mentioned in §55-9-401, and under normal atmospheric conditions and on a level road produce a driving light sufficient to render clearly discernible a person two hundred feet (200') ahead, but shall not project a glaring or dazzling light to persons in front of the headlights. The headlights shall be displayed during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise, during fog, smoke, or rain and at all other times when there is not sufficient light to render clearly discernible any person on the road at a distance of two hundred feet (200') ahead of the vehicle.

(b)(1) Operation of headlights during periods of rain, as required in this section, shall be made during any time when rain, mist, or other precipitation, including snow, necessitates the constant use of windshield wipers by motorists.

(2) Notwithstanding any law to the contrary, any person who is arrested or receives a traffic citation for violation of subdivision (b)(1), upon conviction, shall not be fined more than the maximum fine nor less than the minimum fine as provided by law for the violation nor shall any cost be imposed or assessed against the person. The conviction shall not be reported to the department of safety under §§55-10-306 and 55-12-115.

(3) No cost shall be charged under this subsection (b).

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

55-9-407 Multiple beam lighting

Whenever the road lighting equipment on a motor vehicle is so arranged that the driver may select at will between two (2) or more distributions of light from headlights or lamps or auxiliary road lighting lamps or lights, or combinations thereof, directed to different elevations, the following requirements shall apply while driving during the times when lights are required:

(1) When there is no oncoming vehicle within five hundred feet (500'), the driver shall use an upper distribution of light; provided, that a lower distribution of light may be used when fog, dust, or other atmospheric conditions make it desirable for reasons of safety, and when within the confines of municipalities where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet (500') ahead and when following another vehicle within five hundred feet (500'); and

(2) When within five hundred feet (500') of an oncoming vehicle, a driver shall use a distribution of light so aimed that the glaring rays therefrom are not directed into the eyes of the oncoming driver.

55-9-408 Headlights complying with prohibition against glaring lights

Headlights shall be deemed to comply with §55-9-406, prohibiting glaring and dazzling lights, if the headlights are of a type customarily employed by manufacturers of automobiles and in addition are equipped with some anti-glare device; provided, that the anti-glare device, or any combination thereof, when properly adjusted, shall prevent any of the bright portions of the headlight beams from rising above a horizontal plane passing through the lamp centers parallel to a level road upon which the loaded vehicle stands and in no case higher than forty-two inches (42'), seventy-five feet (75') ahead of the vehicle.

55-9-409 Inspecting lamps emitting glare

(a) Any member of the highway patrol having reasonable ground to believe that any headlamp or auxiliary driving or fog lamp or any device upon a vehicle emits a glaring light as defined in §§55-9-406 and 55-9-408, or otherwise fails to comply with the requirements of this part, may require the driver of the vehicle to stop and submit the lamp to an inspection or test. The officer making the inspection shall require the driver of the vehicle to remove the illegal lamp within twenty-four (24) hours, and may arrest the driver and give the driver a notice to appear, and may further require the driver or the owner of the vehicle to produce in court satisfactory evidence of the removal of the illegal lamp.

(b) In the event any headlight or auxiliary driving or fog light, by reason of faulty adjustment or otherwise, emits a glaring light as defined in §§55-9-406 and 55-9-408 or otherwise fails to comply with this part, the officer making the inspection shall direct the driver to make the light or lights conform to the requirements of this part within forty-eight (48) hours. The officer may also arrest the driver and give the driver a notice to appear, and further require the driver or the owner of the vehicle to produce in court satisfactory evidence that the light or lights have been made to conform with the requirements of this part.

55-9-410 Lamp inspection

Whenever the driver of a vehicle is directed by a member of the highway patrol to stop and submit the lights upon the vehicle to an inspection or test under the conditions stated in §55-9-409, it is the duty of the driver to stop and submit to the inspection or test, and a failure or refusal to do so is a Class C misdemeanor.

55-9-414 Blue flashing emergency lights

(a)(1)Except as provided in subsections (b)-(f), it is an offense for anyone to install, maintain or exhibit blue flashing emergency lights or blue flashing emergency lights in combination with red flashing emergency lights, except full-time, salaried, uniformed law enforcement officers of the state, county, or city and municipal governments of the state, and commissioned members of the Tennessee bureau of investigation when their official duties so require as defined by §§38-8-106 and 38-8-107.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b)(1) The prohibition in subsection (a) does not apply to the motor vehicles of constables who are wearing law enforcement uniforms designated by the governing body of the county in which they serve in those counties in which the constables retain law enforcement powers and duties under §§8-10-108, 39-17-505, 40-6-210, 55-8-152, 57-5-202 and 57-9-101.

(2) Subdivision (b)(1) shall apply only to those counties having a population of:

not less than	nor more than
11,100	11,200
11,500	11,600
13,975	14,500
43,000	44,000
65,750	66,000
70,000	74,000

according to the 1970 federal census or any subsequent federal census.

(c) The prohibition of subsection (a) does not apply to official motor vehicles of the sheriff's department being operated by reserve or auxiliary deputy sheriffs duly authorized by the sheriff and appointed pursuant to title 8, chapter 20. These reserve or auxiliary officers operating departmental vehicles shall be in uniform and carry appropriate identification issued by the sheriff.

(d) The prohibition of subsection (a) does not apply to motor vehicles of specially commissioned police officers employed pursuant to §49-7-118(f) when operating either within five (5) miles of any property owned or operated by the colleges or universities referenced therein, or as may be directed by the chief law enforcement officer of the applicable county.

(e) The prohibition of subsection (a) does not apply to official motor vehicles of a municipal police department being operated by reserve or auxiliary police officers duly authorized by the police chief and qualified pursuant to title 38, chapter 8. The reserve or auxiliary officers operating departmental vehicles shall be in uniform and carry appropriate identification issued by the police chief.

(f)(1) The prohibition in subsection (a) does not apply to any privately-owned motor vehicle that is primarily operated for business purposes by any salesperson, service representative, employee, lessee, or duly authorized agent of an emergency equipment company; provided, that the vehicle is marked with the lettering required by §55-9-402(g)(3). Any person operating a motor vehicle pursuant to this subsection (f) shall comply with the requirements of §55-9-402(g)(2).

(2) Nothing in this subsection (f) imposes any duty or obligation on a manufacturer of motor vehicles used by or sold to emergency equipment companies to install, maintain or exhibit the lighting system allowed in this subsection (f) at the time of manufacture or sale.

(3) Nothing in this subsection (f) shall be construed to permit the operator of an emergency equipment company vehicle from operating any lighting equipment authorized by subsection (a) while the vehicle is on a public road, whether in motion or stationary.

(4) As used in this section, the terms "emergency equipment company" or "company" have the same meaning as defined in §55-9-402.

55-9-415 Lamps or spotlights to rear

(a)(1) It is an offense for a person to operate any vehicle equipped with auxiliary lamps or spotlights facing backwards on a highway, street or roadway in this state when the lamps or spotlights are in operation.

(2) This section does not apply to any emergency vehicle or public utility vehicle.

(3) It is not the intent of this section to prohibit the use of the lamps or spotlights for lawful purposes while the vehicle is parked, but the use of the lamps or spotlights shall not interfere with a vehicle operating on a highway, street or roadway.

(b) A violation of this section is a Class A misdemeanor, punishable only by a fine of not less than one thousand dollars ($1,000).

55-9-602 Child passenger restraints

(a)(1) Any person transporting any child, under one (1) year of age, or any child, weighing twenty pounds (20 lbs.) or less, in a motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Notwithstanding §55-9-603, any person transporting any child, one through three (1-3) years of age weighing greater than twenty pounds (20 lbs.), in a motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a child passenger restraint system in a forward facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Notwithstanding §55-9-603, any person transporting any child, four through eight (4-8) years of age and measuring less than four feet, nine inches (4' 9") in height, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4)(A) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection (a), a specially modified, professionally manufactured restraint system meeting the intent of this subsection (a) shall be in use; provided, however, that this subdivision (a)(4) shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(B) A person shall not be charged with a violation of this subsection (a) if the person presents a copy of the physician's prescription in compliance with this subdivision (a)(4) to the arresting officer at the time of the alleged violation.

(C) A person charged with a violation of this subsection (a) may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating this subsection (a) may be dismissed.

(5) A person who is operating an autocycle shall not carry a child as a passenger if such child is required to be secured in a motor vehicle in a manner in accordance with this section unless:

(A) The autocycle has an enclosed cab;

(B) The autocycle meets the federal motor vehicle safety standards for child restraints found in 49 CFR 571.213 and 49 CFR 571.225; and

(C) The child is secured in a manner in accordance with this section.

(6) With respect to a vehicle equipped with an ADS, responsibility ascribed in this subsection (a) shall belong solely to the parent, guardian, or other human person accompanying the child in the vehicle, and not to the ADS or the owner of the ADS-operated vehicle.

(b) All passenger vehicle rental agencies doing business in the state shall make available at a reasonable rate to those renting the vehicles an approved restraint as described in subsection (a).

(c)(1) A violation of this section is a Class C misdemeanor.

(2) In addition to or in lieu of the penalty imposed under subdivision (c)(1), persons found guilty of a first offense of violating this section may be required to attend a court approved offenders' class designed to educate offenders on the hazards of not properly transporting children in motor vehicles. A fee may be charged for the classes sufficient to defray all costs of providing the classes.

(d) Any incorporated municipality may by ordinance adopt by reference any of the provisions of this section, it being the legislative intent to promote the protection of children wherever and whenever possible.

(e) Prior to the initial discharge of any newborn child from a health care institution offering obstetrical services, the institution shall inform the parent that use of a child passenger restraint system is required by law. Further, the health care institution shall distribute to the parent related information provided by the department of safety.

(f)(1) There is established within the general fund a revolving special account to be known as the child safety fund, hereinafter referred to as the "fund."

(2) All fines imposed by this section shall be sent by the clerk of the court to the state treasurer for deposit in the fund.

(3) Any unencumbered funds and any unexpended balance of this fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with this section and §55-9-610.

(4) Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund.

(5) Disbursements from, investments of and deposits to the fund shall be administered and invested pursuant to title 9, chapter 4, part 5.

(6) The state treasurer may deduct reasonable service charges from the fund pursuant to procedures established by the state treasurer and the commissioner of finance and administration.

(7) The department of health is authorized, pursuant to duly promulgated rules and regulations, to determine equitable distribution of the moneys in the fund to those entities that are best suited for child passenger safety system distribution. Funds distributed pursuant to this section shall only be used for the purchase of child passenger safety systems to be loaned or given to the parent or guardian.

(g)(1)(A) Notwithstanding §55-9-603, any person transporting any child, nine through twelve (9-12) years of age, or any child through twelve (12) years of age, measuring four feet, nine inches (4' 9") or more in height, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(B) Notwithstanding §55-9-603, any person transporting any child, thirteen through fifteen (13-15) years of age, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

(2) A person charged with a violation of this subsection (g) may, in lieu of appearance in court, submit a fine of fifty dollars ($50.00) to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(3) No litigation tax levied pursuant to title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this subsection (g), nor shall any clerk's fee or court costs, including but not limited to any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this subsection (g).

(4)(A) Notwithstanding subsection (f) to the contrary, the revenue generated by ten dollars ($10.00) of the fifty-dollar fine under subdivision (g)(2) for a person's first conviction under this subsection (g), shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty

dollars ($40.00) of the fifty-dollar fine for a person's first conviction under this subsection (g) shall be deposited to the child safety fund in accordance with subsection (f).

(B) The revenue generated from the person's second or subsequent conviction under this subsection (g) shall be deposited to the child safety fund in accordance with subsection (f).

(5)(A) Notwithstanding any law to the contrary, no more than one (1) citation may be issued for a violation of this subsection (g) per vehicle per occasion. If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring compliance with this subsection (g).

(B)(i) If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with this subsection (g) if the vehicle is operated by conventional means.

(ii) If the vehicle is operated by an ADS and:

(a) If no parent or legal guardian is present at the time of the violation, the human person accompanying the child is solely responsible for compliance with this subsection (g);

(b) If no parent or guardian is present at the time of the violation and more than one (1) human person accompanies the child, each person is jointly responsible for compliance with this subsection (g); or

(c) If no human person accompanies the child, the parent or legal guardian of the child is responsible for compliance with this subsection (g).

(h) As used in this section, unless specified otherwise, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger motor vehicle" does not apply to motor vehicles that are not required by federal law to be equipped with safety belts.

(i) A person who has successfully met the minimum required training standards for installation of child restraint devices established by the national highway traffic safety administration of the United States department of transportation, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related to the installation or inspection unless the act or omission was the result of the person's gross negligence or willful misconduct.

(j) Notwithstanding any of this part to the contrary, for any child transported by child care agencies licensed by the department of human services pursuant to title 71, chapter 3, part 5 and transported pursuant to the rules and regulations of the department, such rules and regulations shall remain effective until the department amends the rules and regulations; provided, however, that the department shall either promulgate rules consistent with this part or promulgate rules exceeding, based on applicable federal regulations or standards, this part no later than January 1, 2007.

(k)(1) The failure to use a child restraint system shall not be admissible into evidence in a civil action; provided, however, that evidence of a failure to use a child restraint system, as required by this section, may be admitted in a civil action as to the causal relationship between noncompliance and the injuries alleged, if the following conditions have been satisfied:

(A) The plaintiff has filed a products liability claim;

(B) The defendant alleging noncompliance with this section shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure; and

(C) Each defendant seeking to offer evidence alleging noncompliance with this section has the burden of proving noncompliance with this section, that compliance with this section would have reduced injuries and the extent of the reduction of the injuries.

(2) Upon request of any party, the trial judge shall hold a hearing out of the presence of the jury as to the admissibility of the evidence in accordance with this subsection (k) and the Tennessee Rules of Evidence.

(3) Notwithstanding this subsection (k) to the contrary, if a party to the civil action is not the parent or legal guardian, then evidence of a failure to use a child restraint system, as required by this section, may be admitted in the action as to the causal relationship between noncompliance and the injuries alleged.

55-9-603 Use of safety belts

(a)(1) No person shall operate a passenger motor vehicle on any highway, as defined in §55-8-101, in this state unless the person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

(2) No person four (4) years of age or older shall be a passenger in a passenger motor vehicle on any highway, as defined in §55-8-101, in this state, unless the person is restrained by a safety belt at all times the vehicle is in forward motion.

(b)(1) This section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle.

(2) If the vehicle is equipped with a rear seat that is capable of folding, this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(c) As used in this section, unless specified otherwise, "passenger car" or "passenger motor vehicle" does not include any motor vehicle that is used as a public or livery conveyance for passengers or any motor vehicles that are not required by federal law to be equipped with safety belts, except autocycles as defined in §55-1-103.

(d)(1) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection (d), except as otherwise provided by subdivisions (d)(2) and (3), shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in §49-11-602, who have been severely injured in motor vehicle accidents.

(2)(A) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of thirty dollars ($30.00) for a first violation, and fifty-five dollars ($55.00) for a second or subsequent violation to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(B) The revenue generated by fifteen dollars ($15.00) of the thirty-dollar fine in subdivision (d)(2)(A) for a person's first conviction shall be deposited in the state general fund without being designated for any specific purpose. Ten dollars ($10.00) of the thirty-dollar fine for the person's first conviction under subdivision (d)(2)(A) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in §49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the thirty-dollar fine for the person's first conviction under subdivision (d)(2)(A) shall be retained by the court clerk.

(C) The revenue generated by thirty dollars ($30.00) of the fifty-five-dollar fine under subdivision (d)(2)(A) for a person's second or subsequent conviction shall be deposited in the state general fund without being designated for any specific purpose. Twenty dollars ($20.00) of the fifty-five-dollar fine for the person's second or subsequent conviction under subdivision (d)(2)(A) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in §49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the fifty-five-dollar fine for the person's second or subsequent conviction under subdivision (d)(2)(A) shall be retained by the court clerk.

(3)(A) Notwithstanding subdivision (d)(2), a person charged with a violation of subsection (i) may, in lieu of appearance in court, submit a fine of thirty dollars ($30.00) to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(B) Notwithstanding subdivision (d)(2), the revenue generated by fifteen dollars ($15.00) of the thirty-dollar fine under subdivision (d)(3)(A) for a person's first conviction under subsection (i) shall be deposited in the state general fund without being designated for any specific purpose. Ten dollars ($10.00) of the thirty-dollar fine for the person's first conviction under subsection (i) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in §49-11-602, who have been severely injured in motor vehicle accidents.

The remaining five dollars ($5.00) of the thirty-dollar fine for the person's first conviction under subsection (i) shall be retained by the court clerk.

(C) The revenue generated by five dollars ($5.00) of the thirty-dollar fine under subdivision (d)(3)(A) for a person's second or subsequent conviction under subsection (i) shall be deposited in the state general fund without being designated for any specific purpose. Twenty dollars ($20.00) of the thirty-dollar fine for the person's second or subsequent conviction under subsection (i) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in §49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the thirty-dollar fine for the person's second or subsequent conviction under subsection (i) shall be retained by the court clerk.

(e) Except as otherwise provided by subdivisions (d)(2) and (3), no clerk's fee nor court costs, including, but not limited to, any statutory fees of officers, shall be imposed or assessed against anyone convicted of a violation of this section. No litigation tax levied pursuant to title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this section.

(f)(1) A law enforcement officer observing a violation of this section shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this section.

(2) The department of safety shall not report any convictions under this section except for law enforcement or governmental purposes.

(g) In no event shall a violation of this section be assigned a point value for suspension or revocation of a license by the department of safety, nor shall the violation be construed as any other offense under this title.

(h) This section does not apply to:

(1) A passenger or operator with a physical disability which prevents appropriate restraint in a safety seat or safety belt; provided, that the condition is duly certified in writing by a physician who shall state the nature of the disability, as well as the reason a restraint is inappropriate;

(2) A passenger motor vehicle operated by a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier;

(3) Salespersons or mechanics employed by an automobile dealer who, in the course of their employment, test-drive a motor vehicle, if the dealership customarily test-drives fifty (50) or more motor vehicles a day, and if the test-drives occur within one (1) mile of the location of the dealership;

(4) Water, gas, and electric meter readers, and utility workers, while the meter reader or utility worker is:

(A) Emerging from and reentering a vehicle at frequent intervals; and

(B) Operating the vehicle at speeds not exceeding forty miles per hour (40 mph);

(5) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer;

(6) A vehicle in use in a parade if operated at less than fifteen miles per hour (15 mph);

(7) A vehicle in use in a hayride if operated at less than fifteen miles per hour (15 mph);

(8) A vehicle crossing a highway from one field to another if operated at less than fifteen miles per hour (15 mph); or

(9) An ADS or an ADS-operated vehicle. Except as otherwise provided by §55-9-606(2), for purposes of an ADS-operated vehicle, a passenger or human operator required to be restrained by a safety belt pursuant to this section is solely responsible for the passenger's or human operator's compliance with such requirement.

(i)(1) Notwithstanding this section to the contrary, no person between sixteen (16) years of age and up to and through the age of seventeen (17) years of age, shall operate a passenger motor vehicle, or be a passenger therein, unless the person is restrained by a safety belt at all times the vehicle is in forward motion.

(2) Notwithstanding subdivision (b)(1), this subsection (i) shall apply to all occupants between sixteen (16) years of age and eighteen (18) years of age occupying any seat in a passenger motor vehicle.

(3) Notwithstanding subdivision (f)(1), a law enforcement officer observing a violation of this subsection (i) shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this subsection (i).

(j) Notwithstanding subsection (b), no person with a learner permit or an intermediate driver license shall operate a passenger motor vehicle in this state unless the person and all passengers between the ages of four (4) and seventeen (17) years of age are restrained by a safety belt at all times the vehicle is in forward motion.

55-9-606 Passengers over sixteen

Notwithstanding this part to the contrary:

(1) Except as otherwise provided in subdivision (2), the operator of a passenger motor vehicle under this part shall not be fined for the failure of any passenger over sixteen (16) years of age to wear a safety belt; and

(2) For purposes of an ADS-operated vehicle and when the ADS is engaged, neither the operator nor the owner shall be fined for the failure of any passenger, regardless of age, to wear a safety belt.

Chapter 10
Accidents, Arrests, Crimes and Penalties

55-10-101 Accidents resulting in death or personal injury

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close to the scene as possible, but shall then return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of §55-10-103. The stop shall be made without obstructing traffic more than is necessary. The requirements in this subsection (a) apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(b)(1) A violation of subsection (a) is a Class A misdemeanor.

(2)(A) It is a Class E felony for any person to fail to stop or to comply with the requirements of subsection (a) when the person knew or should reasonably have known that death resulted from the accident.

(B) If, as a result of the same course of conduct, a person who is charged with a violation of subdivision (b)(2)(A) is also charged with the offense of vehicular assault under §39-13-106, vehicular homicide under §39-13-213 or aggravated vehicular homicide under §39-13-218, any sentence imposed for a violation of subdivision (b)(2)(A) shall be served consecutive to any sentence imposed for the applicable assault or homicide offense.

(c) The commissioner shall revoke the license or permit to drive and any nonresident operating privilege of the person convicted of a violation of this section.

(d) As used in this part, "accident" includes any collision or crash, regardless of the degree of care exercised by the drivers involved or whether it was the result of criminal conduct.

(e) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-102 Accidents resulting in damage to vehicle

(a) The driver of any vehicle involved in an accident shall immediately stop the vehicle at the scene of the accident or as close to the scene of the accident as possible or shall return to and in any event remain at the scene of the accident. After all parties have determined and agreed that there is only damage to the vehicles and no suspected injury of any kind to drivers or passengers, all parties shall remain at the scene of the accident until the requirements of §55-10-103 have been met. The stop shall be made without obstructing traffic more than is necessary. The requirements of this subsection (a) apply to accidents occurring upon highways and the premises of any shopping center, trailer park, or apartment house complex, or any other premises that are generally frequented by the public at large.

(b)(1) Any person failing to stop or to comply with the requirements of subsection (a) under those circumstances, in which damage done to vehicles or property not owned or operated by the person charged with

a violation of this section does not exceed one thousand five hundred dollars ($1,500) or would appear to a reasonable person not to exceed one thousand five hundred dollars ($1,500), commits a Class B misdemeanor and may be punished pursuant to § 55-10-301(b).

(2) Any person failing to stop or to comply with the requirements of subsection (a) under those circumstances, in which damage done to vehicles or property not owned or operated by the person charged with a violation of this section exceeds one thousand five hundred dollars ($1,500) or would appear to a reasonable person to exceed one thousand five hundred dollars ($1,500), commits a Class A misdemeanor and in addition thereto may be punished pursuant to § 55-10-101(c).

(3) In addition to the penalties listed in subdivisions (b)(1) and (2), the commissioner of safety shall suspend the driver license or nonresident motor vehicle operating privilege of any person failing to stop or to comply with the requirements of subsection (a) under those circumstances, if the person is also not in compliance with the Tennessee Financial Responsibility Law, compiled in chapter 12, part 1 of this title. Any suspension under this subdivision (b)(3) shall be for a minimum of one (1) year. Notice of the suspension of the driver license shall be sent by United States mail not less than twenty (20) days prior to the effective date of suspension. The notice shall state that the person is entitled to an administrative hearing held by the commissioner of safety, or the commissioner's designee, pursuant to a request under §55-12-103(a). A person whose motor vehicle operating privileges have been so suspended may obtain restoration of driving privileges by paying a restoration fee of twenty-five dollars ($25.00) to the commissioner of safety following the expiration of the suspension period.

(c) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-103 Duty to give information and render aid

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle that is driven or attended by any person shall give the driver's name, address and the registration number of the vehicle the driver is driving, and shall, upon request and if available, exhibit that driver's operator's or chauffeur's license, or driver license, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in the accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if carrying is requested by the injured person.

(b) The requirements in subsection (a) shall apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(c) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-104 Duty upon striking unattended vehicles

(a) The driver of any vehicle that collides with any unattended vehicle shall immediately stop and shall then and there either locate and notify the operator or owner of that vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Written notices prepared pursuant to this section shall include information pertaining to the insurance policy, including the name of the insurer, of the driver and of the owner of the vehicle. If the driver and the owner have a certificate of compliance with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12 of this title, issued by the commissioner of safety, a copy of the certificate shall be included in the written notice.

(b) The requirements in subsection (a) shall apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(c) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-105 Duty upon striking fixtures on highway

(a) The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway or on the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large, shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact, the driver's name, address, and the registration number of the vehicle that the driver was driving, and shall, upon request and if available, exhibit the driver's operator's or chauffeur's license, or driver license, and shall make report of the accident when and as required in §55-10-107.

(b) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-106 Immediate notice of accident

(a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of fifty dollars ($50.00) or more shall immediately, by the quickest means of communication, give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the state highway patrol.

(b) The requirements in subsection (a) shall apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(c) With respect to an ADS-operated vehicle, as defined by §55-30-102, the requirements of subsection (a) are satisfied if the motor vehicle's owner, or a person on behalf of the motor vehicle's owner, promptly contacts a law enforcement officer or agency to report the accident and the ADS-operated vehicle remains on the scene of the accident as otherwise required by law.

55-10-107 Accident report

(a)(1) The driver of a vehicle that is in any manner involved in an accident resulting in bodily injury to or death to any person, or in which damage to the property of any one (1) person, including the driver's, in excess of one thousand five hundred dollars ($1,500) is sustained, shall within twenty (20) days after the accident, forward a written report of the accident to the department of safety; provided, that persons making written reports to the department pursuant to §55-12-104 shall not be required to make any additional report pursuant to this section, §55-10-109 or §55-10-111.

(2) If an accident results in damage to state or local government property in excess of four hundred dollars ($400), then the driver of the vehicle involved in the accident shall file a written report in accordance with subdivision (a)(1).

(b) The requirements in subsection (a) shall apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(c) Written reports prepared pursuant to this section shall include information pertaining to the insurance policy, including the name of the insurer, of the driver and of the owner of the vehicle. If the driver and the owner have a certificate of compliance with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12 of this title, issued by the commissioner of safety, a copy of the certificate shall be included in the written notice.

(d) With respect to an ADS-operated vehicle, as defined by §55-30-102, the written reports required under subsection (a) must be completed by the vehicle's owner.

55-10-109 When driver unable to report

(a) An accident report is not required under this part from any person who is physically incapable of making a report during the period of the incapacity.

(b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in §55-10-106, and there was another occupant in the vehicle at the time of the accident capable of doing so, the occupant shall make or cause to be given the notice not given by the driver.

(c) Whenever the driver is physically incapable of making a written report of an accident as required in §55-10-107, and the driver is not the owner of the vehicle, then the owner of the vehicle involved in the accident shall within twenty (20) days after learning of the accident make the report not made by the driver.

55-10-110 False reports

Any person who gives information reports as required in §§55-10-107 -- 55-10-109, knowing or having reason to believe that the information is false, commits a Class C misdemeanor.

55-10-117 Removal of vehicles from accident where no personal injury occurred

(a) Notwithstanding any law to the contrary, a motor vehicle involved in a traffic accident and the driver of the motor vehicle shall be subject to this section.

(b) This section shall apply to any motor vehicle traffic accident that occurs on a divided, controlled access highway or interstate highway of this state.

(c) When a motor vehicle traffic accident occurs with no apparent serious personal injury or death, the driver of each motor vehicle involved in the traffic accident, or any other occupant of any such motor vehicle who possesses a valid driver license, should remove the vehicle from the immediate confines of the roadway into a safe refuge on the shoulder, emergency lane, or median, or to a place otherwise removed from the roadway whenever, in the judgment of the driver, the moving of a vehicle may be done safely and the vehicle is capable of being normally and safely driven, does not require towing, and may be operated under its own power in its customary manner without further damage or hazard to itself, to the traffic elements, or to the roadway. The driver of the motor vehicle may request any person who possesses a valid driver license to remove the motor vehicle as provided in this section, and that person may comply with the request.

(d) The driver or any other person who has removed a motor vehicle from the main traveled way of the road as provided in subsection (c) before the arrival of a law enforcement officer shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle pursuant to this section.

(e) This section does not abrogate or affect a driver's duty to file any written report that may be required by law, but compliance with the requirements of this section does not allow a driver to be prosecuted for the failure to stop and immediately report a traffic accident.

(f) This section does not abrogate or affect a driver's duty to stop and give information in accordance with law, nor does it relieve a law enforcement officer of the officer's duty to render a report in accordance with law.

55-10-119 Accidents–Arrest without warrant

An officer shall detain a driver without a warrant, as provided in §40-7-103, and bring the driver before a committing magistrate if the driver:

(1) Is involved in an accident resulting in:

(A) Serious bodily injury, as defined in §55-50-502; or

(B) Death; and

(2) Does not have a valid driver license; and

(3) Does not have evidence of financial responsibility as required by §55-12-139.

55-10-201 Parties to crime

Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared in chapter 8 or parts 1-5 of this chapter to be a crime, whether individually or in connection with one (1) or more other persons, or as a principal, agent or accessory, is guilty of the offense, and every

person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of chapter 8 or parts 1-5 of this chapter is likewise guilty of the offense.

55-10-202 Offenses by persons owning or controlling vehicles

(a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of the vehicle upon a highway in any manner contrary to law.

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

55-10-204 Illegal cancellation of traffic citation

(a) Any person who cancels or solicits the cancellation of any traffic citation, in any manner other than as provided in this chapter, commits a Class C misdemeanor.

(b) Every record of traffic citations required in chapter 8 and parts 1-5 of this chapter shall be audited by the appropriate fiscal officer of the governmental agency to which the traffic-enforcement agency is responsible, within the time prescribed for the audit of other officers of the agency.

55-10-205 Reckless driving

(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property commits reckless driving.

(b) A person commits an offense of reckless driving who drives a motorcycle with the front tire raised off the ground in willful and wanton disregard for the safety of persons or property on any public street, highway, alley, parking lot, or driveway, or on the premises of any shopping center, trailer park, apartment house complex, or any other premises that are generally frequented by the public at large; provided, that the offense of reckless driving for driving a motorcycle with the front tire raised off the ground shall not be applicable to persons riding in a parade, at a speed not to exceed thirty miles per hour (30 mph), if the person is eighteen (18) years of age or older.

(c)(1) Any motor vehicle operator who knowingly ignores a clearly visible and adequate flood warning sign or barricade and drives into a road area that is actually flooded commits reckless driving. In addition to the penalties imposed pursuant to subsection (d), the court may order the operator to pay restitution to defray the taxpayer cost of any rescue efforts related to such violation.

(2) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the operator's driving through the flood warning sign or barricade was necessitated by a bona fide emergency.

(3) This subsection (c) shall not apply to an emergency vehicle. "Emergency vehicle" means a vehicle of a governmental department or public service corporation when responding to any emergency, or any vehicle of a police or fire department, or any ambulance.

(d)(1) A violation of this section is a Class B misdemeanor.

(2) In addition to the penalty authorized by subdivision (d)(1), the court shall assess a fine of fifty dollars ($50.00) to be collected as provided in §55-10-412(b) and distributed as provided in §55-10-412(c).

55-10-206 Off-road vehicles

(a) For the purposes of this section, "motor vehicle" means any motor vehicle as defined in §55-1-103, which possesses a four-wheel drive capability and that is designed and suitable for operation off the highway on natural terrain.

(b) It is unlawful for any person to operate a motor vehicle on private property for the purposes of testing or demonstrating driving skills or ascertaining certain vehicle endurance factors, unless the consent of the owner or person in control of the property has been granted for the activities. The driving skills and vehicle endurance factors include, but are not limited to, cross-country driving, drag racing or testing the motor vehicle's capabilities over natural, rough or muddy terrain.

(c) Any person found guilty of a violation of this section shall be fined not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250) and, in the discretion of the court, the person's driver license shall be subject to suspension for six (6) months.

55-10-209 Aggravated reckless driving

(a) A person commits aggravated reckless driving who:

(1) Commits the offense of reckless driving, as defined in §55-10-205; and

(2) Intentionally or knowingly impedes traffic upon a public street, highway, alley, parking lot, or driveway, or on the premises of a shopping center, trailer park, apartment house complex, or any other premises accessible to motor vehicles that are generally frequented by the public at large.

(b)(1) A violation of this section is a Class A misdemeanor.

(2) In addition to the penalty authorized by subdivision (b)(1), the court may assess a fine of two thousand five hundred dollars ($2,500) to be collected as provided in §55-10-412(b) and distributed as provided in §55-10-412(c).

55-10-301 Chapters 8 and 9 and parts 1-5 of chapter 1055–Penalties

(a) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter where a penalty is not specifically prescribed commits a Class C misdemeanor.

(b)(1) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter may be required, at the discretion of the court, to attend a driver education course approved by the department of safety in addition to or in lieu of any portion of other penalty imposed; provided, that the course is approved by the department, it may be operated and conducted by a:

(A) County, municipality or other entity of local government;

(B) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. §501(c)(3) (26 U.S.C. § 501(c)(3)); or

(C) Private entity that:

(i) Is licensed by the secretary of state to conduct business in this state, if required of the entity by state law;

(ii) Is registered with the department of revenue for all applicable taxes; and

(iii) Conducts at least two (2) courses per calendar year, whether in person or online.

(2) A reasonable fee between fifty dollars ($50.00) and one hundred seventy-five dollars ($175) may be assessed for the driver education or driver improvement course; provided, that no one shall be refused admittance for inability to pay. This fee shall apply only to driver improvement courses that may be required pursuant to this section, and shall not apply to any program offered pursuant to title 49, chapter 1, or to any other driving instruction school.

(3) By operating a driver education or improvement course pursuant to this subsection (b), the entity operating or conducting the course consents to the inspection of all records concerning the course by the department of safety; provided, that inspection made pursuant to this subdivision (b)(3) shall not preclude inspection of any records pursuant to any other provision of law.

(4) Each court clerk shall provide a list of approved entities in the county to any person ordered to attend a driver education or improvement course.

(5) Upon certification to the court clerk that a court ordered driver education or improvement course has been completed, the court clerk shall report the completion to the department of safety. The report shall be accomplished on the abstract of record of the court referenced in §55-10-306.

(c) Subsection (b) shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle.

(d) Subsection (b) shall not apply to any person who holds any class of driver license and who is charged with any violation, except a parking violation, while operating a commercial motor vehicle.

55-10-401 Driving under the influence

It is unlawful for any person to drive or to be in physical control of any automobile or other motor driven vehicle on any of the public roads and highways of the state, or on any streets or alleys, or while on the premises of any shopping center, trailer park, or apartment house complex, or any other premises that is generally frequented by the public at large, while:

(1) Under the influence of any intoxicant, marijuana, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof that impairs the driver's ability

to safely operate a motor vehicle by depriving the driver of the clearness of mind and control of oneself that the driver would otherwise possess;

(2) The alcohol concentration in the person's blood or breath is eight-hundredths of one percent (0.08%) or more; or

(3) With a blood alcohol concentration of four-hundredths of one percent (0.04%) or more and the vehicle is a commercial motor vehicle as defined in §55-50-102.

55-10-406 Implied consent–License suspension

(a) A law enforcement officer who has probable cause to believe that the operator of a motor vehicle is driving while under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof as prohibited by § 55-10-401, or committing the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218, may request that the operator of the vehicle submit to a test or tests for the purpose of determining the alcohol or drug content, or both, of that operator's blood.

(b)(1) Breath tests may be administered under the following circumstances:

(A) The operator's implied consent to submit to breath tests pursuant to subdivision (d)(1);

(B) The operator's consent to submit to breath tests;

(C) A search warrant;

(D) Incident to a lawful arrest for any of the offenses set out in subsection (a); or

(E) When breath tests are required to be administered pursuant to subdivision (c)(1).

(2) Blood tests may be administered under the following circumstances:

(A) The operator's implied consent to submit to blood tests pursuant to subdivision (d)(1);

(B) The operator's consent to submit to blood tests;

(C) A search warrant;

(D) Without the consent of the operator if exigent circumstances to the search warrant requirement exist; or

(E) When blood tests are required to be administered pursuant to subdivision (c)(2) and with a search warrant or without a warrant, if exigent circumstances to the search warrant requirement exist.

(c)(1)(A) A law enforcement officer shall administer or cause to be administered breath tests for the purpose of determining the alcohol content of the operator's blood if the officer has appropriate testing equipment available and has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred;

(B) A law enforcement officer shall administer or cause to be administered blood tests for the purpose of determining the alcohol or drug content of the operator's blood if one (1) or more of the requirements for blood tests set out in subdivision (b)(2) are present and the officer has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred; and

(C) A law enforcement officer administering breath or blood tests shall decide whether to administer or cause to be administered breath tests, blood tests, or both tests, for determining the alcohol or drug content of the operator's blood.

(2)(A) A law enforcement officer shall administer or cause to be administered breath tests, blood tests, or both tests, pursuant to subdivision (c)(1) if the operator:

(i) Has been involved in a collision resulting in the injury or death of another and the operator of the vehicle has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401;

(ii) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and a passenger in the motor vehicle is a child under eighteen (18) years of age; or

(iii) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and has a prior conviction of a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; or an offense committed in another state or territory that, if committed in this state, would constitute the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under

§ 39-13-115, vehicular homicide under § 39-13-213(a)(2), aggravated vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant under § 55-10-401.

(B) The blood tests required to be administered under subdivision (c)(1)(B) shall be performed in accordance with the procedure set forth in this section and § 55-10-408, and shall be performed, pursuant to a search warrant as described in subdivision (b)(2)(C) or if exigent circumstances to the search warrant requirement exist as described in subdivision (b)(2)(D), regardless of whether the operator consents to the tests.

(C) The results of breath or blood tests required by subdivision (c)(2)(A) may be offered as evidence by either the state or the operator of the vehicle in any court, administrative hearing, or official proceeding relating to the collision or offense, subject to the Tennessee Rules of Evidence.

(d)(1) The operator of a motor vehicle in this state is deemed to have given implied consent to breath tests, blood tests, or both tests, for the purpose of determining the alcohol or drug content of that operator's blood. However, no such tests may be administered pursuant to this section unless conducted at the direction of a law enforcement officer having probable cause to believe the operator was in violation of one (1) or more of the offenses set out in subsection (a) and the operator signs a standardized waiver developed by the department of safety and made available to law enforcement agencies.

(2) Any law enforcement officer who requests that the operator of a motor vehicle submit to breath tests, blood tests, or both tests, authorized pursuant to subsection (a), shall, prior to conducting the test, advise the operator that refusal to submit to the tests:

(A) Will result in the suspension by the court of the operator's driver license; and

(B) May result, depending on the operator's prior criminal history, in the operator being required to operate only a motor vehicle equipped with a functioning ignition interlock device, if the operator is convicted of a violation of § 55-10-401, as described in § 55-10-405.

(3) If the operator is not advised of the consequences of the refusal to submit to breath tests, blood tests, or both tests, the court having jurisdiction over the offense for which the operator was placed under arrest shall not have the authority to suspend the license of an operator or require the operator to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-417 for a violation of this subsection (d).

(4) Except as may be required by a search warrant or other court order, if the operator is placed under arrest, requested by a law enforcement officer to submit to breath tests, blood tests, or both tests, advised of the consequences for refusing to do so, and refuses to submit, the operator shall be charged with violating subdivision (d)(1). The determination as to whether an operator violated subdivision (d)(1) shall be made:

(A) At the same time and by the same court as the court disposing of the offense for which the operator was placed under arrest, upon an oral or written motion of the state; or

(B) At the operator's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, if the state does not make a motion pursuant to subdivision (d)(4)(A).

(e)(1)(A) If blood tests of the operator of a motor vehicle are authorized pursuant to this section, a qualified practitioner who, acting at the written request of a law enforcement officer, withdraws blood from an operator for the purpose of conducting tests to determine the alcohol or drug content in an operator's blood, will not incur any civil or criminal liability as a result of the withdrawing of the blood, except for any damages that may result from the negligence of the person so withdrawing.

(B) Neither the hospital nor other employer of a qualified practitioner listed in subdivision (e)(2) will incur any civil or criminal liability as a result of the act of withdrawing blood from any operator, except in the case of negligence.

(2) For purposes of this section, a "qualified practitioner" is a:

(A) Physician;

(B) Registered nurse;

(C) Licensed practical nurse;

(D) Clinical laboratory technician;

(E) Licensed paramedic;
(F) Licensed emergency medical technician approved to establish intravenous catheters;
(G) Technologist;
(H) A trained phlebotomist who is operating under a hospital protocol, has completed phlebotomy training through an educational entity providing such training, or has been properly trained by a current or former employer to draw blood; or
(I) Physician assistant.
(f) Any operator who is unconscious as a result of a collision, is unconscious at the time of arrest or apprehension, or is otherwise in a condition rendering the operator incapable of refusal, shall not be subjected to blood tests unless law enforcement has obtained a search warrant or exigent circumstance exceptions to a search warrant apply.

(g) Provided probable cause exists for criminal prosecution for any of the offenses specified in subsection (a), nothing in this section affects the admissibility into evidence in a criminal prosecution of any analysis of the alcohol or drug content of the defendant's blood that was not compelled by law enforcement but was obtained while the defendant was hospitalized or otherwise receiving medical care in the ordinary course of medical treatment.

(h) Nothing in this section affects the admissibility in evidence, in criminal prosecutions for vehicular assault under § 39-13-106, vehicular homicide under § 39-13-213(a)(2), aggravated vehicular assault under § 39-13-115, or aggravated vehicular homicide under § 39-13-218, of any analysis of the alcohol or drug content of the defendant's blood that has been obtained in accordance with this section and tested according to § 55-10-408.

(i) Nothing in this section affects the admissibility in evidence, in criminal prosecutions for any of the offenses set out in subsection (a), of any analysis of the alcohol or drug content of the defendant's blood that has been obtained by consent and tested according to § 55-10-408.

(j) The results of blood tests or breath tests authorized and conducted in accordance with this section and § 55-10-408:
(1) Shall be reported in writing by the person making the analysis, shall have noted on the report the time at which the sample analyzed was obtained from the operator, and shall be made available to the operator, upon request; and
(2) Shall be admissible in evidence at the trial of any person charged with an offense specified in subsection (a).

(k) The fact that a law enforcement officer failed to request that the operator charged with an offense specified in subsection (a) submit to blood or breath tests is admissible as evidence at the trial of the charged offense.

(l) As used in this section, "operator" means any person driving or in physical control of any automobile or other motor-driven vehicle as described and prohibited by § 55-10-401.

55-10-407 Implied consent—Refuse to submit to tests

(a) If the court finds that the driver violated § 55-10-406, the driver is not considered as having committed a criminal offense; provided, however, that the court shall revoke the license of the driver for a period of:
(1) One (1) year, if the person does not have a prior conviction as defined in subsection (e);
(2) Two (2) years, if the person does have a prior conviction as defined in subsection (e);
(3) Two (2) years, if the court finds that the driver involved in a collision, in which one (1) or more persons suffered serious bodily injury, violated § 55-10-406 by refusing to submit to such a test or tests; and
(4) Five (5) years, if the court finds that the driver involved in a collision in which one (1) or more persons are killed, violated § 55-10-406 by refusing to submit to such a test or tests.

(b) If a person's driver license is suspended for a violation of § 55-10-406 prior to the time the offense for which the driver was arrested is disposed of, the court disposing of such offense may order the department of safety to reinstate the license if:
(1) The person's driver license is currently suspended for an implied consent violation and the offense for which the driver was arrested resulted from the same incident; and

(2) The offense for which the person was arrested is dismissed by the court upon a finding that the law enforcement officer lacked sufficient cause to make the initial stop of the driver's vehicle.

(c) The period of license suspension for a violation of § 55-10-406 runs consecutive to the period of license suspension imposed following a conviction for § 55-10-401 if:

(1) The general sessions court or trial court judge determines that the driver violated § 55-10-406; and

(2) The judge determining the violation of § 55-10-406 finds that the driver has a conviction or juvenile delinquency adjudication for a violation that occurred within five (5) years of the violation of § 55-10-406 for:

(A) Implied consent under § 55-10-406;

(B) Underage driving while impaired under § 55-10-415;

(C) The open container law under § 55-10-416; or

(D) Reckless driving under § 55-10-205, if the charged offense was § 55-10-401.

(d) Any person who violates § 55-10-406 by refusing to submit to either test or both tests, pursuant to § 55-10-406(d)(4), shall be charged by a separate warrant or citation that does not include any charge of violating § 55-10-401 that may arise from the same occurrence.

(e)(1) For the purpose of determining the license suspension period under subsection (a), a person who is convicted of a violation of § 55-10-401 is not to be considered a repeat or multiple offender and subject to the penalties prescribed in subsection (a) if ten (10) or more years have elapsed between the date of the present violation and the date of any immediately preceding violation of § 55-10-401 that resulted in a conviction for such offense. If, however, the date of a person's violation of § 55-10-401 is within ten (10) years of the date of the present violation, then the person shall be considered a multiple offender and is subject to the penalties imposed upon multiple offenders by this part. If a person is considered a multiple offender under this part, then every violation of § 55-10-401 that resulted in a conviction for such offense occurring within ten (10) years of the date of the immediately preceding violation is considered in determining the number of prior offenses. However, a violation occurring more than twenty (20) years from the date of the instant violation is never considered a prior offense for that purpose.

(2) For the purpose of determining the license suspension period under subsection (a), the state shall use a conviction for the offense of driving under the influence of an intoxicant, vehicular homicide involving an intoxicant, vehicular assault involving an intoxicant, aggravated vehicular homicide involving an intoxicant, or aggravated vehicular assault involving an intoxicant that occurred in another state or territory, as defined in § 55-10-405.

(3) For the purpose of determining the license suspension period under subsection (a), a prior conviction for the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218 is treated the same as a prior conviction for a violation of driving under the influence of an intoxicant under § 55-10-401.

55-10-415 Underage driving while impaired

(a) A person under twenty-one (21) years of age shall not drive or be in physical control of an automobile or other motor-driven vehicle while:

(1) Under the influence of any intoxicant, marijuana, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof that impairs the driver's ability to safely operate a motor vehicle by depriving the driver of the clearness of mind and self-control that the driver would otherwise possess; or

(2) The alcohol concentration in the person's blood or breath is two-hundredths of one percent (0.02%) or more.

(b) The fact that a person who drives while under the influence of narcotic drugs or barbital drugs is or has been lawfully entitled to use the drugs does not constitute a defense to a violation of this section.

(c) This section establishes the offense of underage driving while impaired for a person under twenty-one (21) years of age. The offense of underage driving while impaired is a lesser included offense of driving while intoxicated.

(d) The offense of underage driving while impaired by a person eighteen (18) years of age or older but under twenty-one (21) years of age is a Class A misdemeanor punishable by:
(1) Driver license suspension of one (1) year;
(2) A fine of two hundred fifty dollars ($250); and
(3) Public service work, in the discretion of the court.
(e) The act of underage driving while impaired by a person under eighteen (18) years of age is a delinquent act punishable by:
(1) Driver license suspension of one (1) year;
(2) A fine of two hundred fifty dollars ($250); and
(3) Public service work, in the discretion of the court.

55-10-416 Open container

(a)(1) No driver shall consume any alcoholic beverage or beer or possess an open container of alcoholic beverage or beer while operating a motor vehicle in this state.
(2) For purposes of this section:
(A) "Open container" means any container containing alcoholic beverages or beer, the contents of which are immediately capable of being consumed or the seal of which has been broken;
(B) An open container is in the possession of the driver when it is not in the possession of any passenger and is not located in a closed glove compartment, trunk or other nonpassenger area of the vehicle; and
(C) A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.
(b)(1) A violation of this section is a Class C misdemeanor, punishable by fine only.
(2) For a violation of this section, a law enforcement officer shall issue a citation in lieu of continued custody, unless the offender refuses to sign and accept the citation, as provided in §40-7-118.
(c) This section shall not be construed to prohibit any municipality, by ordinance, or any county, by resolution, from prohibiting the passengers in a motor vehicle from consuming or possessing an alcoholic beverage or beer in an open container during the operation of the vehicle by its driver, or be construed to limit the penalties authorized by law for violation of the ordinance or resolution.

55-10-417 Ignition interlock device

(a)(1)(A) A court may order the installation and use of an ignition interlock device for any conviction of §55-10-401, if the driver's license is no longer suspended or revoked or the driver does not have a prior conviction as defined in §55-10-405. The restriction may apply for up to one (1) year after the person's license is reinstated.
(B) The provisions of this subdivision (a)(1), authorizing the court to order an ignition interlock device for a violation of §55-10-401, shall only apply when the court is not otherwise required to order an ignition interlock device by this part.
(2) If a person is convicted of a first offense of §55-10-401, and the person is not required to operate only a motor vehicle with an ignition interlock device pursuant to §55-10-409(b)(2)(B), and the person is otherwise eligible for a restricted license pursuant to §55-10-409(b)(1)(A)(i), such person may request and the court may order the installation and use of an ignition interlock device in lieu of geographic restrictions or additional limitations on the restricted license. A person so requesting shall pay all costs associated with the ignition interlock device and no funds from the electronic monitoring indigency fund shall be used to pay any cost associated with the device, regardless of whether or not the person is indigent.
(3) If a person is ordered to install and use the device due to the requirements of §55-10-409 or subdivision (a)(1) or (a)(2) due to a violation of either §55-10-401 or §55-10-406, then the restriction must be a condition of probation or supervision for the entire period of the restriction.
(b) Upon ordering a functioning ignition interlock device pursuant to §55-10-409 or subdivision (a)(1) or (a)(2), the court must establish a specific calibration setting of two-hundredths of one percent (0.02%) blood alcohol concentration at which the functioning ignition interlock device will prevent the motor vehicle from being started.
(c) Upon ordering the use of a functioning ignition interlock device pursuant to §55-10-409 or subdivision (a)(1) or (a)(2), the court must:

(1) State on the record the requirement for and the period of use of the device and so notify the department of safety;

(2) Notify the department of corrections, the department of safety or any other agency, department, program, group, private entity or association that is responsible for the supervision of the person ordered to drive only a motor vehicle with a functioning ignition interlock device;

(3) Direct that the records of the department reflect that the person may not operate a motor vehicle that is not equipped with a functioning ignition interlock device; and

(4) Direct the department to attach or imprint a notation on the motor vehicle operator's license of any person restricted under this section, stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(d) Upon the court ordering a person to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to §55-10-409 or subdivision (a)(1), the court, the department of correction or any other agency, department, program, group, private entity or association that is responsible for the supervision of such person shall:

(1) Require proof of the installation of the functioning ignition interlock device on at least one (1) motor vehicle operated by such person;

(2) Require periodic reporting by the person for verification of the proper operation of the functioning ignition interlock device;

(3) Require the person to have the system monitored for proper use and accuracy by an entity approved by the department of safety at least every thirty (30) days, or more frequently as the circumstances may require; and

(4) Notify the court of any of the person's violations of this part.

(e)(1) If a person is ordered to drive only a motor vehicle with a functioning ignition interlock device, and such person owns or operates more than one (1) motor vehicle, the court shall also order the person to elect a motor vehicle such person will operate exclusively during the interlock period and order the device to be installed on such motor vehicle prior to applying for a motor vehicle operator's license of any kind and shall show proof of such installation and operation of such device at the time of making application for a motor vehicle operator's license to the department of safety or to the court. A person may elect to have a functioning interlock device installed on more than one (1) motor vehicle.

(2) If the motor vehicle that the person has elected to exclusively operate during the interlock period is no longer being used by such person, the person shall have any replacement motor vehicle exclusively used by such person installed with a functioning ignition interlock device and notify the department of safety and any agency, department, program, group, private entity or association that is responsible for the supervision of such person.

(f) A person prohibited under this part from operating a motor vehicle that is not equipped with a functioning ignition interlock device shall not solicit or have another person attempt to start or start a motor vehicle equipped with such a device.

(g) A person shall not attempt to start or start a motor vehicle equipped with a functioning ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with a functioning ignition interlock device.

(h) No person shall:

(1) Tamper with, or in any way attempt to circumvent, the operation of a functioning ignition interlock device that has been installed in a motor vehicle;

(2) Operate a motor vehicle that is not equipped with a functioning ignition interlock device when the person has been ordered by the court or required by statute to only operate a vehicle equipped with such an interlock device; or

(3) Operate a motor vehicle outside the geographic limitations or during restricted times when geographic or time restrictions are ordered by the court.

(i) A person shall not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of the vehicle knows or should know is prohibited from operating a motor vehicle not equipped with a functioning ignition interlock device.

(j)(1) Except as provided in subdivision (j)(5), a person who violates subsection (f), (g), (h), or (i) commits a Class A misdemeanor.

(2) If the violation is the person's first violation, the person shall be sentenced to a minimum of forty-eight (48) hours of incarceration.

(3) If the violation is the person's second violation, the person shall be sentenced to a minimum of seventy-two (72) hours of incarceration.

(4) If the violation is the person's third or subsequent violation, the person shall be sentenced to a minimum of seven (7) consecutive days of incarceration.

(5) The penalty provisions of this subsection (j) shall not apply if the starting of a motor vehicle equipped with a functioning ignition interlock device, or the request to start a motor vehicle equipped with a functioning ignition interlock device, is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not operate the vehicle.

(6) A person who is convicted for a violation of subdivision (h)(2) shall be required to complete an additional consecutive three-hundred-sixty-five-day ignition interlock usage period as provided in §55-10-425, regardless of whether the person has already completed an ignition interlock usage period for the underlying violation of §55-10-401.

(k) A person who was required under this subsection (k), as it existed on June 30, 2022, to install and use an ignition interlock device on a motor vehicle for six (6) months following reinstatement of the person's driver license after two (2) or more convictions for §55-10-401 within five (5) years, may petition the department for reinstatement of the person's driver license. If the person is in compliance with all other requirements for reinstatement and has no other revocations or suspensions on the person's driving record, then the department must reinstate the driver license.

(l) If a person is required by a court order issued pursuant to this section, by statutory requirement, in the court's discretion, or at the defendant's request, to operate only a motor vehicle that is equipped with a functioning ignition interlock device, and the offense for which the ignition interlock device is ordered occurs on or after July 1, 2016, then the compliance-based provisions of §55-10-425 must govern the required periods of continuous operation, default interlock orders, authorized removal of the device, and other enforcement aspects of the ignition interlock requirements set out in §55-10-425.

(m) ln addition to all other fines, fees, costs, and punishments now prescribed by law, upon ordering the use of a functioning ignition interlock device pursuant to §55-10-409 or subdivision (a)(1) or (a)(2), the court shall assess a one-time electronic monitoring initial use fee of twelve dollars ($12.00) if the person has not previously been ordered by a court of this state to use an ignition interlock or other electronic monitoring device. All proceeds collected pursuant to this subsection (m) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund, established in § 55-10-419.

55-10-427 Provide motor vehicle to intoxicated person or person with suspended license

Added 2023

(a) It is an offense for a person to knowingly provide a motor vehicle to another person who the provider of the vehicle knows or reasonably should know is under the influence of an intoxicant, marijuana, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof.

(b) It is an offense for a person to knowingly provide a motor vehicle to another person who the provider of the vehicle knows or reasonably should know is a person whose driver license has been suspended or revoked by the court pursuant to §55-10-404 unless:

(1) The person receiving the motor vehicle has been granted a restricted driver license pursuant to § 55-10-409; and

(2) The motor vehicle is being provided for a purpose permissible under the court order granting the person's restricted driver license.

(c)(1) A person who violates this section commits a Class A misdemeanor.

(2) If the violation is the person's first violation, then the person shall be sentenced to a minimum of forty-eight (48) hours of incarceration.

(3) If the violation is the person's second violation, then the person shall be sentenced to a minimum of seventy-two (72) hours of incarceration.

(4) If the violation is the person's third or subsequent violation, then the person shall be sentenced to a minimum of seven (7) consecutive days of incarceration.

55-10-501 Drag racing–Definitions

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

(1) "Drag racing" means:

(A) The use of any motor vehicle for the purpose of ascertaining the maximum speed obtainable by the vehicle;

(B) The use of any motor vehicle for the purpose of ascertaining the highest obtainable speed of the vehicle within a certain distance or within a certain time limit;

(C) The use of any one (1) or more motor vehicles for the purpose of comparing the relative speeds of the vehicle or vehicles, or for comparing the relative speeds of the vehicle or vehicles within a certain distance or within a certain time limit;

(D) The use of one (1) or more motor vehicles in an attempt to outgain, outdistance or to arrive at a given destination simultaneous with or prior to that of any other motor vehicle; or

(E) The use of any motor vehicle for the purpose of the accepting of, or the carrying out of any challenge, made orally, in writing, or otherwise, made or received with reference to the performance abilities of one (1) or more motor vehicles;

(2) "Participant" means that person or persons who operate any motor vehicle or motor vehicles upon the public highways of this state, or that of any municipality or political subdivision thereof, for the purpose of drag racing, and also any person or persons who arrange for, supervise, or in any way and manner set in motion any drag racing, regardless of whether or not such person or persons may be the operator of, or be a passenger in, any motor vehicle participating in drag racing; and

(3) "Public highways" means all of the streets, roads, highways, expressways, bridges and viaducts, including any and all adjacent rights-of-way, that are owned, constructed, and/or maintained by the state, and/or any municipality or political subdivision of the state, and any and all highways, roads, streets, etc., that have been dedicated to the public use.

55-10-502 Drag racing

(a) Drag racing is a Class A misdemeanor, and any person who operates a motor vehicle upon the public highways of this state, or while on the premises of any shopping center, trailer park, any apartment house complex, or any other premises generally frequented by the public at large, or who is a participant therein, for the purpose of drag racing commits the offense of drag racing unless the premises are properly licensed for this purpose.

(b) If the violation of subsection (a) results in the serious bodily injury of a participant, passenger, bystander or other person, drag racing shall be punished as provided in §39-13-106(b) for vehicular assault.

(c) Any motor vehicle used to commit the offense of drag racing or to flee after commission of the offense of drag racing is, upon conviction for the offense, subject to seizure and forfeiture as provided in title 40, chapter 33, part 1.

55-10-802 Leaving child unattended in motor vehicle–Definitions

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

(1) "Motor vehicle" means any self-propelled vehicle, including a truck, truck tractor, motor bus, or other vehicle not operated exclusively or driven on fixed rails or tracks; and

(2) "Unattended child" means a child younger than seven (7) years of age who is not accompanied by another person who is at least thirteen (13) years of age.

55-10-803 Leaving child unattended in motor vehicle

(a) It is an offense for a person responsible for a child younger than seven (7) years of age to knowingly leave that child in a motor vehicle located on public property or while on the premises of any shopping center, trailer park, or any apartment house complex, or any other premises that is generally frequented by the public at large without being supervised in the motor vehicle by a person who is at least thirteen (13) years of age, if:

(1) The conditions present a risk to the child's health or safety;

(2) The engine of the motor vehicle is running; or

(3) The keys to the motor vehicle are located anywhere inside the passenger compartment of the vehicle.

(b) A violation of this section is a Class B misdemeanor punishable only by a fine of two hundred dollars ($200) for the first offense.

(c) A second or subsequent violation of this section is a Class B misdemeanor punishable only by a fine of five hundred dollars ($500).

Chapter 12
Financial Responsibility Law

55-12-127 Surrender of license and registration

(a) Any person whose license or registration is revoked, suspended or cancelled under any provision of chapter 10 or 50 of this title, or under this part, shall immediately surrender that person's operator's license to the commissioner of safety and surrender that person's motor vehicle registration to the commissioner of revenue. If any person fails to return to the commissioner of safety that person's license, or to return to the commissioner of revenue that person's registration, as provided in this part, the commissioner of safety shall immediately direct any peace officer or enforcement officer of the department of safety to secure possession of the license or registration, and to return the license to the department of safety or the registration to the department of revenue. For the purpose of enforcing this portion of this part, any officer of the department or any local law enforcement officer of any city or county may, when in possession of or having knowledge of an order of surrender, take possession of any suspended, revoked or cancelled driver license and/or vehicle registration in the possession of the driver, when the driver has failed to return the license or vehicle registration to the commissioner of safety or the commissioner of revenue as provided herein. All of the confiscated licenses shall be immediately forwarded to the commissioner of safety and all of the confiscated registrations and plates shall be immediately forwarded to the commissioner of revenue together with the completed notification of service of the order. Upon receipt of the fee provided in subsection (b), the commissioner shall make a payment of twenty-five dollars ($25.00) to the local law enforcement agency seizing the licenses and/or vehicle registration plates, for the remittance of an executed order of suspension, cancellation or revocation and return of all seized licenses and plates. The fees received by the local law enforcement agency shall be deposited in the agency's operational fund account and used for the enforcement of the state's traffic laws, including, but not limited to, chapters 10 and 50 of this title.

(b) It is a Class C misdemeanor for any person to willfully fail, within twenty (20) days after cancellation, suspension or revocation, to return a license or registration as required in subsection (a). Any person who is unable to furnish proof of financial responsibility as of the time of the cancellation, suspension or revocation and who does not surrender the cancelled, suspended or revoked license or registration within twenty (20) days from the date of the cancellation, suspension or revocation shall pay to the department of safety a fee of seventy-five dollars ($75.00) prior to reinstatement of the license or registration. If the department of safety, pursuant to this subsection (b), reinstates a person's license, and if that person's motor vehicle registration has been cancelled, suspended or revoked as required by subsection (a), then the commissioner of safety shall request that the commissioner of revenue reinstate the motor vehicle owner's registration and, upon payment to the commissioner of revenue of the appropriate motor vehicle registration fees provided by §55-4-111, §55-4-112 or §55-4-113, the registration shall be reinstated immediately. This fee shall be in addition to any other fees or requirements necessary for reinstatement.

55-12-131 Driving while cancelled, suspended or revoked

Any person whose license, or driving privilege as a nonresident, has been cancelled, suspended, or revoked as provided in this part, and who drives any motor vehicle upon the highways of the state while the license or privilege is cancelled, suspended, or revoked, commits a Class B misdemeanor.

55-12-139 Driving uninsured

(a) This part shall apply to every vehicle subject to the registration and certificate of title provisions.

(b)(1)(A) At the time a driver of a motor vehicle is charged with any violation under chapters 8 and 10, parts 1-5, and chapter 50 of this title; chapter 9 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, an officer shall request evidence of financial responsibility as required by this section.

(B) In case of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident without regard to apparent or actual fault.

(C) If the driver of a motor vehicle fails to show an officer evidence of financial responsibility, or provides the officer with evidence of a motor vehicle liability policy as evidence of financial responsibility, the officer shall utilize the vehicle insurance verification program as defined in § 55-12-203 and may rely on the information provided by the vehicle insurance verification program, for the purpose of verifying evidence of liability insurance coverage.

(2) For the purposes of this section, "financial responsibility" means:

(A) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in this state, whether in paper or electronic format, stating that a policy of insurance meeting the requirements of this part has been issued;

(B) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that:

(i) A cash deposit or bond in the amount required by this part has been paid or filed with the commissioner of revenue; or

(ii) The driver has qualified as a self-insurer under § 55-12-111; or

(C) The motor vehicle being operated at the time of the violation was owned by a common carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, this state, or any political subdivision thereof, and that the motor vehicle was being operated with the owner's consent.

(c)(1) It is an offense to fail to provide evidence of financial responsibility pursuant to this section.

(2) Except as provided in subdivision (c)(3), a violation of subdivision (c)(1) is a Class C misdemeanor punishable only by a fine of not more than three hundred dollars ($300).

(3)(A) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person is not in compliance with the financial responsibility requirements of this part at the time of an accident resulting in bodily injury or death and such person was at fault for the accident.

(B) For purposes of subdivision (c)(3)(A), a person is at fault for an accident if the person acted with criminal negligence, as defined in § 39-11-106, in the operation of such person's motor vehicle.

(C) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person acts to demonstrate financial responsibility as required by this section by providing proof of motor vehicle liability insurance that the person knows is not valid.

(4) If the driver of a motor vehicle fails to provide evidence of financial responsibility pursuant to this section, an officer may tow the motor vehicle as long as the officer's law enforcement agency has adopted a policy delineating the procedure for taking such action.

(d) The fines imposed by this section shall be in addition to any other fines imposed by this title for any other violation under this title.

(e)(1) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section,

if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection (e) shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

(2) A person who did not have financial responsibility that was in effect at the time of being charged with a violation of subsection (c) shall not have that person's violation of subsection (c) dismissed.

(f)(1) Notwithstanding any law to the contrary, in any county having a population in excess of seven hundred fifty thousand (750,000), according to the 2000 federal census or any subsequent federal census, police service technicians are authorized to issue traffic citations in lieu of arrest pursuant to § 55-10-207.

(2) For the purposes of subdivision (f)(1) only, "police service technician" means a person appointed by the director of police services, who responds to requests for service at accident locations and obtains information, investigates accidents and provides other services to assist the police unit, fire unit, ambulance, emergency rescue and towing service.

(g) For purposes of this section, acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device.

(h) If a person displays the evidence in an electronic format pursuant to this section, the person is not consenting for law enforcement to access any other contents of the electronic device.

Chapter 16
Unclaimed or Abandoned Vehicles

55-16-103 Abandoned motor vehicle–Definitions

As used in this section and §§55-16-104--55-16-109:

(1) "Abandoned motor vehicle" means a motor vehicle that:

(A) Is over four (4) years old and is left unattended on public property for more than ten (10) days;

(B) Is in an obvious state of disrepair and is left unattended on public property for more than three (3) days;

(C) Has remained illegally on public property for a period of more than forty-eight (48) hours;

(D) Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours; or

(E) Has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for more than thirty (30) consecutive days;

(2) "Curbstoning" means the selling, offering for sale, advertising for sale, or soliciting the sale of:

(A) Any motor vehicle without a properly endorsed certificate of title as required by §55-3-127 by a person or entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer under §55-17-109; or

(B) More than five (5) motor vehicles in any twelve-month period when the motor vehicles are titled in the person's name or the name of the entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer under §55-17-109;

(3) "Demolisher" means any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle motor vehicles;

(4) "Immobile motor vehicle" means any motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer that is immobilized and incapable of moving under its own power due to an accident, mechanical breakdown, weather conditions or other emergency situation;

(5) "Obvious state of disrepair" means a motor vehicle exhibiting one (1) or more of the following characteristics: inoperable under its own power, without one (1) or more wheels or inflated tires, burned throughout, or with more than one (1) broken window;

(6) "Police department" means the Tennessee highway patrol, the sheriff's department of any county, or the police department of any city or town. In any county with a population of four hundred thousand (400,000) or more, according to the 1980 federal census or any subsequent federal census, with a metropolitan form of government, "police department" also means any department, board or commission designated by the legislative body of the metropolitan government to perform the duties of a police department specified in this chapter;

(7) “Possession,” as used in §55-16-108(e), shall be construed to mean either physical possession or constructive possession by a unit of government. “Physical possession” means seizure and physical custody by a unit of government. “Constructive possession” shall be determined by the power and intent of a unit of government to control; and

(8) “Unattended motor vehicle” means any motor vehicle, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer, that is on public or private property, unattended by the owner or authorized driver, and interferes with or impedes the orderly flow of traffic, or a motor vehicle that is unattended by reason of the arrest of the driver of the motor vehicle.

55-16-104 Authority to take possession of abandoned motor vehicles

(a) A police department may take into custody any motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; provided, that any motor vehicle used in curbstoning on residential property may not be taken into custody unless the police department provides notice on the motor vehicle at least forty-eight (48) hours prior to the seizure.

(b) A police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that have been abandoned, immobile, unattended, or used in curbstoning.

(c) Any motor vehicle used in curbstoning is subject to seizure and forfeiture in the same manner as is provided by law for seizure and forfeiture of other items under title 40, chapter 33.

(d) Notwithstanding any law to the contrary, nothing in this section shall limit a local government’s initiative for more restrictive requirements regarding the sale of curbstoned vehicles.

Chapter 21
Disabled Drivers and Passengers

55-21-108 Unauthorized use of disabled parking space or handicapped permit

(a)(1)(A) Any person, except a person who meets the requirements for the issuance of a distinguishing placard or license plate, a disabled veteran’s license plate, or who meets the requirements of § 55-21-105(d), who parks in any parking space designated with the wheelchair disabled sign or symbol of access, commits a misdemeanor, punishable by a fine of two hundred dollars ($200), which fine shall not be suspended or waived and, in addition, not more than five (5) hours of community service work may be imposed. Any community service requirements imposed by this section shall be to assist the disabled community by monitoring disabled parking spaces, providing assistance to handicapped centers or to disabled veterans, or other such purposes. The agreement may designate the entity that is responsible for the supervision and control of the offenders.

(B) 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 has resulted in the fine authorized by subdivision (a)(1)(A) 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 of the house of representatives of the general assembly and report to 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 also report to the clerks what the amount of the fine would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

(2) In addition to the fine imposed pursuant to subdivision (a)(1), a vehicle that does not display a disabled license plate or placard, and that is parked in any parking space designated with the wheelchair disabled sign or symbol of access, is subject to being towed. When a vehicle has been towed or removed pursuant to this subdivision (a)(2), it shall be released to its owner, or person in lawful possession, upon demand; provided, that the person making demand for return pays all reasonable towing and storage charges and that the demand is made during the operating hours of the towing company.

(3) It is also a violation of this subsection (a) for any person to park a motor vehicle so that a portion of the vehicle encroaches into a disabled parking space in a manner that restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle properly parked within the disabled parking space.

(4)(A) Signs designating disabled parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined two hundred dollars ($200), and shall also provide the name and telephone number of the towing company or the name and telephone number of the property owner, lessee or agent in control of the property.

(B) After July 1, 2008, as new signs designating disabled parking are erected, the signs shall indicate the penalties imposed by this section. Nothing in this section shall be construed to require the removal or alteration of any existing sign designating disabled parking.

(b) Notwithstanding any other law to the contrary, subsection (a) shall be enforced by state and local authorities in their respective jurisdictions, whether violations occur on public or private property, in the same manner used to enforce other parking laws.

(c)(1) Any person not meeting the requirements of §55-21-103 who uses a disabled placard to obtain parking commits a misdemeanor. The disabled placard used to obtain parking by a person not meeting the requirements of §55-21-103 shall be subject to forfeiture and confiscation by state and local authorities in their respective jurisdictions.

(2) If a state or local law enforcement officer observes a violation of subdivision (c)(1), the officer may confiscate the disabled placard. To recover the placard, a driver must demonstrate by a preponderance of the evidence that the driver was complying with §55-21-103, at the time of the confiscation.

(d) Any person who unlawfully sells, copies, duplicates, manufactures, or assists in the sale, copying, duplicating or manufacturing of a disabled placard commits a Class A misdemeanor, punishable by a minimum one-thousand-dollar fine and imprisonment for a time in the discretion of the court.

(e) Any person who is not a disabled driver as prescribed in §55-21-102, and who willfully and falsely represents the person as meeting the requirements to obtain either a permanent or temporary placard commits a Class A misdemeanor, punishable only by a fine of not more than one thousand dollars ($1,000).

(f) Any violation of §55-21-103(g) shall be a Class B misdemeanor, punishable by a fine only of two hundred dollars ($200).

Chapter 50
Uniform Classified and Commercial Driver License Act

55-50-301 Driver's license required

(a) Every person applying for an original or renewal driver license shall be required to comply with and be issued a classified driver license meeting the following requirements:

(1) No person, except those expressly exempted in this section, shall drive any motor vehicle upon a highway in this state unless the person has a valid driver license under this chapter for the type or class of vehicle being driven;

(2) No person, except those expressly exempted in this section, shall steer or, while within the passenger compartment of the vehicle, exercise any degree of physical control of a vehicle being towed by a motor vehicle upon a highway in this state unless the person has a valid driver license under this chapter for the type or class of vehicle being towed;

(3) No person shall receive a driver license unless and until the person surrenders to the department all valid licenses in the person's possession, issued to that person by this or any other jurisdiction. All surrendered licenses issued by another jurisdiction shall be returned, together with information that the person is licensed in this state. No person shall be permitted to have more than one (1) valid driver license at any time; and

(4) Any person licensed as a driver may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise the privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

(b) This section is applicable to the issuance of temporary driver licenses and permits.

(c) A Class M license shall not be required for the operation of an autocycle.

55-50-313 Motorcycle learner's permit for minors

Added 2023 NOT effective UNTIL 1/1/2024

Notwithstanding another law to the contrary, a minor who has been issued a motorcycle learner's permit and who has completed a certified motorcycle education course approved by the department may operate a motorcycle without limitations on the distance from the minor's home if the minor is accompanied by, and under the direct supervision of, a parent or legal guardian who is also operating a motorcycle and who holds a valid Class M license.

55-50-331 Conditional licenses

(a) Notwithstanding this chapter to the contrary, the department has oversight of the issuance, examination and renewal of all driver licenses provided for in this chapter. The department is authorized to contract for the provision of any service related to the issuance, examination and renewal of driver licenses subject to applicable contracting statutes and regulations. The commissioner has the discretion to solicit outside consulting services in order to accomplish on a competitive basis the design and application of the system and implementation of this system. Any entity so contracting with the department is authorized to charge an additional fee of four dollars ($4.00), which shall be retained by the entity for administrative costs.

(b)(1) The department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver license indicating the type or general class of vehicles the licensee may drive, which license shall bear thereon a distinguishing number assigned to the licensee, the full legal name, date of birth, current residence address including the street address and number or route and box number (or post office box number if the applicant has no bona fide residential street address), a brief description, a visible full face photograph of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensee's usual signature with pen and ink. No license shall be valid until it has been so signed by the licensee.

(2) The department shall not issue a driver license that displays an applicant's social security number unless the applicant specifically requests in writing that the number be displayed on the license.

(3) The date of birth information on a driver license issued by the department must be plainly visible and the font size must be the same size as that of the driver license number.

(4)(A) Any person who can provide proof that the person was a victim of identity theft, under §39-14-150, may apply for the issuance of a new driver license with a new distinguishing number. The department shall issue the new driver license to the applicant and may charge a duplicate license fee, pursuant to §55-50-323(a)(2)(I), to cover the cost of issuance.

(B) The proof required by subdivision (b)(4)(A) may be satisfied by presentation of a law enforcement report that lists the applicant as a victim of identity theft, under §39-14-150.

(c) The license shall also display the issuance and expiration dates during which time the license is valid, and shall note whether the license is a duplicate of an original license.

(d) The department, upon issuing a license, shall have authority to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special, mechanical control devices required on a motor vehicle that the licensee may operate or other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(e) The department may either issue a special conditional license or may set forth the conditions upon the usual license form.

(f) It is a Class A misdemeanor for any person to operate a motor vehicle in any manner in violation of the conditions imposed by a conditional license issued to the person.

(g) Notwithstanding any other law to the contrary, the department may issue a temporary driver license, temporary intermediate driver license, temporary photo identification license or a temporary learner permit to persons whose presence in the United States has been authorized by the federal government for a specific purpose and for a specified period of authorized stay. The temporary driver license or photo identification license shall be valid only during the period of time of the applicant's authorized stay in the United States; provided, however, that no temporary license or photo identification license shall be issued for a period of longer than eight (8) years.

(h) Any applicant applying for a temporary driver license, temporary intermediate driver license, temporary photo identification license or temporary learner permit, upon initial issuance, renewal or reinstatement, shall meet the requirements of this chapter and any rules and regulations promulgated by the department.
(i) Any nonphoto bearing driver license issued under §§55-50-323 and 55-50-335, and any nonexpiring photo identification license issued under §§55-50-323 and 55-50-336, shall be issued in compliance with the federal regulations of 6 CFR part 37 for non-REAL ID compliant licenses.

55-50-333 Change of address on license

Whenever any person after applying for or receiving a license moves from the address named in the application or license, or when the name of a licensee is changed for any reason, the person shall within ten (10) days thereafter notify the department of the change or changes.

55-50-351 Failure to display license

Amended 2023

[Note: The 2023 amendment to this section will change all instances of "motor-driven cycle" ***to*** "motorscooter." ***This change is NOT effective UNTIL 7/1/2024.]***

(a) Every licensee shall have the licensee's license in immediate possession at all times when operating a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, county or municipality, except that where the licensee has previously deposited the license with the officer or court demanding bail, and has received a receipt from the officer or the court, the receipt is to serve as a substitute for the license until the specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the license for deposit. Any peace officer, field deputy, or inspector of the department, or any other law enforcement officer of this state or municipality thereof, has the right to demand the exhibition of the license of any operator of a motor-driven cycle as described in §55-8-101, and effect the arrest of any person so found to be in violation of this section.
(b) A violation of this section is a Class C misdemeanor.

55-50-401 CDL–Multiple driver licenses

No person who operates a commercial motor vehicle shall have more than one (1) driver license.

55-50-402 CDL–Notification required by employee

(a) Notification of Violations:
(1) To State. Any operator of a commercial motor vehicle holding a driver license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control, in this or any other state, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction; and
(2) To Employers. Any operator of a commercial motor vehicle holding a driver license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify the operator's employer in writing of the conviction within thirty (30) days of the date of conviction.
(b) Notification of Suspensions, Revocations and Cancellations. Each employee whose driver license is suspended, revoked, or cancelled by this state, who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify the operator's employer of that fact before the end of the business day following the day the employee received notice of that fact.
(c) Notification of Previous Employment.
(1) General Rule. Each person who applies for employment as an operator of a commercial motor vehicle, with an employer, shall provide notification to the employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.
(2) Period of Previous Employment. The period of previous employment of which notification must be given under subdivision (c)(1) shall be the ten-year period ending on the date of application for employment, or the greater period which may be established by regulation by the secretary of transportation.

55-50-403 CDL–Employer responsibilities

No employer shall knowingly allow, permit, or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(1) In which the employee has a driver license suspended, revoked, or cancelled by a state, has lost the privilege to operate a commercial motor vehicle in a state, or has been disqualified from operating a commercial motor vehicle;

(2) In which the employee has more than one (1) driver license. Each employer shall require the information specified in §55-50-402(c) to be provided by the applicant;

(3) In which the driver, or the CMV the employee is driving, or the motor carrier operation, is subject to an out-of-service order; or

(4) In violation of a federal, state or local law or regulation pertaining to railroad-highway grade crossings.

55-50-404 Commercial driver license required

Amended 2023

(a) Except when operating under an instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being operated, no person may operate a commercial motor vehicle unless the person has been issued, and is in immediate possession of, a valid commercial driver license.

(b) No person may be issued a commercial driver license before passing a written and driving test for the operation of a commercial motor vehicle that complies with the minimum federal standards in 49 C.F.R. part 383, and has satisfied all other federal requirements, as well as any other requirements imposed by state law. The tests shall be prescribed and conducted by the department.

(c) A commercial driver license may be issued only to a person who operates or will operate commercial motor vehicles and who is domiciled in this state; provided, that a commercial driver certificate may be issued to a person who operates or will operate a commercial motor vehicle and is not domiciled in a state that issues a commercial driver license in accordance with 49 C.F.R. part 383.

(d) A commercial driver license may not be issued to a person during a period in which the person is disqualified from operating a commercial motor vehicle, or while the person's driver license is suspended, revoked or cancelled in any state; nor may a commercial driver license be issued to a person unless the person first surrenders all previously issued driver licenses, either commercial or noncommercial, issued by any state. The department shall electronically notify the state of issuance that the license has been turned into the department and should be cancelled.

[Note: The following subsection (e), and its dependent subparagraphs, is NOT effective UNTIL 1/1/2024.]

(e)(1) The department shall waive the knowledge test required by subsection (b) to obtain a temporary commercial learner's permit upon application for a permit by an applicant who certifies on the application, and submits supporting documentation as required in subdivision (e)(3), that the applicant:

(A) Is or was regularly employed and designated as one (1) of the following positions or military occupational specialties during the one-year period immediately preceding the date of application:

(i) A motor transport operator - 88M (Army);

(ii) A PATRIOT launching station operator - 14T (Army);

(iii) A fueler - 92F (Army);

(iv) A vehicle operator - 2T1 (Air Force);

(v) A fueler - 2F0 (Air Force);

(vi) A pavement and construction equipment operator - 3E2 (Air Force);

(vii) A motor vehicle operator - 3531 (Marine Corps); or

(viii) An equipment operator - E.O. (Navy); and

(B) Was or is operating a commercial motor vehicle in the United States armed forces that is representative of the license class and endorsement for which the person is applying, for at least one (1) year immediately preceding separation or discharge from the armed forces, in the case of an honorably discharged member, or for at least one (1) year immediately preceding the date of application, in the case of an active duty service member or a member of the national guard or the armed forces reserves.

(2) The applicant shall also certify that during the one-year period immediately preceding the date of application, the applicant:

(A) Has not had more than one (1) driver license, except for a valid military commercial driver license;

(B) Has not had a driver license suspended, revoked, or canceled in this state or another state;

(C) Has not had any convictions while operating any type of motor vehicle for the disqualifying offenses contained in 49 CFR 383.51(b), and has not lost the privilege to operate a commercial motor vehicle, or been disqualified from operating a commercial motor vehicle, in this state or another state;

(D) Has not had more than one (1) conviction while operating any type of motor vehicle for serious traffic violations as defined in §55-50-102 or contained in 49 CFR 383.51(c);

(E) Has not had a conviction for a violation of any military or state law or local ordinance relating to motor vehicle traffic control in this or another state, other than a parking violation, arising in connection with a traffic accident; and

(F) Has no record of an accident in which the applicant was at fault.

(3) The application must be accompanied by the following documentation establishing the applicant's military occupational specialty and driving experience as indicated in subdivision (e)(1):

(A) Military orders or other documentation acceptable to the department establishing the applicant's military occupational specialty and current duty station assignment and a valid military identification card, if the applicant is an active duty service member or a member of the national guard or the armed forces reserves; or

(B) If the applicant is honorably discharged from military service, the applicant's certificate of release or discharge, including, but not limited to, a department of defense form 214 (DD 214), that shows dates of service and that the applicant received an honorable discharge or release.

(4) An applicant who obtains the knowledge test waiver under this subsection (e) must successfully complete any applicable vision and skills tests, and pay the appropriate fees, other than the skills testing fee.

55-50-405 CDL offenses–Penalties

(a)(1) The commissioner shall suspend for at least one (1) year, a commercial motor vehicle operator who is found to have committed a first violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance, or with a blood alcohol concentration (BAC) of four-hundredths of one percent (0.04 %) or greater;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Operating a commercial motor vehicle in the commission of a felony, except a controlled substance felony as described in subdivision (a)(4).

(2) If the operator commits any of the violations while carrying hazardous materials, the suspension shall be for a period of three (3) years.

(3) The commissioner shall suspend for life, or a period not less than ten (10) years, according to department of transportation regulations, a commercial motor vehicle operator who is found to have committed a second violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol with a BAC of point zero four (0.04) or greater, or other controlled substance;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Using a commercial motor vehicle in the commission of a felony.

(4) The commissioner shall suspend for life, a commercial motor vehicle operator who is found to have used a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to distribute.

(5) The commissioner shall suspend for a period of not less than sixty (60) days each person who in a three-year period has committed two (2) serious traffic violations involving a commercial motor vehicle, and for not less than one hundred twenty (120) days each person who has committed three (3) serious traffic violations in a three-year period.

(6)(A) Any person violating subdivisions (a)(1), (2), and (3) shall, upon conviction, be punished pursuant to the requirements of §55-10-402 and §55-10-403, except for provision of license suspension, which shall be in accordance with this subsection (a).

(B) Any person violating subdivision (a)(4) shall, upon conviction, be fined not less than two thousand five hundred dollars ($2,500), and be imprisoned for not less than ninety (90) days nor more than one (1) year.

(7)(A) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for one hundred eighty (180) days if the driver is convicted of a first violation of an out-of-service order.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for two (2) years if, during any ten-year period, the driver is convicted of two (2) violations of out-of-service orders in separate incidents.

(C) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for three (3) years if, during any ten-year period, the driver is convicted of three (3) or more violations of out-of-service orders in separate incidents.

(8)(A) The commissioner shall suspend the driver license for a period of one hundred eighty (180) days if a driver is convicted of violating an out-of-service order while driving a commercial motor vehicle while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. §5101 et seq.), or while operating a motor vehicle designed to transport more than fifteen (15) passengers including the driver.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for a period of three (3) years if the driver is convicted of any subsequent violation of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act or while operating a commercial motor vehicle designed to transport more than fifteen (15) passengers, including the driver.

(9) The commissioner shall suspend the driver license of a commercial motor vehicle operator who is convicted of violating a railroad highway grade crossing law or regulation while operating a commercial motor vehicle, for not less than sixty (60) days for a first conviction; not less than one hundred twenty (120) days for a second conviction, if the violation occurred within a three year period from the first violation; and one (1) year for a third conviction, if the violation occurred within three (3) years from the first violation, for the following offenses:

(A) For drivers who are not required to always stop pursuant to §55-8-147, failing to slow down and check the railroad highway grade crossing to be sure it is clear of an approaching train;

(B) For drivers who are not required to always stop pursuant to §55-8-147, failing to stop before reaching the railroad highway grade crossing if the tracks are not clear;

(C) A conviction of §55-8-147;

(D) Failure to have sufficient space to drive completely through the railroad highway grade crossing without stopping;

(E) Failure to obey a traffic control device or the directions of an enforcement official at the railroad highway grade crossing; or

(F) Failure to negotiate a railroad highway grade crossing because of insufficient undercarriage clearance.

(10)(A) A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) for a first conviction and not less than five thousand dollars ($5,000) for a second or subsequent conviction, in addition to any disqualification or other penalty which may be imposed by state or federal law.

(B) The civil penalty shall be assessed by the department after receiving notification of the conviction.

(C) Funds received pursuant to this section shall become expendable receipts of the department.

(b) Any person violating §55-50-401 shall, upon conviction, be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), and be imprisoned for not less than ten (10) days nor more than ninety (90) days.

(c) Any person violating §55-50-402 shall, upon conviction, be fined not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500), and imprisoned for not less than two (2) days nor more than thirty (30) days.
(d) Any person violating §55-50-403 shall, upon conviction, be fined not more than five hundred dollars ($500) and also be subject to civil penalties pursuant to 49 CFR 383.53(b)(2).
(e) Any person violating §55-50-404 shall, upon conviction of a first offense, be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), and be imprisoned for not less than thirty (30) days nor more than ninety (90) days; and upon conviction of a second or subsequent offense, be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) and be imprisoned for not less than ninety (90) days nor more than one (1) year.
(f) Notwithstanding any other provision in this title, the privilege of operating a commercial motor vehicle shall be subject to 49 CFR Parts 383 and 384 relative to the disqualification of drivers.
(g) Any person charged with driving a commercial motor vehicle without a commercial driver license in the driver's possession, may, on or before the court date, submit evidence of compliance at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge shall be dismissed without cost to the defendant and no litigation tax shall be due or collected, notwithstanding any provision of law to the contrary.
(h) Pursuant to 49 CFR § 350.341, no provision of law relative to commercial driver licenses, including, but not limited to, physical qualification standards and records to be kept by drivers, shall be applicable to drivers of motor vehicles that have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds (26,000 lbs.) or less that are operated in intrastate commerce to transport property, and that do not transport:
(1) Hazardous materials required to be placarded;
(2) Sixteen (16) or more persons, including the driver; or
(3) Passengers for hire.
(i)(1) The commissioner shall suspend for life, a commercial motor vehicle operator who has been convicted of a human trafficking offense, as defined in § 39-13-314, or an equivalent offense in another jurisdiction.
(2) A person who has been convicted of a human trafficking offense, as defined in § 39-13-314, or an equivalent offense in another jurisdiction, is disqualified from obtaining a commercial driver license.

55-50-408 CDL–Driving under the influence

For purposes of this chapter and §55-10-401, any person who drives, operates or exercises physical control of a commercial motor vehicle with a blood alcohol concentration of four-hundredths of one percent (0.04%) or more commits the offense of driving while under the influence of alcohol, in violation of §55-50-405.

55-50-412 CDL–Approaching railroad crossing

(a) It is unlawful for the operator of a commercial motor vehicle to fail to:
(1) Slow down and check that the railroad highway grade crossing is clear of an approaching train, if the driver is not required by §55-8-147 to always stop at the crossing;
(2) Stop before reaching the railroad highway grade crossing, if the tracks are not clear, if the driver is not required to always stop, pursuant to §55-8-147;
(3) Have sufficient space to drive completely through the railroad highway grade crossing without stopping; or
(4) Negotiate a railroad highway grade crossing because of insufficient undercarriage clearance.
(b) A violation of this section is a Class C misdemeanor, punishable by a fine only.

55-50-413 CDL–Medical card

(a)(1) Beginning January 1, 2011, all persons holding valid commercial driver licenses issued by this state shall be required to maintain a valid medical card and provide the department a copy of each medical card issued, or provide evidence of an exemption from the medical card requirements.
(2) Persons who apply for a commercial driver license on or after January 1, 2012, will be required to provide the department with a copy of their current medical card or provide evidence of an exemption from the medical card requirements prior to issuance of a commercial driver license.
(b) The copies shall be provided in a manner prescribed by the department.

(c) A commercial driver who fails to maintain current proof of the driver's medical card with the department shall be subject to cancellation of the driver's commercial driver license.

(d) This section shall not apply to a person holding a commercial driver license to perform transportation services as an employee of the federal government, a state, a political subdivision of a state, or an agency established under a compact between states that has been approved by the congress of the United States; provided, however, that the exemption created by this subsection (d) shall not apply to a passenger, school bus or hazardous material endorsement.

55-50-414 Farm-related service industry employee restricted CDL

(a) The commissioner may issue a farm-related service industry employee restricted commercial driver license to a person who:

(1) Is an employee of:

(A) An agri-chemical business;

(B) A custom harvester;

(C) A farm retail outlet or supplier; or

(D) A livestock feeder;

(2) Satisfies all of the requirements for issuance of a commercial driver license under this chapter other than the written and driving test requirement in § 55-50-404(b);

(3) Holds a valid driver license;

(4) Has at least one (1) year of driving experience as a licensed driver; and

(5) Has a good driving history, as defined in subsection (b), for:

(A) The person's entire driving history, if the person only has between one (1) and two (2) years of driving experience as a licensed driver; or

(B) The two (2) most recent years of the person's driving history, if the person has more than two (2) years of driving experience as a licensed driver.

(b) For purposes of subdivision (a)(5), a person has a good driving history, if the person has not:

(1) Had more than one (1) driver license;

(2) Had any driver license suspended, revoked, or cancelled;

(3) Been convicted of any offense or serious traffic violation that is a disqualifying offense or violation under § 55-50-405(f);

(4) Been convicted of any law or ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; or

(5) Been at fault in a motor vehicle accident.

(c) A farm-related service industry employee restricted commercial driver license entitles the licensee to operate commercial motor vehicles other than Class A vehicles.

(d) A farm-related service industry employee restricted commercial driver license authorizes operation of a commercial motor vehicle only during the seasonal period or periods prescribed by the commissioner and stated on the license; provided, that the total number of calendar days in any twelve-month period for which the farm-related service industry employee restricted commercial driver license authorizes operation of a commercial motor vehicle must not exceed one hundred eighty (180) days. A farm-related service industry employee restricted commercial driver license is valid for operation of a commercial motor vehicle during the seasonal period or periods for which it has been validated and must be revalidated annually by the department for each successive seasonal period or periods for which commercial vehicle operation is sought. A farm-related service industry employee restricted commercial driver license authorizes operation of non-commercial motor vehicles at any time, unless it has been suspended, revoked, or cancelled, or has expired.

(e) A farm-related service industry employee restricted commercial driver license does not authorize operation of a commercial motor vehicle during any period when the licensee is not employed by an entity described in subdivision (a)(1), nor if when operation of the commercial motor vehicle is not directly related to the licensee's employment.

(f) A farm-related service industry employee restricted commercial driver license does not authorize the licensee to operate any vehicle transporting hazardous materials, except that a licensee may drive a vehicle transporting:
(1) Diesel fuel in quantities of one thousand gallons (1,000 gals.), or less;
(2) Liquid fertilizers in a vehicle or implement of husbandry with a total capacity of three thousand gallons (3,000 gals.) or less; or
(3) Solid fertilizers that are not transported with any organic substance.
(g) A farm-related service industry employee restricted commercial driver license authorizes the operation of a commercial motor vehicle only within one hundred fifty miles (150 mi.) of the place of business of the licensee's employer or the farm being served.
(h) A person may not be the holder of a farm-related service industry employee restricted commercial driver license and an unrestricted commercial driver license at the same time.

55-50-504 Driving while suspended or revoked

(a)(1) A person who drives a motor vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person's privilege to do so is cancelled, suspended, or revoked commits a Class B misdemeanor. A person who drives a motor vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person's privilege to do so is cancelled, suspended or revoked because of a conviction for vehicular assault under §39-13-106, vehicular homicide under §39-13-213, or driving while intoxicated under §55-10-401 shall be punished by confinement for not less than two (2) days nor more than six (6) months, and there may be imposed, in addition, a fine of not more than one thousand dollars ($1,000). Convictions occurring more than ten (10) years prior to the immediate violation shall not be considered for enhancement purposes under this subdivision (a)(1); provided, however, that the department shall abide by all federal rules and regulations relative to the issuance, suspension, and revocation of driver licenses and qualification of drivers.
(2) A second or subsequent violation of subdivision (a)(1) is a Class A misdemeanor. Convictions occurring more than ten (10) years prior to the immediate violation shall not be considered for enhancement purposes under this subdivision (a)(2); provided, however, that the department shall abide by all federal rules and regulations relative to the issuance, suspension, and revocation of driver licenses and qualification of drivers. A person who drives a motor vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person's privilege to do so is cancelled, suspended or revoked because of a second or subsequent conviction for vehicular assault under §39-13-106, vehicular homicide under §39-13-213, or driving while intoxicated under §55-10-401 shall be punished by confinement for not less than forty-five (45) days nor more than one (1) year, and, in addition, may be subject to a fine of not more than three thousand dollars ($3,000).
(b) No person shall cause or knowingly permit the person's child or ward under eighteen (18) years of age to drive a motor vehicle upon any highway when the minor is not authorized hereunder or in violation of any of the provisions of this chapter.
(c) No person shall authorize or knowingly permit a motor vehicle owned by the person or under the person's control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this chapter.
(d) No person shall employ as a chauffeur of a motor vehicle any person not then licensed as provided in this chapter.
(e) No person charged with violating this section for a violation of §39-13-213, §55-10-101, §55-10-102 or §55-10-401 shall be eligible for suspension of prosecution and dismissal of charges pursuant to §§40-15-

102--40-15-105 and 40-32-101(a)(3)-(c)(3) or for any other pretrial diversion program, nor shall any person convicted under this section for a violation of §39-13-213, §55-10-101, §55-10-102 or §55-10-401 be eligible for probation, or any other provision of law authorizing probation, until the person has fully served day for day at least the minimum sentence provided by law.

(f) If the court suspends the prosecution and dismisses the charges pursuant to §§40-15-102--40-15-105, and 40-32-101(a)(3)-(c)(3) or for any other pretrial diversion program, the court shall forward to the department a record of the dismissal or diversion action. The person will then be required to meet the financial responsibility requirements pursuant to chapter 12 of this title prior to the reinstatement of any driving privileges.

(g)(1) The vehicle used in the commission of a person's violation of §55-50-504, when the original suspension or revocation was made for a violation of §55-10-401, or a statute in another state prohibiting driving under the influence of an intoxicant, is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2. The department is designated as the applicable agency, as defined by §40-33-202, for all forfeitures authorized by this subsection (g).

(2) For purposes of clarifying this subsection (g) and consistent with the overall remedial purpose of the asset forfeiture procedure, a vehicle is subject to seizure and forfeiture upon the arrest or citation of a person for driving while the person's driving privileges are cancelled, suspended or revoked. A conviction for the criminal offense of driving while the person's driving privileges are cancelled, suspended or revoked is not required.

(h) Notwithstanding any other law to the contrary, revocation or suspension of a license shall not take effect until ten (10) days after notice has been sent to the last known address of the driver. The notice requirement in this subsection (h) shall not apply to a driver whose license has been revoked or suspended by a court of competent jurisdiction or who has surrendered the license to the court.

(i)(1) Notwithstanding any other rule of evidence or law to the contrary, in the prosecution of second or subsequent offenders under this section the official driver record maintained by the department of safety and produced upon a certified computer printout shall constitute prima facie evidence of the prior conviction.

(2) Following indictment by a grand jury, the defendant shall be given a copy of the department of safety printout at the time of arraignment. If the charge is by warrant, the defendant is entitled to a copy of the department of safety printout at the defendant's first appearance in court or at least fourteen (14) days prior to a trial on the merits.

(3) Upon motion properly made in writing alleging that one (1) or more prior convictions is in error and setting forth the error, the court may require that a certified copy of the judgment of conviction for the offense be provided for inspection by the court as to its validity prior to the department of safety printout's being introduced into evidence.

(j) Notwithstanding subdivision (a)(1), a person who drives a motor vehicle without a functioning ignition interlock device installed on such vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person was required by law to drive only a motor vehicle equipped with a functioning ignition interlock device commits a Class B misdemeanor and shall be punished by confinement for not less than seven (7) days nor more than six (6) months, and there may be imposed, in addition, a fine of not more than one thousand dollars ($1,000).

55-50-506 Driving while in possession of methamphetamine

(a)(1) A person who drives a motor vehicle within the entire width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex, apartment house complex or any other premises frequented by the public at large while in possession of five (5) or more grams of methamphetamine, as scheduled in §39-17-408(d)(2), commits a Class B misdemeanor and is subject to a fine only of not more than five hundred dollars ($500).

(2) A second or subsequent violation of subdivision (a)(1) is a Class A misdemeanor punishable by a fine only of not more than one thousand dollars ($1,000).

(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while in possession of five (5) or more grams of methamphetamine, as scheduled in §39-17-408(d)(2), the department shall revoke the person's license for five (5) years.

(c)(1) Notwithstanding any other rule of evidence or law to the contrary, in the prosecution of second or subsequent offenders under this section, the official driver record maintained by the department of safety and produced upon a certified computer printout shall constitute prima facie evidence of the prior conviction.

(2) Following indictment by a grand jury, the defendant shall be given a copy of the department of safety printout at the time of arraignment. If the charge is by warrant, the defendant is entitled to a copy of the department of safety printout at the defendant's first appearance in court or at least fourteen (14) days prior to a trial on the merits.

(3) Upon motion properly made in writing alleging that one (1) or more prior convictions is in error and setting forth the error, the court may require that a certified copy of the judgment of conviction for the offense be provided for inspection by the court as to its validity prior to the department of safety printout being introduced into evidence.

(d)(1) The vehicle used in the commission of a person's violation of this section is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2. The department of safety is designated as the applicable agency, as defined by §40-33-202, for all forfeitures authorized by this subsection (d).

(2) In order for subdivision (d)(1) to be applicable to a vehicle, the violation making the vehicle subject to seizure and forfeiture must occur in Tennessee.

(3) It is the specific intent that a forfeiture action under this section shall serve a remedial and not a punitive purpose. The purpose of the forfeiture of a vehicle after a person's conviction of driving a vehicle while in possession of five (5) or more grams of methamphetamine, as scheduled in §39-17-408(d)(2), is to prevent unscrupulous or incompetent persons from driving on Tennessee's highways while transporting drugs. There is a reasonable connection between the remedial purpose of this section, ensuring safe roads and lessening the pernicious influence of methamphetamine upon Tennessee's families, and the forfeiture of a motor vehicle. While this section may serve as a deterrent to the conduct of driving a motor vehicle while transporting drugs, it is nonetheless intended as a remedial measure. Moreover, the statute serves to remove a dangerous instrument from the hands of individuals who use a motor vehicle for the transportation of drugs.

(4) Only POST-certified or state-commissioned law enforcement officers shall be authorized to seize vehicles under this section.

55-50-601 Driver's license offenses

It is a Class C misdemeanor for any person to:

(1) Display or cause or permit to be displayed, or have in the person's possession, any cancelled, revoked, suspended, or fraudulently altered driver license, certificate of driving or other government-issued photo identification document;

(2) Lend a driver license, certificate of driving or other government-issued photo identification document to any other person or knowingly permit the use thereof by another;

(3) Display or represent as one's own any driver license, certificate of driving or other government-issued photo identification document not issued to the person;

(4) Fail or refuse to surrender to the department upon its lawful demand any driver license, certificate of driving or other government-issued photo identification document that has been suspended, revoked, or cancelled;

(5) Permit or commit any unlawful use of a driver license, certificate of driving or other government-issued photo identification document issued to the person;

(6) Do any act forbidden or fail to perform any act required by this chapter, notwithstanding any contrary law; or

(7) Display or have in possession any photograph, photostat, duplicate, reproduction or facsimile of any driver license, certificate of driving or other government-issued photo identification document unless authorized by this chapter.

55-50-602 Reproductions or facsimile license

(a) It is an offense for any person to:

(1) Photograph, photostat, duplicate or in any way reproduce any driver license, certificate of driving or other government-issued photo identification document or facsimile thereof in such a manner that it could be mistaken for a valid license, certificate of driving or other government-issued photo identification document; or

(2) Issue, sell or cause to be sold a driver license, certificate of driving or other government-issued photo identification document or facsimile thereof unless sold in compliance with this chapter.

(b) A violation of subsection (a) for the first time is a Class A misdemeanor. A second or subsequent violation of subsection (a) is a Class E felony, with suspension of driving privileges for a period of not less than one (1) year nor more than five (5) years, or for a period of time commensurate with the sentence imposed. A violation of subsection (a) in connection with an act of terrorism, a planned act of terrorism, or an attempted act of terrorism, is a Class B felony, with a permanent and irrevocable suspension of driving privileges; provided, however, that the defendant knew or should have known at the time of the offense that the driver's license or facsimile would be used in that manner.

55-50-603 Chapter 55-50–Penalties

Any person violating any of the provisions of this chapter for which punishment has not been otherwise provided for in this chapter commits a Class B misdemeanor.

Chapter 52
Safety of Children

55-52-105 Child bicycle safety rules

With regard to any bicycle operated over any highway, street or sidewalk, it is unlawful:

(1) For any person under sixteen (16) years of age to operate or be a passenger on a bicycle unless at all times when so engaged the person wears a protective bicycle helmet of good fit fastened securely upon the head with the straps of the helmet;

(2) For any person to be a passenger on a bicycle unless, with respect to any person who weighs less than forty pounds (40 lbs.), or is less than forty inches (40") in height, the person can be and is properly seated in and adequately secured to a restraining seat;

(3) For any parent or legal guardian of a person under twelve (12) years of age to knowingly permit the person to operate or be a passenger on a bicycle in violation of subdivision (1) or (2); and

(4) To rent or lease any bicycle to or for the use of any person under sixteen (16) years of age unless:

(A) The person is in possession of a protective bicycle helmet of good fit at the time of the rental or lease; or

(B) The rental or lease includes a protective bicycle helmet of good fit, and the person intends to wear the helmet, as required by subdivision (1), at all times while operating or being a passenger on the bicycle.

55-52-106 Child bicycle safety–Penalties

(a) Except as provided in subsection (b), any adult person violating any requirements set forth in §55-52-105, commits a violation and shall be assessed a civil penalty of two dollars ($2.00) and court costs.

(b) Upon commission of the first offense within a twelve-month period under §55-52-105(3), it shall be a defense that the accused has since the date of the violation purchased or provided a protective bicycle helmet or a restraining seat, and uses and intends to use or causes to be used or intends to cause to be used the same as the law requires.

(c) In no event shall failure to wear a protective bicycle helmet or to secure a passenger to a restraining seat be admissible as evidence in a trial of any civil action.

(d) A law enforcement officer observing any violation of this part shall issue a warning to the violator for the first offense and a citation to the violator for the second or subsequent offense, but shall not arrest or take into custody any person solely for a violation of this part.

55-52-201 ATV operation by minors–Definitions

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

(1)(A) "Appropriate helmet" means, except as provided in subdivisions (a)(1)(A)-(C), a helmet that meets federal motor vehicle safety standards as specified in 49 CFR 571.218;

(B) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one half inches (1 ½") in diameter;

(C) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(D) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that the helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CPSC), the Southern Impact Research Center (SIRC), or the Snell Foundation;

(2) "Off-highway motor vehicle" means a vehicle as defined in §55-3-101(c)(2); and

(3) "Relative" means a person or persons in the lineal line of consanguinity to a property owner, a spouse, or person or persons in the lineal line of consanguinity of a spouse, and includes an individual in an adoptive relationship to a property owner or the spouse of the property owner.

(b)(1) Except as provided in subdivisions (b)(2) and (3), it is an offense for any parent or legal guardian of a person under eighteen (18) years of age to permit that person to operate or be a passenger on an off-highway motor vehicle, unless the person is wearing an appropriate helmet for off-highway vehicles. A parent or legal guardian commits an offense under circumstances indicating that the parent or legal guardian of the person under eighteen (18) years of age knew or should have known that the child is or would be operating, or is or would be a passenger on an off-highway motor vehicle.

(2) Subdivision (b)(1) does not apply to a parent or legal guardian of a person under eighteen (18) years of age if the off-highway motor vehicle is being operated by a person under eighteen (18) years of age, or the person is a passenger on an off-highway motor vehicle, on the private property of the parent or legal guardian, or the private property of a relative.

(3) Subdivision (b)(1) does not apply to a parent or legal guardian of a person under eighteen (18) years of age if the off-highway motor vehicle is being operated by a person under eighteen (18) years of age who is commuting for the purpose of hunting and is in possession of a valid hunting license.

55-52-202 Operation of off-highway motor vehicles by minor

(a) Except as provided in subsection (b), a violation of this section is a Class C misdemeanor, subject only to imposition of a fine, not to exceed fifty dollars ($50.00) and court costs, not to exceed ten dollars ($10.00), including, but not limited to, any statutory fees of officers. No state or local litigation taxes shall be applicable to a case prosecuted under this section.

(b)(1) Upon commission of the first offense, it shall be a defense that the accused has since the date of the commission of the offense purchased or provided an appropriate helmet for the person under eighteen (18) years of age to wear while the person is operating or is a passenger on an off-highway motor vehicle and the parent or legal guardian intends to have the person use, or causes the person to use, or intends to cause the person to use the helmet as the law requires.

(2) On or before the court date indicated on the citation issued pursuant to subsection (d), if the parent or legal guardian presents the information contained in subdivision (b)(1) to the court and if the court is satisfied that the parent or legal guardian is serious about complying with the law, the charge against the parent or legal guardian may be dismissed. No court costs shall be assessed against a parent or legal guardian if the charge is dismissed pursuant to this subsection (b).

(c) In no event shall failure to wear an appropriate helmet for off-highway vehicles be admissible as evidence in a trial of any civil action.

(d)(1) If a law enforcement officer observes a person under eighteen (18) years of age operating or being a passenger on an off-highway motor vehicle where no person eighteen (18) years of age or older is either the operator or passenger, the law enforcement officer shall obtain the name and address of the parent or legal

guardian of the person from the operator of the off-highway motor vehicle for the purpose of issuing and mailing a citation in lieu of arrest pursuant to §55-10-207 to the parent or legal guardian. It is a violation of §39-16-502 for the person to knowingly give false information to the law enforcement officer.

(2) If a law enforcement officer observes a person under eighteen (18) years of age as a passenger on an off-highway motor vehicle where the operator is eighteen (18) years of age or older, the law enforcement officer shall issue a citation in lieu of arrest pursuant to §55-10-207 to the operator if the operator is the parent or legal guardian of the passenger. If the operator is not the parent or legal guardian, the law enforcement officer shall obtain the name and address of the parent from the operator for the purpose of issuing and mailing a citation in lieu of arrest pursuant to §55-10-207 to the parent or legal guardian. It is a violation of §39-16-502 for the person to knowingly give false information to the law enforcement officer.

(e) Any incorporated municipality may enact an ordinance that mirrors, substantially duplicates, or incorporates by cross-reference the language of §55-52-201 and this section.

Chapter 53
Electronic Personal Assistive Mobility Devices

55-53-101 Electric personal assistive mobility device–Defined

As used in this chapter, "electric personal assistive mobility device" or "EPAMD" means a self-balancing, two (2) non-tandem wheeled device, designed to transport only one (1) person, with an electric propulsion system with average power of seven hundred fifty (750) watts or one horse power (1 hp.), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds (170 lbs.), is less than twenty miles per hour (20 mph).

55-53-103 EPAMD equipment

An EPAMD shall be equipped with a system that when employed will enable the operator to bring the device to a controlled stop and, if the EPAMD is operated between one half (1/2) hour after sunset and one half (1/2) hour before sunrise, front, rear and side reflectors and a lamp emitting a white light that, while the EPAMD is in motion, illuminates the area in front of the operator and is visible from a distance of three hundred feet (300') in front of and from the sides of the EPAMD; provided, however, that the provisions of this section requiring the use of reflectors and a lamp during the period between one half (1/2) hour after sunset and one half (1/2) hour before sunrise shall be deemed to be satisfied if the operator of the EPAMD wears a personal headlight and reflectors.

55-53-104 EPAMD operation on highways

(a) Nothing in this chapter or in any other law of this state shall be construed to limit the operation of an EPAMD on the public highways, sidewalks, bike trails and bicycle routes of this state except as otherwise set forth in this chapter.

(b) A person operating an EPAMD shall obey all speed limits for motor vehicles and shall yield the right-of-way to pedestrians and human powered devices at all times.

(c) Notwithstanding any other provision of this chapter to the contrary, the department of transportation shall have the authority to regulate or prohibit the operation of EPAMDs on any highway within its jurisdiction if it determines that the regulation or prohibition is necessary in the interest of public safety.

Title 57
Intoxicating Liquors

Chapter 4
Consumption of Alcoholic Beverages on Premises

57-4-203 Alcohol offenses

(a) Exterior Signs.

(1) No licensee shall place any sign of any description on the exterior of the licensee's hotel, convention center, premier type tourist resort, restaurant, or club which is not in compliance with all duly adopted local ordinances relative to such exterior signs.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b) Sales to Minors Prohibited.

(1)(A) Any licensee or other person who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under twenty-one (21) years of age commits a Class A misdemeanor and shall be punished in accordance with §39-15-404, as well as any other applicable section.

(B) Any licensee engaging in business regulated hereunder or any employee thereof who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given any beer or malt beverage as defined in §57-6-102 to any person under twenty-one (21) years of age is guilty of a Class A misdemeanor.

(C) The commission may, upon finding that a licensee has violated subdivision (b)(1)(A) or (b)(1)(B) two (2) or more times during any two-year period, and for good cause shown, fine the licensee not more than ten thousand dollars ($10,000) and require retraining of all employees of the licensee under the supervision of the commission in lieu of suspending or revoking the license of the licensee.

(2) Any person under the age of twenty-one (21) years who:

(A) Purchases, attempts to purchase, receives, or has in such person's possession in any public place, any alcoholic beverage, commits a Class A misdemeanor; or

(B) Knowingly makes a false statement or exhibits false identification to the effect that the licensee is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same commits a Class A misdemeanor.

(i) If a person violating this subdivision (b)(2)(B) is less than eighteen (18) years of age, such person shall be punished by a fine of fifty dollars ($50.00) or not less than twenty (20) hours of community service work, which fine or penalty shall not be suspended or waived. The fine imposed by this subdivision (b)(2)(B)(i) shall apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(ii) If the person violating this subdivision (b)(2)(B) is eighteen (18) years of age or older but less than twenty-one (21) years of age, such person shall be punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or by imprisonment in the local jail or workhouse for not less than five (5) days nor more than thirty (30) days. The penalties imposed by this subdivision (b)(2)(B)(ii) apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(C)(i) In addition to any criminal penalty established by this section, a court in which a person younger than twenty-one (21) years of age is convicted of the purchase, attempt to purchase or possession of alcoholic beverages, or the making of a false statement or exhibition of false identification for the purpose of purchasing or obtaining alcoholic beverages in violation of this section, shall prepare and send to the department of safety, driver control division, within five (5) working days of the conviction an order of denial of driving privileges for the offender.

(ii) The court and the department of safety shall follow the same procedures and utilize the same sanctions and costs for an offender younger than twenty-one (21) years of age but eighteen (18) years of age or older as provided in title 55, chapter 10, part 7, for offenders younger than eighteen (18) years of age but thirteen (13) years of age or older.

(3) This chapter does not prohibit any person eighteen (18) years of age or older from selling, transporting, possessing or dispensing alcoholic beverages in the course of such person's employment.

(c) Other Prohibited Sales.

(1) It is unlawful for any licensee or other person to sell or furnish any alcoholic beverage to any person who is known to be insane or mentally defective, or to any person who is visibly intoxicated, or to any person who is known to habitually drink alcoholic beverages to excess, or to any person who is known to be an habitual user of narcotics or other habit-forming drugs.

(2) A violation of subdivision (c)(1) is a Class A misdemeanor.

(d) Hours of Sale.

(1) Except as provided in subdivision (d)(5), hotels, clubs, zoological institutions, public aquariums, museums, motels, convention centers, restaurants, community theaters, theater, historic interpretive centers, sports authority facilities, and urban park centers, licensed as provided herein to sell alcoholic beverages,

and/or malt beverages, and/or wine may not sell, or give away, alcoholic beverages and/or malt beverages and/or wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays, or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(2) Except as provided in subdivision (d)(5), hotels, motels and restaurants, licensed under §57-4-102(28)(B) may not sell or give away alcoholic beverages, and/or malt beverages and/or wine between the hours of one o'clock a.m. (1:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of one o'clock a.m. (1:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(3) Except as provided in subdivision (d)(5), establishments in a terminal building of a commercial air carrier airport and commercial airline travel clubs licensed as provided herein to sell alcoholic beverages, and/or malt beverages, and/or wine, may not sell, or give away, alcoholic beverages and/or malt beverages and/or wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock noon (12:00) on Sundays.

(4) Except as provided in subdivision (d)(5), licensees under §57-4-102(29) may not sell or give away alcoholic beverages and/or malt beverages and/or wine between the hours of five o'clock a.m. (5:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of five o'clock a.m. (5:00 a.m.) and twelve o'clock (12:00) noon on Sundays. Notwithstanding this subdivision (d)(4), a municipality in which a premise is located under § 57-4-102(29)(D) may, by the adoption of an ordinance by the municipality's governing body, reduce or prescribe the hours and days upon which alcoholic beverages, beer, and wine may be consumed upon such premises; provided, that the ordinance does not expand such hours and days beyond the limitations of this subdivision (d)(4).

(5) The commission is authorized to extend the hours of sale in the jurisdictions which have approved the sale of liquor by the drink by referendum; provided, however, that such extension of hours as well as §57-5-301(b)(5) shall apply to Sunday sales of beer within the area of the county outside a municipality which approves liquor by the drink by referendum unless the county legislative body by a two-thirds (⅔) vote sets the hours for Sunday sales of beer in accordance with §57-5-301(b)(1) to apply within such area. Upon petition by any licensee or group of licensees under this chapter, the commission may, after conducting a rule-making hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, adopt rules expanding the hours during which it is legal to sell or give away alcoholic beverages, malt beverages and wine, pursuant to this chapter. The commission is hereby directed to consider such factors as the hours of sales in contiguous states and the need to compete with jurisdictions elsewhere in the country for convention and tourism business. The governing body of any municipality or metropolitan government which has approved liquor by the drink by referendum may, at any time, opt out of any extension of hours adopted under this section by passage of a resolution. Further, any municipality or metropolitan government that has opted out may, at a later date, opt in by passage of a resolution.

(6) Except as provided in subdivision (d)(5), licensees under §57-4-102(31)(J) and (K) shall not sell or give away alcoholic beverages, malt beverages, or wine between the hours of three o'clock a.m. (3:00 a.m.) and four o'clock a.m. (4:00 a.m.).

(e) Restrictions on Sealed or Unsealed Packages, or Gifts.

(1) No licensee hereunder shall sell any wine or other alcoholic beverage in any sealed or unsealed package to any patrons or customers for consumption off its premises. Notwithstanding the foregoing, a restaurant licensed under this chapter may permit a customer who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises to remove the partially filled package from the premises. In addition, a licensee holding a license issued pursuant to §§57-4-102(14) and (35) may sell and distribute alcoholic beverages and wine in unsealed containers to the occupant of a suite located within a sports authority facility or a convention center; provided, that such occupant is at least twenty-one (21) years of age, is authorized by the lessee of the suite to receive such alcoholic beverages and wine, and the alcoholic beverage or wine is not removed from the sports authority facility or convention center.

(2) A licensee shall not give away any such sealed package or any drink of wine or alcoholic beverage to any patron or customer; provided, that:

(A) A hotel licensed under this chapter may include as part of the accommodations to a registered guest the provision of up to four (4) seven hundred fifty milliliter (750 ml.) or smaller complimentary sealed packages of wine or alcoholic beverages for which all applicable taxes have been paid; and

(B) A licensee may serve a sample of wine to a patron or customer that does not exceed one ounce (1 oz.).

(3) The tax required by chapter 4, part 3 of this title shall be paid upon the normal sales price of any such packages of wines provided under this subsection (e).

(4) A restaurant or limited service restaurant may sell beer for consumption off premises upon meeting the requirements of §57-5-101(c)(1)(B).

(f) Method of Sale. Sales of wine and alcoholic beverages by licensees hereunder shall be conducted in the same manner as the sale of food is regularly conducted by such hotels, convention centers, premier type tourist resorts, restaurants, or clubs, except that no curb service of such beverages is lawful.

(g) Ownership of Alcoholic Beverages Sold.

(1) It is a Class C misdemeanor for any licensee hereunder to sell or serve on the licensee's premises any wine or other alcoholic beverage unless such beverage is owned outright by the licensee.

(2) It is unlawful for any person, firm or corporation to sell wine or other alcoholic beverage as authorized herein without complying with the applicable provisions of this chapter.

(3) This subsection (g) shall not apply to events held by special occasion licensees who receive donated alcoholic beverages or beer.

(h) Restrictions on Employment. No entity holding a license issued pursuant to §57-4-101 shall employ any person in the serving of beer, wine or other alcoholic beverages who does not possess a server permit from the commission. It is made the duty of the licensee to see that each person dispensing or serving alcoholic beverages, wine or beer in the licensee's establishment possesses such a permit, which permit must be on the person of such employee or on the premises of the licensed establishment and subject to inspection by the commission or its duly authorized agent when the employee is engaged in the performance of that employee's duties for the licensee.

(i) Premises Must Be Licensed--Exception for Conventions, Social Gatherings and Catered Events.

(1)(A) Except with respect to a caterer licensed under this chapter, it is unlawful for any person, firm, corporation, partnership, or association to allow the dispensing of alcoholic beverages except sacramental wines and beer, in any establishment unless such establishment is licensed under this title.

(B) A violation of subdivision (i)(1)(A) is a Class B misdemeanor.

(2) Bona fide conventions or meetings, however, may bring their own alcoholic beverages onto the licensed premises if the same beverages are served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. This section has no application to social gatherings in a private home or a private place which is not of a commercial nature or where goods or services may be purchased or sold or any charge or rent or other thing of value is exchanged for the use thereof, excepting it be for sleeping quarters. Nothing herein shall preclude the serving of alcoholic beverages to guests without cost in rooms or suites or banquet rooms of a hotel or club licensed pursuant to this chapter.

(3) A restaurant, hotel, or caterer holding a valid catering license may sell or distribute wine, beer, and other alcoholic beverages at social or commercial events, catered by the restaurant, hotel, or caterer where the restaurant, hotel, or caterer is providing food service at such event; provided, that the restaurant, hotel, or caterer shall notify the commission as to the time, location and duration of the catered event before the commencement of the event. Nothing in this subdivision (i)(3) or chapter shall be interpreted to require a person who holds a valid caterer license under this chapter to also be licensed as a restaurant or hotel.

(j) Penalties Invoked.

(1) Any person, firm or corporation who violates any provision of parts 1 and 2 of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000); and, in the discretion of the court, imprisoned not less than thirty (30) days, nor more than six (6) months, and each violation constitutes a separate offense.

(2) Any person, firm or corporation who shall sell wine or other alcoholic beverages for consumption on its premises except as authorized by parts 1 and 2 of this chapter is guilty of a misdemeanor and punishable as provided in this section.

(3) Upon conviction of a second offense under this chapter, the permit of any licensee so convicted shall be automatically and permanently revoked.

(4) Upon the second conviction of any person, firm, or corporation for violation of subdivision (b)(1), such person, firm, or corporation is guilty of a Class E felony. In addition, upon the second such conviction, the permit of such licensee shall be automatically and permanently revoked regardless of any other punishment actually imposed.

(k)Purchases by Special Occasion Licensees.

(1) No charitable, nonprofit or political organization possessing a special occasion license shall purchase for sale or distribution under such license any alcoholic beverages from any source other than a licensee under §57-3-204. This subsection (k) shall not apply to homemade wine made in the Swiss tradition by a member or members of a special occasion permit holder issued a license pursuant to §57-4-102(34)(D). The member may supply the wine notwithstanding the limitations of §57-3-207(e).

(2) A charitable, nonprofit, or political organization, or any representative thereof, may accept donations of alcoholic beverages and beer from any licensee holding a license issued pursuant to §57-3-202, §57-3-203, §57-3-204, §57-3-207, §57-3-605 or §57-4-101; provided, that the charitable, nonprofit, or political organization serves or sells such alcoholic beverages and beer at an event conducted by the charitable, nonprofit, or political organization as a special occasion licensee.

(l) Commercial Airline Travel Clubs. A commercial airline travel club licensed under this chapter may provide complimentary drinks of wine and alcoholic beverages to its patrons, customers, and guests. Such commercial airline travel club must have a separate area, other than the gate and ticket areas, designated as a club area for use by its members. The tax required by part 3 of this chapter shall be paid upon the normal sales price of all such complimentary drinks of wine and alcoholic beverages provided under this subsection (l).

(m) Discounts. Nothing in this chapter shall prohibit a licensee from offering a discount in such manner as the licensee deems appropriate as long as the discount being offered is not below the cost paid by the licensee to purchase the alcoholic beverages from the retailer.

(n) Restrictions on Certain Limited Service Restaurant Licensees. Any establishment holding a license pursuant to §57-4-301(b)(1)(W)(iv) shall not permit alcoholic beverages to be sold on sidewalks, streets, or alleys.

(o) Extension of credit by wholesalers to retailers.

(1) No wholesaler licensed under §57-3-203 shall be permitted to extend credit of any retailer licensed under §57-4-101 unless pursuant to this subsection (o). All amounts due to any wholesaler from all sales to such retailers shall be due upon delivery of the product.

(2) Notwithstanding the limitations of subdivision (o)(1), wholesalers licensed under §57-3-203 may extend credit to a retailer licensed under §57-4-101 for a period not to exceed ten (10) days from the date of the delivery of the product; provided, the payment is effected by electronic funds transfer or escrow prepayment.

(3) It shall create a rebuttable presumption that a retailer licensed under §57-4-101 is not financially responsible under §57-3-104(c)(10) if the retailer fails to satisfy its obligations to any wholesaler in accordance with each wholesaler's credit terms twice within a twelve-month period. Upon being advised by any wholesaler licensed under §57-3-203 twice within a twelve-month period that a retailer has failed to comply with the applicable credit terms, the commission shall set a hearing as soon as practicable at its next available meeting to determine whether the retailer can rebut the presumption created by this subdivision (o)(3). Upon a finding that the retailer is not financially responsible under §57-3-104(c)(10), the commission may issue a fine, suspend or revoke the license, or make any other order it deems appropriate.

(4) Notwithstanding any law to the contrary, the commission is authorized to issue a citation in an amount not to exceed five hundred dollars ($500) per violation against any retailer licensed under §57-4-101 if,

upon investigation, the commission finds that the retailer has failed to satisfy its obligations to any wholesaler in accordance with each wholesaler's credit terms twice within a twelve-month period.

Chapter 5
Beer and Alcoholic Beverages Containing Less than Five Percent Alcohol

57-5-301 Sales of alcohol to minors or intoxicated person prohibited–Loitering by minors–Possession by minors unlawful

(a)(1) A permit holder engaging in the business regulated hereunder or any employee thereof shall not make or permit to be made any sales to minors or persons visibly intoxicated. Prior to making a sale of beer for off-premise consumption, the adult consumer must present to the permit holder, or any employee of the permit holder, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, that includes the photograph and birth date of the adult consumer attempting to make a beer purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of beer for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or any employee of the permit holder; however it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, as provided for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification. Responsible vendors shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by eleven inches (8 ½" x 11"), and contain the following language: STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER. Neither the person engaging in such business nor persons employed by that person shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude within the last ten (10) years.

(2) A violation of subdivision (a)(1) is a Class A misdemeanor.

(b)(1) No alcoholic beverage within the scope hereof shall be sold between twelve o'clock midnight (12:00) and six o'clock a.m. (6:00 a.m.). No such beverage shall be sold between twelve o'clock midnight (12:00) on Saturday and eleven fifty-nine o'clock p.m. (11:59 p.m.) on Sunday. No such beverage shall be consumed, or opened for consumption, on or about any premises licensed hereunder, in either bottle, glass, or other container, after twelve fifteen o'clock a.m. (12:15 a.m.). Any county by resolution of the governing body may extend the hours for the sale of beer; provided, however, that the hours for the sale of beer in "clubs" as defined in §57-4-102, shall conform to those hours for the sale of liquor by the drink as provided in chapter 4 of this title.

(2) A violation of subdivision (b)(1) is a Class C misdemeanor.

(3) This subsection (b) shall not affect the power of governing bodies of municipal corporations or of Class B counties by ordinance to fix the hours when such beverages may be sold within the incorporated limits of such respective municipalities or within the general services districts of Class B counties outside the limits of any smaller city as defined in §7-1-101. Municipal corporations may authorize the sale of such beverages in their respective corporate limits on Sundays or at such hours as may be prescribed by ordinance. Class B counties may authorize the sale of such beverages on Sundays in their respective general services districts outside their urban services districts and outside the limits of any smaller city or cities or in their respective urban services districts or in both or at such hours as may be prescribed by ordinance.

(4) The governing body of any county that has adopted liquor by the drink, as provided for in chapter 4 of this title, may fix the hours for the sale of beer within the county (that part of the county outside of incorporated municipalities). This subdivision (b)(4) shall not affect business establishments selling liquor by the drink and malt beverages as authorized by chapter 4 of this title.

(5)(A) In any county in which an incorporated municipality has authorized the sale of liquor by the drink, as provided for in chapter 4 of this title, the hours for the sale of beer as defined in §57-6-102, in that part

of the county outside of incorporated municipalities and in all of its municipalities which have authorized the sale of liquor by the drink, shall be the same as the hours authorized by the rules and regulations promulgated by the alcoholic beverage commission for establishments selling liquor by the drink; provided, however, that the county legislative body of any such county and the governing body of each municipality within the county which has authorized the sale of liquor by the drink shall have the authority to extend the hours for the sale of beer as defined in §57-6-102, within the territorial jurisdiction of each governing body. This subdivision (b)(5)(A) shall not apply to counties and municipalities that have legalized the sale of liquor by the drink by a county-wide referendum.

(B) In any jurisdiction that has elected Tennessee River resort district status pursuant to §67-6-103(a)(3)(F) and is considered a Tennessee River resort district for purposes of chapter 4, part 1 of this title, the hours for the sale of beer within the boundaries of any such resort district shall not be less than the hours authorized for establishments selling liquor or wine for on-premises consumption.

(c) It is unlawful for the management of any place where any beverage licensed hereunder is sold to allow any minor to loiter about such place of business, and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business.

(d)(1)(A) It is unlawful and punishable as provided in §57-5-303, for any minor to purchase or attempt to purchase any such beverage.

(B)(i) In addition to any criminal penalty established in this section, a court in which a person younger than twenty-one (21) years of age but eighteen (18) years of age or older is convicted of the purchase or attempt to purchase or possession of beer in violation of this section shall prepare and send to the department of safety, driver control division, within five (5) working days of the conviction an order of denial of driving privileges for the offender.

(ii) The court and the department of safety shall follow the same procedures and utilize the same sanctions and costs for an offender younger than twenty-one (21) years of age but eighteen (18) years of age or older as provided in title 55, chapter 10, part 7, for offenders younger than eighteen (18) years of age but thirteen (13) years of age or older.

(2) Any person who purchases any such beverage for or on behalf of a person under twenty-one (21) years of age commits a Class A misdemeanor and, in addition to the punishment authorized by §40-35-111, shall be punished pursuant to §39-15-404.

(3) Any person under twenty-one (21) years of age who knowingly makes a false statement or exhibits false identification to the effect that the person is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages licensed hereunder for the purpose of purchasing or obtaining the same is guilty of a misdemeanor. In addition to any criminal penalty established by this subdivision (d)(3), a court in which a person younger than twenty-one (21) years of age but eighteen (18) years of age or older is convicted under this subdivision (d)(3) of a second or subsequent offense shall prepare and send to the department of safety, driver control division, within five (5) working days of the conviction, an order of denial of driving privileges for the offender for a period not to exceed one (1) year. The offender may apply to the court for a restricted driver license. The judge shall order the issuance of a restricted motor vehicle operator's license, in accordance with §55-50-502. The court and the department shall follow the same procedures and utilize the same costs for a person younger than twenty-one (21) years of age but eighteen (18) years of age or older as provided in title 55, chapter 10, part 7, for offenders younger than eighteen (18) years of age but thirteen (13) years of age or older.

(A) If the person violating this subdivision (d)(3) is less than eighteen (18) years of age, the person shall be punished by a fine of not less than fifty ($50.00) nor more than two hundred fifty dollars ($250) and not less than twenty (20) hours of community service work, which fine or penalty shall not be suspended or waived. The fine imposed by this subdivision (d)(3)(A) shall apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(B) If the person violating this subdivision (d)(3) is eighteen (18) years of age or older but less than twenty-one (21) years of age, the person shall be punished by a fine of not less than fifty dollars ($50.00) nor more

than five hundred dollars ($500) or by imprisonment in the local jail or workhouse for not less than five (5) days nor more than thirty (30) days. The penalties imposed by this subdivision (d)(3)(B) shall apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(e)(1) It is unlawful for any person under twenty-one (21) years of age to have in the person's possession beer for any purpose, and it is unlawful for any such minor to transport beer for any purpose except the same be in the course of employment.

(2) A violation of subdivision (e)(1) is a Class A misdemeanor.

(3) Any person under twenty-one (21) years of age found to have violated subdivision (e)(1) shall, regardless of the final disposition of such violation, have the right to have the records, as defined in §40-32-101, of such violation destroyed after the passage of six (6) months from the date of the violation. Such destruction shall occur upon motion of the person to the court which heard the violation and shall be without cost to such person.

(f) Vendors shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by five and one-half inches (8 ½'' x 5 ½″), and shall contain the following language: IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER LICENSE.

57-5-303 Alcohol offenses–Penalties

(a) Any violation of this chapter or rule or regulation of the commissioner of revenue or the violations of any rule or regulation of a county legislative body, metropolitan council or city legislative body relative to the conducting of the beer or like beverage business as defined in §57-5-101 is a Class C misdemeanor where the penalty is not otherwise fixed.

(b) A violation of this section involving either unlawful possession or illegal transportation, or both, of over one hundred (100) cases of twenty-four (24) twelve ounce (12 oz.) cans of beer or other light alcoholic beverage, or the equivalent thereof with respect to quantity or the kinds of containers, is a Class E felony.

(c) Upon the second conviction of any person engaging in a business regulated under this chapter of making, or permitting to be made, any sale of alcoholic beverages, beer or wine to a person under twenty-one (21) years of age in violation of this chapter, such person is guilty of a Class E felony. In addition, upon the second such conviction, the permit or license of such person shall be automatically and permanently revoked regardless of any other punishment actually imposed.

(d) Each violation of this chapter shall constitute a separate and distinct offense.

Title 62
Professions, Businesses and Trades
Chapter 9
Scrap Metal Dealers

62-9-106 Sale or purchase of certain types of scrap metal

(a) Except as provided in subsection (b), it is an offense to knowingly sell or attempt to sell to a scrap metal dealer or for a scrap metal dealer to knowingly purchase or attempt to purchase the following types of scrap metal:

(1) Scrap metal marked with the initials of an electric, telephone, cable or other public utility or an electric or telephone cooperative;

(2) Utility access covers;

(3) Street light poles and fixtures;

(4) Road and bridge guard rails;

(5) Highway or street signs;

(6) Water meter covers;

(7) Traffic directional and control signs;

(8) Traffic light signals;

(9) Any scrap metal visibly marked or painted with the name of a government entity, business, company or the name of the owner of the metal;

(10) Property owned by a telephone, cable, electric, water or other utility, an electric or telephone cooperative or a railroad, and marked or otherwise identified as such; and

(11) Unused and undamaged historical markers or grave markers and vases.

(b) It is an exception to application of this section that the person attempting to sell the scrap metal provides reasonable, written documentation that the seller is the owner of the scrap metal or is an employee, agent or other person authorized to sell the scrap metal on behalf of the owner. The dealer shall make a photo copy of any documentation provided pursuant to this subsection (b) and retain the copy as part of the transaction record.

(c) In order for this section to apply to items of scrap metal covered by subdivision (a)(9), the scrap metal must be marked or painted in accordance with a uniform scrap metal marking system to be devised by the department as part of its rules and regulations. In devising the marking system, the department may consult with, or request recommendations from, other state or local government departments or private companies that currently mark property. The commissioner may also appoint a committee to develop the uniform scrap metal marking system. If so appointed, the committee shall consist of at least five (5) members but no more than seven (7) members with at least one (1) member selected from each of the following groups: the scrap metal industry, the Tennessee Association of Chiefs of Police, the Tennessee Sheriffs' Association, the Home Builders Association of Tennessee, and a member of the public who is not engaged in law enforcement, the scrap metal industry or the home building industry.

(d)(1)(A) Any person selling or attempting to sell metal to a scrap metal dealer in violation of this section shall be guilty of a Class A misdemeanor unless the value of the metal, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such metal, is in an aggregate amount which exceeds five hundred dollars ($500), in which case such person shall be guilty of a Class E felony and, upon conviction, shall be punished only by a fine of not more than five thousand dollars ($5,000).

(B) Any scrap metal dealer purchasing or attempting to purchase scrap metal in violation of this section shall be guilty of a Class A misdemeanor.

(2) Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for theft or any other applicable offense.

62-9-115 Sale or purchase of catalytic converters

(a) Any person engaged in the business of buying or selling unattached catalytic converters as a single item and not as part of a scrapped motor vehicle shall give written notification to the chief of police and sheriff of each city and county in which the activity is carried on.

(b) Any person purchasing a used, detached catalytic converter must be registered as a scrap metal dealer pursuant to § 62-9-102.

(c) This section does not apply to a used, detached catalytic converter that has been tested, certified, and labeled, or otherwise approved for reuse, and being bought or sold for purposes of reuse, in accordance with the federal Clean Air Act (42 U.S.C. §§7401 et seq.) and regulations under the Clean Air Act, as they may, from time to time, be amended.

(d) A scrap metal dealer shall not purchase or otherwise acquire a used, detached catalytic converter, or any nonferrous metal part of such converter unless:

(1) The used, detached catalytic converter is purchased at the fixed site of the scrap metal dealer in an in-person transaction; or

(2) The scrap metal dealer:

(A) Maintains a fixed site;

(B) Obtains, verifies, and maintains all identification and documentation required by §§62-9-103 and 62-9-104; and

(C) Obtains and maintains a copy of the seller's license or a copy of the documentation and vehicle registration.

(e) A used, detached catalytic converter or any part of such converter must not be shipped, unless the converter or part of such converter is being shipped between licensed entities.

(f) A scrap metal dealer shall note in the scrap metal dealer's records any obvious markings on the used, detached catalytic converter, including paint, labels, and engravings, that would aid in the identification of such catalytic converter.

(g) Only the following persons who provide notice pursuant to subsection (a) may possess or sell used, detached catalytic converters:

(1) A motor vehicle dismantler and recycler required to be licensed pursuant to §55-17-109;

(2) A scrap metal dealer registered pursuant to §62-9-102;

(3) A licensed motor vehicle dealer;

(4) A licensed mechanic or licensed automotive repair facility;

(5) Any other licensed business that may reasonably generate, possess, or sell used, detached catalytic converters; or

(6) An individual who possesses documentation indicating that the catalytic converter in the individual's possession is the result of a replacement of a catalytic converter from a vehicle registered in that individual's name.

(h)(1) A person commits an offense who possesses a used, detached catalytic converter that the person did not have authorization to possess under subsection (g). Such person is presumed to be in possession of contraband, subject to seizure by a member of a state or local law enforcement agency and subject to forfeiture in the same manner as is provided by law for the forfeiture of other contraband items.

(2) A violation of subdivision (h)(1) is a Class A misdemeanor, punishable only by fine. Each unlawfully obtained or possessed used, detached catalytic converter subjects the person to a separate charge for each violation. The seller of a used, detached catalytic converter that has been stolen is also liable to the victim for the repair and replacement of the catalytic converter as may be ordered by the court or as otherwise provided by law.

(i) Notwithstanding this section to the contrary, this section does not prohibit a motor vehicle dismantler and recycler that is properly licensed pursuant to §55-17-109, or a registered scrap metal dealer, from transporting and selling used, detached catalytic converters to a processor, smelter, or refiner, for the recovery of the contained metals or other components in the converters.

Title 71
Welfare
Chapter 6
Programs and Services for Abused Persons

71-6-123 Adult abuse, neglect, or exploitation; false reports

(a) It is an offense for a person to report to the department an accusation of abuse, sexual abuse, neglect or exploitation of an adult if, at the time of the report, the person knows or should know the accusation is false.

(b) It is an offense for a person to knowingly cause another to report to the department an accusation of abuse, sexual abuse, neglect or exploitation of an adult if, at the time of the conduct, the person knows or should know the accusation is false.

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

(d) Notwithstanding § 71-6-118 to the contrary:

(1) The department may report to the district attorney general or law enforcement authorities the identity of any person whom it reasonably believes has violated this section; and

(2) The information such person reported or caused to be reported may be disclosed and utilized in any manner necessary by the department, the district attorney general or law enforcement authorities as part of any investigation or prosecution of a violation of this section.

71-6-124 Adult abuse–Order of protection

(a)(1)(A) Any relative, conservator, or agent of the Tennessee commission on aging and disability; designated agency or assign of the relative, conservator, or commission; or attorney ad litem having personal knowledge that an adult has been the subject of a violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, or that such adult is threatened with or placed in fear of a violation of any of those sections, may seek relief for the adult pursuant to this section by filing a sworn petition with

any court having jurisdiction under this part alleging that the respondent has violated or threatens to violate § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, regardless of the existence of any other remedy at law.

(B) The petition must allege facts, based upon personal knowledge of the petitioner, that the adult either lacks the capacity to consent or that appearing in court to petition on the adult's own behalf would pose an undue burden on the adult.

(C) An elderly or vulnerable adult, who has been the subject of a violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, or has been threatened with or placed in fear of a violation of any of those sections, may seek relief pursuant to this section by filing a sworn petition with any court having jurisdiction under this part alleging that the respondent has violated or threatens to violate § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, regardless of the existence of any other remedy at law.

(D)(i) Notwithstanding subdivisions (a)(1)(A) and (C), and for good cause shown, the court may issue an ex parte order of protection pursuant to this section upon a sworn petition filed by a law enforcement officer responding to an incident involving an elderly or vulnerable adult victim who asserts in the petition reasonable grounds to believe that the adult is in immediate and present danger of abuse, neglect, financial exploitation, or sexual exploitation as defined in § 39-15-501, and that the adult either has consented to the filing or lacks the capacity to consent; provided, that the person on whose behalf the law enforcement officer seeks the ex parte order of protection is considered the petitioner for purposes of this section. The court may waive any court costs, taxes, or fees for obtaining an order of protection upon a finding that the individual for whose benefit an order of protection has been sought is indigent. If a third party seeking an order of protection represents to the court under oath that the individual for whose benefit the order of protection has been sought is indigent, the court will presume that the individual for whose benefit the order of protection has been sought is indigent absent clear and convincing evidence to the contrary.

(ii) The law enforcement officer may seek on behalf of the adult the ex parte order regardless of the time of day and regardless of whether an arrest has been made.

(iii) If an ex parte order is issued pursuant to this section outside of the court's normal operating hours, the law enforcement officer, judge, or judicial official shall cause the petition and order to be filed with the court as soon as practicable after issuance, but no later than two (2) business days after issuance; and

(iv) Law enforcement officers shall not be subject to civil liability under this section for failure to file a petition or for any statement made or act performed in filing the petition, if done in good faith.

(E) Venue for a petition for an order of protection, and all other matters relating to orders of protection, is in the county where the respondent resides or the county in which the violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512 occurred or is threatened to occur. If the respondent is not a resident of this state, the petition may be filed in the county where the adult resides.

(2)(A) Pursuant to subdivision (a)(1)(A), the court may enter an immediate ex parte order of protection against the respondent if the petition alleges upon personal knowledge of the petitioner, and the court finds in its ex parte order, that the adult lacks capacity to consent or that the adult lacks the ability to be present to petition on their own behalf and is in immediate danger of abuse, neglect, financial exploitation, or sexual exploitation.

(B) Pursuant to subdivision (a)(1)(C), the court may enter an immediate ex parte order of protection against the respondent if the court finds in its ex parte order that the elderly adult is in immediate danger of abuse, neglect, financial exploitation, or sexual exploitation.

(C) Pursuant to subdivision (a)(1)(D), the court may enter an immediate ex parte order of protection against the respondent if the court finds in its ex parte order that the elderly adult is in immediate and present danger of abuse, neglect, financial exploitation, or sexual exploitation, and that the adult has either consented to the filing or lacks the capacity to consent.

(3) The petition and any ex parte order issued pursuant to this section shall be personally served upon the respondent, and if filed pursuant to subdivision (a)(1)(A) or (a)(1)(D), upon the adult. If the respondent is not a resident of this state, the ex parte order must be served pursuant to §§ 20-2-215 and 20-2-216.

(4) The clerk of the court shall send written notice of the filing of the petition and copies of the petition and the ex parte order of protection against the respondent, if any, to the adult protective services unit of the department of human services in the county where the petition is filed. The department is not responsible for court costs, costs of representation, or costs for a guardian ad litem related to a petition for an ex parte order of protection, or any ex parte order of protection issued pursuant to this section. The department has a right to intervene in the proceeding, but is not otherwise required to initiate any legal action as a result of such notice. The department may, at any time, file a petition pursuant to § 71-6-107 if the department determines the adult who is the subject of a petition for an order of protection is in need of protective services.

(5)(A) Within fifteen (15) days of service of an ex parte order of protection against the respondent, a hearing must be held, at which time the court shall either dissolve any ex parte order that has been issued, or shall, if the petitioner has proven the allegations made pursuant to subdivision (a)(1)(A), (a)(1)(C), or (a)(1)(D), by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one (1) year, unless a further hearing on the continuation of such order is requested by the adult, the respondent, or the petitioner; in which case, on proper showing of cause, such order may be continued for a further definite period of one (1) year.

(B) Any ex parte order of protection shall be in effect until the time of the hearing and, if the hearing is held within fifteen (15) days of service of such order, the ex parte order continues in effect until the entry of any subsequent order of protection, proceedings under title 34, chapters 1-3, are concluded, or the order of protection is dissolved. If no ex parte order of protection has been issued as of the time of the hearing, and the petitioner has proven the allegations made pursuant to subdivision (a)(1)(A), (a)(1)(C), or (a)(1)(D) by a preponderance of the evidence, the court may, at that time, issue an order of protection for a definite period of time, not to exceed one (1) year.

(C) The court shall cause a copy of the petition and notice of the date set for the hearing on such petition, as well as a copy of any ex parte order of protection, to be served upon the respondent, and if filed pursuant to subdivision (a)(1)(A) or (a)(1)(D), upon the adult at least three (3) days prior to such hearing. Such notice shall advise the respondent and the adult that each may be represented by counsel. The court may appoint a guardian ad litem under § 34-1-107.

(D) Within the time the order of protection is in effect, any court with jurisdiction under this part may modify the order of protection, either upon the court's own motion or upon motion of the adult, the respondent, or the petitioner.

(b) An order of protection granted pursuant to this section may:

(1) Order the respondent to refrain from committing a violation of this part or title 39, chapter 15, part 5 against an adult;

(2) Order the respondent to refrain from threatening to misappropriate or further misappropriating any moneys, state or federal benefits, retirement funds, or any other personal or real property belonging to the adult;

(3) Order the return to the adult, the adult's caretaker, conservator, or other fiduciary any moneys, state or federal benefits, retirement funds, or any other personal or real property belonging to the adult obtained by the respondent as a result of exploitation of the adult or as a result of any other misappropriation of such funds or property of the adult by the respondent. The court may enter judgment against the respondent for the repayment or return to the adult or the adult's caretaker, conservator, or other fiduciary of any moneys, government benefits, retirement funds, or any other personal or real property belonging to the adult that are under the control of or that have been obtained by the respondent as a result of exploitation or misappropriation from the adult. This subdivision (b)(3) does not preclude an action under § 71-6-120. The court may, if the amount in question exceeds ten thousand dollars ($10,000), require any caretaker or custodian of funds appointed under this section to post a bond as required by § 34-1-105;

(4) Enjoin the respondent from providing care for an adult, or working in any situation involving the care of an adult, whether such action occurs in an institutional setting, in any type of group home or foster care arrangement serving adults, and regardless of whether such person, facility, or arrangement serving adults is licensed to provide care for adults;

(5) Prohibit the respondent from telephoning, contacting, or otherwise communicating with the adult, directly or indirectly; and

(6) Subject to the limitations otherwise stated in this section, grant any other relief deemed necessary by the court to protect an adult.

(c) All orders of protection shall be effective for a fixed period of time, not to exceed one (1) year. The court may modify its order at any time upon subsequent motion filed by any party together with an affidavit showing a change in circumstances sufficient to warrant the modification. The petitioner, respondent, adult, or the court on its own motion may commence a proceeding under title 34, chapters 1-3 to determine whether a fiduciary or conservator should be appointed, if any party alleges that the conditions giving rise to the order of protection continue or may continue beyond the one (1) year.

(d)(1) If the respondent and the adult have been served with a copy of the petition filed pursuant to subdivision (a)(1)(A) or (a)(1)(D) and notice of hearing, the order of protection is effective when the order is entered. For purposes of this subdivision (d)(1), an order is considered entered once a hearing is conducted and such order is signed by:

(A) The judge and all parties or counsel;

(B) The judge and one (1) party or counsel and the order contains a certificate of counsel that a copy of the proposed order has been served on all other parties or counsel; or

(C) The judge and the order contains a certificate of the clerk that a copy has been served on all other parties or counsel.

(2) Service upon a party or counsel must be made by delivering to such party or counsel a copy of the order of protection, or by the clerk mailing it to the party's last known address. In the event the party's last known address is unknown and cannot be ascertained upon diligent inquiry, the certificate of service must so state. Service by mail is complete upon mailing.

(3) If the respondent and the adult have been served with a copy of the petition filed pursuant to subdivision (a)(1)(A) or (a)(1)(D) and notice of hearing, an order of protection issued pursuant to this part after a hearing shall be in full force and effect against the respondent from the time it is entered, regardless of whether the respondent is present at the hearing.

(4) A copy of any order of protection and any subsequent modifications or dismissal must be issued by the clerk of the court to the petitioner, the respondent, and the local law enforcement agencies having jurisdiction in the area where the adult resides. Upon receipt of the copy of the order of protection or dismissal from the issuing court or clerk's office, the local law enforcement agency shall take any necessary action to immediately transmit it to the national crime information center.

(5) Upon violation of an order of protection entered pursuant to this section, a court may order any appropriate punishment or relief as provided for in § 36-3-610.

(e)(1) It is an offense to knowingly violate an order of protection issued pursuant to this section. A law enforcement officer may arrest a respondent who is the subject of an order of protection issued pursuant to this section with or without warrant.

(2) In order to constitute a violation of this section:

(A) The person must have received notice of the request for an order of protection;

(B) The person must have had an opportunity to appear and be heard in connection with the order of protection or restraining order; and

(C) The court must have made specific findings of fact in the order of protection that the person committed a violation of this part.

(3) Any law enforcement officer shall arrest the respondent without a warrant if:

(A) The officer has proper jurisdiction over the area in which the violation occurred;

(B) The officer has reasonable cause to believe the respondent has violated or is in violation of an order of protection; and

(C) The officer has verified that an order of protection is in effect against the respondent. If necessary, the law enforcement officer may verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement department.

(4) Any person arrested for a violation of an order of protection entered pursuant to this section shall be treated as a person arrested for a violation of an order of protection issued pursuant to title 36, chapter 3, part 6.

(5) A violation of this subsection (e) is a Class A misdemeanor, and any sentence imposed is to be served consecutively to the sentence for any other offense that is based in whole or in part on the same factual allegations, unless the sentencing judge or magistrate specifically orders the sentences for the offenses arising out of the same facts to be served concurrently.

(f) Notwithstanding § 71-6-102, for purposes of this section:

(1) "Abuse, neglect, or exploitation" includes:

(A) Abuse, neglect, and exploitation, as those terms are defined in § 71-6-102; and

(B) Abuse, neglect, financial exploitation, and sexual exploitation, as those terms are defined in § 39-15-501; and

(2) "Adult" means an adult as defined in § 71-6-102 or an elderly adult or vulnerable adult as those terms are defined in § 39-15-501.

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